

LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 10th JANUARY, 1959

VOL. II No. 18

OFFICIAL REPORT



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	Hindus.	Muhamamadans.
Barisal Division	9	1
Chittagong Division	2	Nil
Dacca Division	4	2
Faridpur Division	8	2
Mymensingh Division	7	4
Narayanganj Division	Nil	Nil
Tipperah Division	6	1
Chittagong H. O.	3	Nil
Dacca H. O.	8	5
Mymensingh H. O.	Nil	Nil
	47	15

The Honourable Dr. T. B. Sapru (on behalf of the Honourable Mr. Denys Bray) : Sir, I lay on the table the information promised in reply* to a question by Mr. T. V. Seshagiri Ayyar on the 26th September, 1921, regarding the warrant of arrest against the Khan of Agror :

(i) The warrant issued under Regulation III of 1818 against the *ex-Khan* of Agror did not apply to his brothers. Up to 1897 the brothers were given separate allowances for their maintenance conditionally on their residing where they were ordered. After 1897, the brothers received shares in the increasing income of the estate, subject to the same condition.

(ii) The wives of the *ex-Khan* were allowed to join him in exile and his brothers were ordered to live out of Agror and were given separate allowances conditionally on their living where they were ordered, as the Government of India were satisfied that peace in the Agror valley could not otherwise be secured.

(iii) It is not understood what letter of the Lieutenant-Governor of the Punjab is referred to.

(iv) No promise has ever been made by Government that the *ex-Khan* will be permitted to return to Agror. In 1897, he was distinctly informed that the Government was quite unable to hold out any hopes to him or his family that their exclusion from Agror or from the actual possession of their former lands was intended to be other than perpetual.

(v) (a) The 'settlement' of the valley was ordered by the Regulation of 1891 but was not completed till 1903.

(b) The relations between the British Government on one side and of the Haasanzaïs and Akazai tribes on the other are for the moment satisfactory, but as recently as 1920, these tribes attacked British territory and extensive military operations were with difficulty avoided.

(vi) The question of permitting the *ex-Khan* to return to Agror has been most carefully considered at frequent intervals by the Government of India and it has been deemed inadvisable to permit such return for the following reasons :

* Vide Legislative Assembly Debates, Volume II, page 989.

Our relations with the Black Mountain tribes are always liable to be disturbed and have frequently been so during the last few years. The return of the *ex-Khan* would stimulate all the forces of intrigue and unrest, and would undoubtedly disturb the peace of the border.

Secondly, the inhabitants of the valley would be greatly perturbed at the return of the *ex-Khan* with the prospect of coming again under his exacting and despotic rule after enjoying for the last 20 years a reasonable and sympathetic administration under the regular revenue authorities.

QUESTIONS AND ANSWERS.

INDIA ARMY RESERVE OF OFFICERS IN THE UNITED PROVINCES.

1. *Lieut.-Col. H. A. J. Gidney: (1) Will Government be pleased to state if India Army Reserve of Officers, who were temporarily employed in the United Provinces during the war on recruiting work, were considered to be (a) on military service or on civil duties, and (b) if the former, whether Civil Surgeons and Assistant Surgeons, permanently or temporarily re-employed, who examined recruits for Indian regiments and Labour Corps for War Service, in addition to their own duties, are shown as having performed paid military service?

(2) Will Government be pleased to state if India Army Reserve of Officers and their Assistants on recruiting work, during the period of the war who did not proceed overseas or to the North-West Frontier, or any other area of hostilities, received medals, gratuities or any other allowances in addition to their pay?

(3) If so, do Government propose to sanction the same to officers mentioned in (1) (b)?

Sir Godfrey Fell: (1) (a). Officers of the Indian Army Reserve, employed in the United Provinces or elsewhere during the war on recruiting work or other military work, were considered to be on military service.

(b) When no military medical officer is available, the examination of recruits forms part of the duties of Civil Surgeons and Civil Assistant Surgeons, and their partial employment of such work is not considered to be military service.

(2) Officers of the Indian Army Reserve and their assistants, who were employed on recruiting work during the war, received the pay and allowances authorised for the appointments they held, as well as any gratuities admissible under the rules in force for officers of the Indian Army Reserve; the grant of war medals to these officers was governed by the general rules applicable to officers of the Indian Army Reserve.

(3) As regards the officers mentioned in part 1 (b) above, the grant to them of war medals was regulated by the same rules as applied to Recruiting Officers and Assistant Recruiting Officers. They were not eligible for the gratuities and allowances referred to above. The Government see no reason to alter the rules.

RAILWAY CONCESSION TO LIEUTENANTS AND CAPTAINS OF BRITISH AND INDIAN SERVICES.

2. *Lieut.-Col. H. A. J. Gidney: (a) Will Government be pleased to state if Lieutenants and Captains of the British and Indian Services have the concession to travel by rail first class on payment of second

class fare, or second class on payment of third class fare? If so, will Government be pleased to state if families of the above officers are included in Form 'E', also the number of servants and the amount of luggage allowed?

(b) Will Government be pleased to state if it is owing to the poor income or pay of the above officers, that half concession has been sanctioned; if so, are Government prepared to sanction a similar concession to retired officers of the Indian Army Department and Indian Medical Department whose pensions may be below Rs. 4,500 per annum, as the cost of living has gone up since pre-war days?

Sir Godfrey Fell: (a) The use of Form 'E' by Captains and Subalterns of certain British and Indian Services, when travelling at their own expense, only entitles them to travel first class on payment of second class fares. The families of officers are not entitled to the use of Form 'E' and the free allowance of baggage on tickets issued on Form 'E' is 1½ maunds as for a first class ticket. No concessions are allowed in respect of servants.

(b) The relatively low pay which these officers drew was only one of the considerations which influenced the Railway Board in granting the concession.

The Government of India are not prepared to extend the concession to retired officers of the Indian Army and Indian Medical Department.

Lieut.-Col. H. A. J. Gidney: May I ask a supplementary question, Sir? I would like to ask the Honourable Member in charge of the Department whether families of officers are entitled to travel on Form 'E', or not? And if I may ask another question, why is it that Government refuses this concession to officers of the Indian Medical Department?

Sir Godfrey Fell: As regards the first supplementary question, I have already given an answer: I said that families of officers are not entitled to the use of form 'E'. As regards the second part, I would like to have notice of the question.

Lieut.-Col. H. A. J. Gidney: May I ask a supplementary question again? I have given notice of this question in the shape in which it appears on the agenda paper to-day, and with your permission, Sir, I would like an answer to that question, if possible, to be given immediately.

Sir Godfrey Fell: I am afraid that I do not quite understand the Honourable Member. I have endeavoured to answer the question as it stood on to-day's agenda. I do not know what the Honourable Member means.

Lieut.-Col. H. A. J. Gidney: I thank you. I suppose I must now have to submit this question again.

CONDUCTORS AND MILITARY ASSISTANT SURGEONS.*

3. * **Lieut.-Col. H. A. J. Gidney:** (a) Will Government be pleased to state if Conductors and Military Assistant Surgeons on the Employed or Retired Lists are warrant officers, and if the commissions of departmental officers of the Indian Army Department and Indian Medical Department are signed by His Imperial Majesty the King-Emperor of India, or on his behalf by some one else?

(b) If the King-Emperor signs the commissions, do Government propose to direct that departmental officers on the Employed and Retired Lists are

not styled or referred to as 'Conductors' and 'Assistant Surgeons' and that necessary corrections be made in Army and Civil Lists?

Sir Godfrey Fell: (a) With regard to the first part of this question, Conductors of the Indian Army Departments and Military Assistant Surgeons are warrant officers. Military Assistant Surgeons rank as Conductors and Sub-Conductors according to their seniority in the Indian Medical Department. With regard to the second part of the question, the commissions granted to Departmental Officers of Indian Army Departments and to Senior Assistant Surgeons of the Indian Medical Department are issued under His Majesty's Sign Manual and are similar in form to those granted to officers holding combatant commissions. They are signed by two members of the Army Council.

(b) Departmental Officers of Indian Army Departments and Senior Assistant Surgeons of the Indian Medical Department are, by the terms of the commissions granted to them, appointed to be 'Assistant Commissaries' and 'Senior Assistant Surgeons,' respectively, with the Army rank of Lieutenant. These titles, 'Assistant Commissary' and 'Senior Assistant Surgeons,' denote the substantive departmental rank held by these officers, who are correctly described by these titles in Army and Civil Lists. It is not proposed to make any change in these Lists in the method of designating these officers.

PARTICULARS OF STAFF SELECTION BOARD'S EXAMINATIONS.

4. * **Rai D. C. Barua Bahadur:** Will the Government be pleased to state whether the particulars about the last examination of the Staff Selection Board appeared in any of the newspapers of Assam or Dacca? If not, will they be published in the papers of those provinces when the next examination is held?

The Honourable Sir William Vincent: The answer to the first part of the question is in the negative, but the Honourable Member's suggestion will be borne in mind at the time of the next examination.

FATHER OF THE SECRETARY OF THE STAFF SELECTION BOARD.

5. * **Rai D. C. Barua Bahadur:** Will the Government be pleased to say whether the father of the present Secretary of the Staff Selection Board is a Member of the Board?

The Honourable Sir William Vincent: The answer is in the negative. The question presumably refers, however, to the time when the Secretaryship was held by Mr. R. S. Bajpai, a son of Rai Bahadur Pandit S. P. Bajpai, who is a member of the Board. Mr. R. S. Bajpai only acted as Secretary for a few months from 8th June 1921 to 16th October 1921 and the appointment is now held by another officer.

DISCONTENT IN THE INDIA-RECRUITED BRANCH OF THE INDIAN SERVICE OF ENGINEERS.

6. * **Rai Bahadur Pandit J. L. Bhargava:** (i) Is the Government aware that there is great discontent and dissatisfaction in the India-recruited Branch of the Indian Service of Engineers on account of the introduction of Overseas Allowance and also the Technical Allowance for the Europe-recruited Branch of the same Service by the Re-organization Scheme of 1920?

(ii) Is it a fact that the India-recruited Engineers all over the country strongly resented this differentiation in emoluments specially the technical allowance, given to one Branch of the Service only and as a protest submitted memorials in August 1920 to the Secretary of State through the proper channel praying for the removal of this distinction?

(iii) Will the Government be pleased to state (a) when these memorials were received by the Government of India, (b) what action has been taken on them so far, (c) whether they have been forwarded to the Secretary of State, (d) if not, what is the cause of delay and (e) when they are likely to be forwarded?

(iv) If the memorials have been forwarded to the Secretary of State, will the Government be pleased to lay on the table a copy of their recommendations?

Colonel Sir S. D'A. Crookshank: (i) and (ii). Memorials have been received praying that the technical pay granted to the Europe-recruited branch of the Public Works Department be abolished.

(iii) (a). The memorials were received between September 1920 to July 1921.

(b) and (c). The memorials have been submitted with the Government of India's recommendations to the Secretary of State.

(d) and (e). These questions do not therefore arise.

(iv) The Government of India are not prepared to make any pronouncement in connection with their recommendations to the Secretary of State in the matter.

CHARGES AGAINST ALI BROTHERS.

7. * **Mr. W. M. Hussanally:** (a) Will Government please state what were the charges brought against the Ali Brothers and other co-accused in the recent trials at Karachi?

(b) What were the charges proved against them and which disproved?

(c) Is it a fact that the principal charges against them fell through?

(d) Is it a fact that the Advocate-General, Bombay, and the Indian Members of the Executive Council of Bombay gave their opinion against the prosecution?

(e) Is it a fact that the Honourable the Law Member of the Government of India was called into Council at Bombay in connection with this case?

(f) Is it a fact that the prosecution of the accused was sanctioned under the advice of the Honourable the Law Member?

(g) What has the whole case cost the Exchequer?

(h) What fees were paid:

(i) to Mr. Ross-Alston of Allahabad,

(ii) to Mr. Elphinston, Public Prosecutor for Sind, beyond his regular pay,

(iii) to Mr. Parsram Tolaram, Assistant Public Prosecutor?

(i) Is it a fact that any of the prisoners in jail is ill? If so, which?

The Honourable Sir William Vincent : (a), (b) and (c). They were prosecuted under sections 120-B, 131 and 505 of the Indian Penal Code. Bharat Krishna Tirathji was acquitted on all charges and the remaining accused were acquitted on the charges under sections 120-B and 131 and convicted under section 505 of the Indian Penal Code. The prosecution of Mahomed Ali and Shaukat Ali under sections 124-A and 153-A of the Indian Penal Code, respectively, was authorised, but was subsequently withdrawn in view of the conviction of the brothers under section 505.

(d) The Advocate-General of Bombay was consulted on the legal points in the case and he was of the opinion that the prosecution could be successfully instituted. It would be contrary to all constitutional practice to make any statement regarding the opinion of individual Members of an Executive Council.

(e) No. The Law Member of the Government of India had a consultation, subsequent to the issue of orders sanctioning the prosecution, with the legal advisers of the Bombay Government only with regard to the legal points involved.

(f) No.

(g) The Government have no information.

(h) Rupees 16,000 were paid to Mr. Ross-Alston. The Government have no information regarding the fees paid to other Counsel.

(i) The Government have received no information to this effect.

Mr. W. M. Hussanally : May I ask a supplementary question, Sir? Could not the information with regard to the cost be obtained by the Government? I gave sufficiently long notice?

The Honourable Sir William Vincent : Do I understand the Honourable Member to ask what was the cost incurred by the Bombay Government?

Mr. W. M. Hussanally ; Yes.

The Honourable Sir William Vincent : If that is the question, then I would suggest, that the Honourable Member should obtain the information from the Bombay Government direct, but if he so wishes, I am quite prepared to write and ask for it.

Mr. W. M. Hussanally : I should like, Sir, to have that information here, if possible.

Mr. President : Order, order. The Legislative Council of the province of Bombay exists for that purpose. This Assembly must respect the rights of its sister Legislature.

Mr. K. Ahmed : Is not the action taken under the sections now enunciated by the Honourable the Home Member contrary to the terms of Her Majesty Queen Victoria's Proclamation, which was re-affirmed by Their Majesties King Edward VII and King George V?

The Honourable Sir William Vincent : That is a matter of opinion. In my judgment, no action which has been taken is contrary to the Proclamations.

Mr. K. Ahmed : Is it not a fact, Sir, that there is a clear clause in the Proclamation of the Late Queen Victoria that none of Her Majesty's subjects should be prosecuted on account of their religious beliefs?

The Honourable Sir William Vincent: I am not aware that there is anything in the Proclamations to which the Honourable Member refers which precludes the Government of India from prosecuting for sedition or for other offences against the Penal Code.

Mr. K. Ahmed: Nothing would appear either from the statements made by Mr. Mahomed Ali that there has been a breach of the Penal Code?

The Honourable Sir William Vincent: Does the Honourable Member mean that there has been no breach of the law? Certainly, the judgment shows there was a breach of the Penal Code.

Mr. Jamnadas Dwarkadas: May I ask a supplementary question, Sir, arising out of part (i) of the whole question? Will Government be pleased to inform the House if the question of giving treatment to political prisoners different from that which is given to ordinary criminals is under consideration?

Mr. President: I think the Honourable Member must give notice. It does not strictly arise out of the question.

Mr. W. M. Hussanally: May I ask another supplementary question, Sir? Was any fee paid to Mr. Ross-Alston from the funds of the Government of India?

The Honourable Sir William Vincent: I believe that half of the fees paid to Mr. Ross-Alston was paid by the Government of India, but I will verify that point.

Mr. W. M. Hussanally: May I know, Sir, how much it was?

The Honourable Sir William Vincent: I have just told the Honourable Member that Rs. 16,000 was the total fee paid to Mr. Ross-Alston, and the moiety of Rs. 16,000 is Rs. 8,000.

YEARLY EXTRA COST OF THE SIMLA EXODUS.

8. * **Mr. W. M. Hussanally:** (a) What is the yearly extra cost of Simla exodus of the Government of India and all other Departments and offices which visit Simla every year?

(b) What other Departments and offices besides the Government of India migrate to Simla every year?

(c) What is the necessity of such offices and Departments migrating to Simla?

The Honourable Sir William Vincent: It is presumed that the question refers only to the Government of India Secretariats and Attached Offices and does not extend to offices such as those of the Punjab Secretariat.

(a) In reply to a question asked by Mr. Beohar Raghbir Sinha last September, the cost of the annual move to and from Simla was stated to be approximately Rs. 3,87,000. The items included in this estimate do not perhaps correspond exactly with the items mentioned in the question. But the figure is sufficiently accurate and the collection of the precise information asked for would involve an amount of trouble which the Government of India are not prepared to take.

(b) A list is being compiled, and when it is ready, I will supply the Honourable Member with a copy.

(c) These offices have to be in constant touch with the Departments of the Government of India to which they are attached and it is essential for efficient working that they should move, in whole or in part, with the Government of India Secretariats.

TELEPHONE CONNECTION BETWEEN SIMLA AND DELHI.

9. * **Mr. W. M. Hussanally:** (a) Is it a fact that Simla and Delhi have now been connected by telephone?

(b) If so, at what cost?

Colonel Sir S. D'A. Crookshank: (a) Yes.

(b) The cost of erecting the circuit was :

	Rs.
Cash	1,48,420
Stores	2,82,611
TOTAL	4,31,031

CURTAILMENT OF GOVERNMENT ESTABLISHMENT IN SIMLA.

10. * **Mr. W. M. Hussanally:** (a) Do the Government propose to consider the feasibility of curtailing their establishments in Simla?

(b) Do they propose to consider the desirability of curtailing the number and strength of other Attached Offices and departments visiting Simla with a view to economy?

(c) Are Government prepared to appoint a small Committee of officials and non-officials to go into this question and make recommendations?

The Honourable Sir William Vincent: (a), (b) and (c). It is understood that the question refers to the move to Simla during the hot weather of the Government of India Secretariats and the offices of Departments directly under the Government of India. Government are not at present prepared to consider the suggestions of the Honourable Member, as suitable offices and residential accommodation is not yet available in Delhi.

INDIAN MUSSALMANS AND THE KHILAFAT.

11. * **Mr. W. M. Hussanally:** (a) Are the Government aware of the state of feeling among Indian Mussalmans over the Khilafat question?

(b) If so, what steps have the Government taken to advise the Home Government to allay such feeling by settling the Khilafat question to the satisfaction of Mussalmans at an early date?

The Honourable Sir William Vincent: The attention of the Honourable Member is invited to the replies of His Excellency the Viceroy to the Addresses of the Moslem Deputations which waited upon him recently at Delhi and Calcutta, respectively.

OFFICE HOURS FOR APPRAISERS AND EXAMINERS IN THE KARACHI CUSTOMS OFFICE.

12. * **Mr. W. M. Hussanally**: (a) Is it a fact that Government have fixed office hours for Appraisers and Examiners in the Custom Office at Karachi from 9-30 A.M. to 6-30 P.M.?

(b) If so, what are the reasons for these long hours?

(c) Is it a fact that merchants applying for the services of Appraisers between 9-30 A.M. and 10-30 A.M., or between 5-30 P.M. and 6-30 P.M., on overtime cannot get them on the ground that those hours are duty time for those officers?

(d) Are merchants therefore inconvenienced and have to pay extra fee because appraising cannot be finished before or after duty time now fixed?

(e) Do Government propose to consider the advisability of fixing duty time for the class of servants from 11 A.M. to 5 P.M., as in other offices?

The Honourable Mr. C. A. Innes: (a) In 1903, the Government of India, with the concurrence of the Secretary of State and in the interests of the commercial public, fixed the hours of duty for the Appraising and Examining staffs from 9 A.M. to 6 P.M., but empowered Local Governments to vary these hours according to local requirements. The Government of India have no further information as to the practice prevailing at Karachi.

(b) These hours were fixed in the interests of the general public.

(c) and (d). The Government of India have received no complaints that merchants are unable to obtain the services of Appraisers during duty time, nor that merchants are inconvenienced under the present rules.

(e) No.

WORKING HOURS FOR PREVENTIVE OFFICERS.

13. * **Mr. W. M. Hussanally**: (a) How many hours are Preventive Officers expected to be on duty by day and by night?

(b) Will Government consider the advisability of curtailing the hours of their duty looking to the arduous nature of their duties?

The Honourable Mr. C. A. Innes: (a) No Preventive Officer is required to work ordinarily more than an average of 9 hours a day or 54 hours a week during the free time from sunrise to sunset. Work in excess of these hours is compensated by the payment of overtime fees.

(b) The answer is in the negative, as no curtailment of the hours of duty of Preventive Officers can be effected without either (1) an increase of establishment which will entail a heavy burden on the public revenues or (2) more overtime work which will impose a prohibitive charge on merchants and shipowners.

OVERTIME RATES FOR APPRAISERS AND OTHERS IN CUSTOMS OFFICES.

14. * **Mr. W. M. Hussanally**: (a) What are the rates for overtime work fixed by Government for Appraisers, Examiners and Preventive Officers in various Customs Offices in India?

(b) What are the reasons for different rates in different places ?

(c) Will Government consider the advisability of assimilating these rates in all Custom Houses ?

The Honourable Mr. C. A. Innes : (a) The rates for overtime work fixed by Government for Appraisers, Examiners and Preventive Officers vary from port to port according to the nature of the services and the time when they are required (e.g., on ordinary working days or on holidays). It is therefore not possible to give the information required by the Honourable Member in detail.

(b) and (c). The rates in force have been imposed to meet local conditions. The question of securing uniformity in regard to such rates in all ports is already under the consideration of the Government of India.

PASSENGER SHEDS ON PLATFORMS ON THE NORTH-WESTERN AND BOMBAY, BARODA AND CENTRAL INDIA RAILWAYS.

15. ***Mr. W. M. Hussanally :** (a) Is it a fact that only few stations on the North-Western and Bombay, Baroda and Central India Railways have passenger sheds on platforms ; and, in consequence, passengers are exposed to the inclemency of the weather ?

(b) Will Government consider the advisability of gradually building such sheds at all important stations ?

Colonel W. D. Waghorn : (a) All important stations on the North-Western and Bombay, Baroda and Central India Railways have passenger sheds on or adjoining the platforms.

(b) It is not considered necessary to provide covered accommodation on the platforms at road-side stations in addition to that provided in the waiting sheds. The provision of additional covered accommodation depends upon funds being available.

RAISED PLATFORMS ON THE KOTRI-ROHRI LINE.

16. ***Mr. W. M. Hussanally :** (a) Is it a fact that there are no raised platforms on the Kotri-Rohri line on the North-Western Railway ?

(b) Will Government be pleased to consider the advisability of making raised platforms on this line for the benefit specially of women and children ?

Colonel W. D. Waghorn : (a) No. There are raised platforms at 10 out of the 28 stations between Kotri and Rohri, North-Western Railway.

(b) The remaining 18 stations on this section have rail level platforms. Raised platforms are only provided at stations where the volume of traffic justifies their adoption and as funds are available.

REFRESHMENT ROOMS FOR INDIANS ON THE NORTH-WESTERN RAILWAY.

17. ***Mr. W. M. Hussanally :** (a) How many refreshment rooms for Indians are there on the North-Western Railway ?

(b) Will Government consider the advisability of providing all important stations with such refreshment rooms ?

Colonel W. D. Waghorn: (a) There are seven Muhammadan and eight Hindu refreshment rooms on the North-Western Railway. In addition, a dining car runs by 17 Up and 18 Down trains for the convenience of Muhammadan and Hindu passengers travelling between Delhi and Lahore.

(b) The question of providing additional refreshment rooms at Samasatta and Rohri is under consideration, otherwise it is considered that the existing facilities are sufficient for present needs.

PAY OF PREVENTIVE OFFICERS AT KARACHI.

18. ***Mr. W. M. Hussanally:** (a) Will Government be pleased to state if it is a fact that in the reorganization scheme of the Preventive Officers at Karachi the pay of Preventive Officers has been fixed at Rs. 120—10—300?

(b) Have the existing incumbents of the posts been allowed to reckon the whole of the substantive service as Preventive Officers for the purpose of increments in the time-scale?

(c) Will Government be pleased to state if the Appraisers and Examiners will be given the same concession?

(d) If the reply is in the negative, will Government be pleased to state reasons?

The Honourable Mr. C. A. Innes: a) and (b). Yes.

(c) and (d). The proposals of the Local Government are still under the consideration of the Government of India.

PROMOTIONS FOR APPRAISERS AND EXAMINERS.

19. ***Mr. W. M. Hussanally:** (a) Is it a fact that Appraisers and Examiners have been recommended by the Local Government for a maximum of four promotions only although their service may be 20 years?

(b) If the reply is in the affirmative, will Government be pleased to state if the recommendations by the Local Government were based on the recommendation of the Telegraph Committee?

(c) Have the recommendations of the Telegraph Committee been given effect to in the case of telegraphists?

(d) If the reply is in the negative, will Government be pleased to state what recommendations have been made by the Local Government and what is the reason of their not recommending Appraisers and Examiners for as many increases in their length of service as in the case of Preventive Officers?

The Honourable Mr. C. A. Innes: (a) Presuming that the Honourable Member's question refers to the Karachi Custom House, the answer is in the negative. Part (b) of the question therefore does not arise.

(c) The Honourable Member is referred to the Resolution of the Government of India in this Department No. 1629, dated the 30th April, 1920, which was published in the *Gazette of India*.

(d) Does not arise.

APPRAISERS AND EXAMINERS AT KARACHI.

20. ***Mr. W. M. Hussanally:** (a) Is it a fact that Appraisers and Examiners at Karachi have (all but one) risen from ministerial to non-ministerial posts?

(b) Is it a fact that if these men are not allowed a promotion for every year's service and not allowed to count $\frac{1}{3}$ rd of their total ministerial service for such promotion, they will not be able to rise to the maximum?

(c) Is it a fact that there is a great discontent among them on account of the scheme submitted by the Local Government for the sanction of the Government of India?

(d) If the reply is in the negative, will Government be pleased to state what the facts are?

The Honourable Mr. C. A. Innes : (a), (b), (c) and (d). The Custom House establishment is under the administrative control of the Local Government and the Government of India have no information on the subject.

REVISION OF PAY OF THE BOMBAY CUSTOMS HOUSE AND THE KARACHI STAFFS.

21. * **Mr. W. M. Hussanally :** (a) How many times have the pay and prospects of the staff of the Bombay Customs House been revised since 1912?

(b) How many times have the pay and prospects of the staff in Karachi been revised during the same period?

The Honourable Mr. C. A. Innes : (a) The pay and prospects of the staff at the Bombay Custom House were revised in 1914 and in 1920-21.

(b) The pay and prospects of the staff at Karachi were revised in 1911. The Preventive Staff was again revised in 1920 and the question of revising the pay and prospects of the other branches of the office is now under the consideration of the Government of India.

FREE QUARTERS FOR PREVENTIVE OFFICERS AT KARACHI.

22. * **Mr. W. M. Hussanally :** (a) Is it a fact that Preventive Officers at Karachi are provided with free quarters, while those who are not given quarters will be given house-rent?

(b) What rent is proposed for them?

(c) Will that amount secure a decent house in Karachi suitable to their status in life?

(d) Will Government be pleased to give the reasons why no house-rent allowance is given to Appraisers and Examiners?

The Honourable Mr. C. A. Innes : (a) Yes.

(b) The amount allowed is 10 per cent. of their pay. There are no fresh proposals on the subject.

(c) The Government of India have no information on the point, but I would point out to the Honourable Member that the concession is not intended to cover the whole cost of renting a house.

(d) It is necessary for administrative reasons that Preventive Officers should live near their place of work. The same necessity does not arise in the case of other branches.

TIME-SCALE PAY FOR CLERKS IN THE KARACHI CUSTOMS HOUSE.

23. * **Mr. W. M. Hussanally :** (a) Is it a fact that clerks in the Karachi Customs have not been recommended for the time-scale of pay, *i.e.*, one promotion for every year's past service?

(b) Is it a fact that the clerks in the Post Office have been given this concession?

(c) Will Government be pleased to state why it is proposed to treat clerks of the Karachi Custom House differently from the clerks in the Post Office, both being Imperial Departments?

(d) Are Government aware that according to Appendix A of Government of Bombay, Financial Department, Circular No. 438, dated the 25th June, 1920, the pay of all clerical establishments in Karachi except Postal Department is based on the scale now framed as below:

Those getting Rs. 37-8-0 now will get Rs. 45 in the scheme.

Those getting Rs. 51 now will get Rs. 59 in the scheme.

Those getting Rs. 59-8-0 now will get Rs. 60 in the scheme.

Those getting Rs. 68 now will get Rs. 70 in the scheme?

(e) If it be so, have the Government noticed that many of them will get under the scheme less than what they now draw inclusive of their allowances?

(f) Are Government aware that the cost of living in Karachi is greater than in Bombay?

(g) Are the Government aware that as the pay and prospects of the clerical establishment in the Custom House are not attractive, qualified men do not join the Department, with the result that more than half the staff is non-qualified?

(h) Are the Government aware that the mercantile firms offer better pay?

The Honourable Mr. C. A. Innes: (a) and (b). Yes.

(c) The conditions of service in the two Departments are essentially different.

(d) to (h). The Government of India have no information.

DISCONTENT AMONG INDIAN AND ANGLO-INDIAN EMPLOYEES OF THE KARACHI APPRAISING DEPARTMENT.

24. ***Mr. W. M. Hussanally:** Are Government aware that the proposals regarding the Appraising Department sent by the Local Government have created a strong discontent among the Indian and Anglo-Indian employees of the Department?

The Honourable Mr. C. A. Innes: If the Honourable Member refers to the Karachi Appraising Department, the answer is in the negative.

ONE CADRE FOR APPRAISING AND PREVENTIVE SERVICES.

25. ***Mr. W. M. Hussanally:** (a) Is it a fact that while the highest pay proposed in the Appraising Department is Rs. 725, that in the Preventive service is Rs. 500 only?

(b) Will Government consider the advisability of joining the two services into one cadre for purposes of promotion and prospects, so that the men might have more rapid chance of rise and to the same extent?

The Honourable Mr. C. A. Innes: (a) Yes.

(b) Government do not consider it desirable to join the two services into one cadre, as the nature of the work involved and the qualifications of the officers concerned in each case are essentially different.

UNIFORM SCALE FOR PREVENTIVE SERVICE IN CALCUTTA, BOMBAY AND KARACHI

25. * **Mr. W. M. Hussanally**: (a) Is it a fact that the work of the Preventive Service in Calcutta, Bombay and Karachi is similar?

(b) If so, what are the objections to having a uniform scale for all these places?

The Honourable Mr. C. A. Innes: (a) Yes.

(b) The obvious objection to having a uniform scale is that in fixing such scales, allowance must be made for differences in local conditions and cost of living.

RECRUITMENT OF PREVENTIVE OFFICERS.

27. * **Mr. W. M. Hussanally**: (a) Is it a fact that according to the recent orders of the Government of India the Chief Collector has been authorized to recruit Preventive Officers on a starting salary of Rs. 160, but those officers who are already in the Department cannot be given a start of Rs. 160 by him, although he may like to do so in the case of deserving officers?

(b) Have any new recruits been taken on Rs. 160? If not, why?

The Honourable Mr. C. A. Innes: (a) Yes. The higher initial pay of Rs. 160 is given to a new recruit only when his age, standing or experience warrants the concession. The Collector of Customs has power to allow existing incumbents to reckon the whole of their substantive service as Preventive Officers for the purpose of increments in the time-scale.

(b) The Government of India have no information on the point.

TRANSFER OF THE CANTONMENT AREA OF HYDERABAD.

28. * **Mr. W. M. Hussanally**: (a) Since how long is the question of the transfer of the Cantonment Area of Hyderabad for the removal of the City congestion been pending before the Government of India?

(b) Is it a fact that Sir Horace Mules (then Mr. H. C. Mules), Collector of Hyderabad, first mooted it in 1903?

(c) Is it a fact that the Honourable Mr. F. G. Pratt (when Collector of Hyderabad) took up the question again in 1911 and submitted two schemes for the removal of congestion which were approved of both by the Bombay Government and the Government of India?

(d) Did the Government of India then offer certain lands to the Municipality which they declined?

(e) If so, what were the terms offered to the Municipality and what were the reasons of the Municipality for refusing the offer?

Sir Godfrey Fell: (a) The first definite proposal for the transfer of the Cantonment to another site was made to the Government of India in 1918.

(b) Sir Horace Mules, when Collector of Hyderabad, addressed the President of the Hyderabad Municipality in 1903 with regard to the congestion prevailing in the city of Hyderabad, but he did not suggest the removal of the Cantonment as a means of relieving the congestion.

(c) The Honourable Mr. Pratt, when Collector of Hyderabad, submitted a scheme for the relief of the congestion in the City of Hyderabad (Sind) in 1908. In doing so, he referred to the suggestion that the Cantonment should be removed and stated that this had been found to be impracticable. His scheme, which fell under two divisions, was generally approved by the Government of Bombay.

The Government of India were unable to accept the proposals as they stood, but offered to assist the Municipality in various ways.

(d) and (e). Yes, subject to certain conditions. The Municipality were offered the land free of charge for 30 years, and at the end of that period were to have the option of buying the land outright as revenue-free property, or to retain it at an annual rental. In the event of the Municipality deciding to purchase the land, the purchase value was to be made up of its value in its undeveloped state, calculated on the amount for which the land could then be acquired under the Land Acquisition Act, omitting the 15 per cent. payable under the Act for compulsory acquisition, plus the value of the land revenue assessable at the end of the 30-year period capitalised on the basis which might then be in force for the capitalisation of land revenue. If, however, the Municipality decided to retain the land at an annual rental, the rent payable would be composed of an interest charge, at a rate not less than that at which the Government might then be raising money, on the value of the land in its undeveloped state as defined above, plus the land revenue assessable from time to time.

The Municipality refused these terms, on the ground that the Ganjo Takar site and the other scattered areas of unoccupied land lying on the outskirts of the town had been subsequently found to be unsuitable, either because their development would be very expensive or because their extent was too small. The Municipality considered that the cession to them of the site at present occupied by the Cantonment offered the only satisfactory solution of the question of the expansion of the City.

REMOVAL OF THE HYDERABAD CANTONMENT.

29. * **Mr. W. M. Hussanally** : (a) Did a deputation of the Hyderabad Municipality wait upon His Excellency the Governor of Bombay at Karachi in March 1921 and urge the removal of the Hyderabad Cantonment ?

(b) If so, what reply was vouchsafed them ?

(c) Did the Hyderabad Municipality solicit permission to send a deputation to His Excellency the Governor General in connection with the removal of the Hyderabad Cantonment about October 1921 ?

(d) If so, what was the reply ? Did His Excellency receive the deputation ? If not, why not ?

(e) What are the objections to the removal of the Cantonment to another locality ?

(f) Is it a fact that the Municipality has offered to recoup Government with all expenditure that may be incurred ?

Sir Godfrey Fell : (a) and (b). The attention of the Honourable Member is invited to part (a) of the reply given on the 21st September last to Question No. 423 asked by Mr. Shahani.

(c) and (d). The Government of India understand that the Hyderabad Municipal Committee asked for permission to send a deputation to His Excellency the Viceroy about August 1921, but that the Bombay Government informed the Committee that the proposed deputation would serve no useful purpose as the Commissioner in Sind had then been asked to consider in all its aspects the question of the transfer of the Cantonment to a new site, in consultation with the local civil and military authorities, with a view to arriving at an early settlement of the problem.

(e) The attention of the Honourable Member is invited to part (d) of the reply given on the 19th September last to his Question No. 284 and also to part (b) of the reply given to Question No. 423 asked on the 21st September last. Stated briefly, the objections are, firstly, that the present site of the Cantonment is suitable and convenient ; secondly, that there is no other site in the neighbourhood which would meet the requirements of the military authorities ; thirdly, that military considerations do not permit of the removal of the troops to another station.

(f) The Government of India have no information on the subject.

COMMITTEE FOR THE REMOVAL OF THE HYDERABAD CANTONMENT.

30. * **Mr. W. M. Hussanally :** (a) Are Government prepared to appoint a small Committee consisting of representatives of the Military, the Civil authorities and the Municipality to decide the question of the removal of the Hyderabad Cantonment finally within the next six months?

(b) If not, will Government state when they are likely to finally settle this question ?

Sir Godfrey Fell : (a) and (b). The Government of India are not prepared to appoint a Committee of the nature suggested by the Honourable Member, as it has now been definitely decided to drop the proposal to remove the Cantonment of Hyderabad (Sind) from its present site.

ELIGIBILITY OF INDIAN BOYS FOR VACANCIES IN THE LOCO. AND OTHER DEPARTMENTS OF THE OUDH AND ROHILKHAND RAILWAY.

31. * **Haji Wajihuddin :** (i) Has the attention of the Government been drawn to a notice of the Oudh and Rohilkhand Railway at page 21 of *The Pioneer* of 24th July, 1921, advertising an examination for filling vacancies for Firemen in the Loco. Department, open to European and Anglo-Indian boys not under 15 and not over 17 years of age ? If not, will the Government kindly look at it and be pleased to state if Indian boys are similarly eligible for a similar examination or not ? If they are, will the Government be pleased to mention the paper in which it was advertised ? If not, why are Indian boys not eligible ?

(ii) Have the Government seen a notice of the Oudh and Rohilkhand Railway at page 21 of *The Pioneer* of 24th July 1921 advertising an examination for filling vacancies in the Loco., Carriage and Wagon and Electrical

Departments open to European and Anglo-Indian boys between the ages of 15-17? Is a similar examination open to Indian boys? If not, why not?

(iii) Are the Government prepared to admit Indian boys to the examinations mentioned in the preceding parts if they are not eligible already?

Colonel W. D. Waghorn: (i) Indian youths have not hitherto been advertised for as the requisite number of Indian firemen has been obtained by recruiting from the cleaner class of the running shed staff. The question of obtaining educated Indian apprentice firemen by examination is, however, being looked into; in the past, there has been no evidence that youths of this class would be willing to undergo the needful training in firing.

(ii) and (iii). Practical training is given by the Railway to Indian mechanical apprentices from the United Provinces Government Technical Schools and a joint scheme for providing an up-to-date technical school in the vicinity of the Locomotive Workshops is being considered in conjunction with the Local Government. Indian mechanics are thus being catered for separately and there is no necessity to open the examinations in question to Indians.

RELIGIOUS OBJECTION TO PHOTOS FOR PASSPORTS BY MUHAMMADAN VISITORS AND PILGRIMS TO EGYPT, ETC. ●

32. ***Haji Wajihuddin:** (a) Is it a fact that under the Passport Rules Muhammadan visitors and pilgrims to Egypt, Mesopotamia and other foreign places, except Hedjas are bound to provide half-tone photos when applying for such passports, which are affixed to the passports?

(b) Does the Government know that such practice is highly objectionable for Muhammadans on religious grounds?

(c) Will they kindly take early steps to have this grievance removed on religious grounds?

The Honourable Dr. T. B. Sapru (on behalf of the Honourable Mr. Denys Bray): (a) The Honourable Member's question seems to be based on a misapprehension. Entry into a foreign country is regulated not by the Government of India's Passport Rules, which relate to entry into India only, but by the rules and regulations of the foreign country concerned. Passports are now demanded on entry by most foreign countries, and among these the insistence on a photograph for purposes of identification, as in India, is almost universal.

(b) The Government are aware that prejudice on this score still lingers among certain Mussalmans, but the increasing resort to photography seems to show that it is fast dying out, especially among the class to which most would-be travellers belong. As the Honourable Member is doubtless aware, the Government have secured special exemption for *pardahnashin* ladies travelling to certain countries, and have made an express provision in their Passport Rules for the exemption of *pardahnashin* ladies travelling from those countries to India.

(c) The Government have no means of controlling the Passport regulations of other countries, nor do they propose to make any representations on the subject. For even if they could secure the desired modification in favour of Mussalmans, which is very doubtful, it could only be at the cost of the

introduction of other regulations not merely more elaborate and harassing but also invidious.

“INDIANISATION” OF THE INDIAN ARMY.

33. * **Mr. T. V. Seshagiri Ayyar**: Will the Government be pleased to lay on the table the scheme, if any, which they have framed for the “Indianisation” of the Indian Army?

Sir Godfrey Fell: The Government of India have under consideration a scheme for the Indianisation of the commissioned ranks of the Indian Army. They have not yet arrived at any conclusions on the subject regarding which they are in communication with the Secretary of State, and they are not prepared to lay any papers on the table.

ALLEGED BURNING OF MOPLAH HOUSES.

34. * **Mr. Mahmood Schamnad Sahib Bahadur**: Is it true that several Moplah houses in Tirurangadi and other places in the martial-law area have been burnt by the military and the police?

The Honourable Sir William Vincent: Moplah houses have on occasion been burned as a military operation.

EVACUATION OF VILLAGES IN ERNAD AND WALWANAD.

35. * **Mr. Mahmood Schamnad Sahib Bahadur**: Is it true that the authorities in Malabar had ordered the evacuation of most of the villages in Ernad and Walwanad even as early as September last and the swelling of the number of refugees is due to that order?

The Honourable Sir William Vincent: It is not true that the authorities in Malabar have ordered the evacuation of most of the villages in Ernad and Walwanad. Actually orders in an opposite sense have been issued.

COMMITTEE ON THE MALABAR TRAIN TRAGEDY.

36. * **Mr. Mahmood Schamnad Sahib Bahadur**: (a) Is it a fact that all the Members of the Committee appointed to inquire into the Malabar train tragedy have been taken from the martial-law area?

(b) If so, will Government state the reason for this?

(c) Is Mr. Knapp as Special Commissioner for Malabar responsible for the administration of martial-law in Malabar?

(d) If so, why has he been made President of the Committee?

The Honourable Sir William Vincent: I would refer the Honourable Member to the statement made by the Honourable Sir Lionel Davidson in the debate which took place in the Madras Legislative Council last week. This debate was reported in the Madras papers of the 14th December.

TRANSFERS OF GENERAL SCALE TELEGRAPHISTS.

37. * **Mr. Mahmood Schamnad Sahib Bahadur**: (a) Is it a fact that many long transfers were, of late, made of general scale telegraphists in

CIVIL GUARDS.

41. * **Mr. K. Ahmed**: Are the Government aware that a body of persons called Civil Guards, composed of some Indians as well, alleged to be law-abiding citizens, have offered their services for keeping peace and order in the country, with the approval of the Government?

The Honourable Sir William Vincent: The answer is 'Yes'.

TRANSFER OF THE ADMINISTRATIVE CONTROL OF ADEN.

42. * **Mr. K. Ahmed**: (a) Will the Government be pleased to lay on the table all the correspondence passed between them and the Aden Chamber of Commerce and others concerned, with regard to the transfer of the Administrative Control of Aden from the Government of India to the Colonial Office or to the Egyptian Government as the case may be, including all others, they have had hitherto with the Secretary of State for India as well?

(b) Is it a fact that the Aden Chamber of Commerce and some others as well, are under the impression that Aden should be transferred to the Egyptian Government?

(c) Will the Government be pleased to state in full the attitude of the original and permanent residents of Aden with regard to the transfer or otherwise severance of connection with India? Do they want to remain under Arab or Egyptian Government or keep connection with the Government of India?

(d) Is it a fact that Aden was all along politically a part of British India and under the Governor of Bombay and most of the Arab Chiefs along the Coast of Aden are under the political control of the British Government? Will the Government be pleased to state in full the religion, literature, art and other notable features, historical and geographical, of the majority of the original residents of Aden?

(e) Do Government propose that Aden should remain under the Government of India as it has hitherto been, considering the situation, the literary, historical, religious, racial and social importance of the people and residents of Aden?

The Honourable Dr. T. B. Saprú (on behalf of the Honourable Mr. Denys Bray): (a) Copies of the correspondence with the Aden Chamber of Commerce and other public bodies are laid on the table. His Majesty's Government were duly apprised of the debate and Resolution in the Council of State last September on the subject. As their answer is still awaited, it would not be in the public interest to lay the correspondence with His Majesty's Government on the table.

(b) The answer to the question, as it stands, is 'No'. But the wording is obscure, and I am in some doubt whether the question, as it stands, is really the question the Honourable Member meant to put.

(c) The answer, so far as Government are aware, emerges from the papers I lay on the table under (a).

(d) If by 'all along' the Honourable Member means the years from 1839 onwards, the answer is 'Yes'. As to the latter half of the question, he

will, I trust, pardon me if I express my inability to give a full statement of the religion, literature, art, and other notable features, historical and geographical, of the original residents of Aden. But if by 'original' he means the Arabs, I shall be happy to refer him to standard books of reference on the religion, history, literature, art, and so forth, of the Arab race.

(e) I would refer the Honourable Member to my answer under (a).

Telegram dated the 5th March 1921.

From—The Vice-Chairman, the British Indian Colonial Merchants' Association, Bombay.

To—{ (1) The Private Secretary to His Excellency the Viceroy.
(2) The Secretary to the Government of India in the Department of Commerce.

The Committee shocked at the announcement said to have been made by the Premier on 28th February that Indian Government will have no footing at Aden. This news has caused great resentment and irritation to Indian merchants generally. The Committee strongly protest against the policy of the Imperial Government in trying to dismember Aden Administration from the Indian Government without obtaining the views of Indians and presumably of the Indian Government as well, although from the beginning and up to now for many many years Indian Exchequer and Indian enterprise have borne heavy costs for its administration and development. The Committee request Government of India to take immediately effective steps to prevent this dismemberment and to appease the public mind in time. Addressed Private Secretary to the Viceroy, Viceroy's Camp; copy delivered Registrar, Private Secretary to the Viceroy, Delhi.*

No. T.-628, dated Bombay, the 17th March 1921.

From—J. K. MEHTA, Esq., M.A., Secretary, the Indian Merchants' Chamber and Bureau, Bombay.

To—The Secretary to the Government of India in the Foreign and Political Department.

It has come to the notice of this Chamber that Aden is to be transferred from India to the Colonial Office. The local Colonial Merchants' Association has also sent a telegram of protest to the Government of India, a copy of which they have sent to my Committee. My Committee will be much obliged if you kindly let them know if it is a fact that Aden is to be transferred to the Colonial Office, in which case my Committee beg to raise a strong and emphatic protest. *The Times of India Year Book* observes in its issue of 1920 that the Aden Settlement was until 1918 subject politically to the Government of Bombay, but it has now been handed over to the Foreign Office. Any elucidation of the present position of Aden will be much appreciated.

No. 479-E.B., dated Delhi, the 5th April 1921.

* From—A. N. L. CATER, Esq., Deputy Secretary to the Government of India in the Foreign and Political Department,

To—{ (1) The Vice-Chairman, the British Indian Colonial Merchants' Association, Bombay.
(2) J. K. MEHTA, Esq., M.A., Secretary, the Indian Merchants' Chamber and Bureau, Bombay.

With reference to your [1] telegram to the Private Secretary to His Excellency the Viceroy and the Secretary to the [2] letter No. T.-628, dated the 17th March 1921, Government of India in the Department of Commerce, dated the 5th March 1921, I am directed to state that the question of the transfer of Aden

betrays the Indian merchant when he believes in the good intentions of the Government. We may here mention that as a result of the Great War, the British Colonies have been allotted certain territories and Islands belonging to the enemies, while in the case of India she is being robbed of the territories which her people have brought and developed for the British Empire. Such treatment will naturally tend to shatter all their belief in the talk of India's equal partnership in the British Commonwealth and the full citizenship of the British Empire.

It will not be out of place to point out here that the landed estates of the Indian Merchants at Aden are enormous and the Indians have settled down and have made that country as their land of adoption. The Indians settled there, have so much built up their trade that they at present command the major portion of the Red Sea Ports business, and for this object some of the great Firms have established their Head Offices at Aden since a number of years.

We also beg to point out here, that the British Europeans scarcely form a part of the population and they are merely temporary residents carrying on trade as Shipping and Coaling Agents; and it was these few who were instrumental in passing the Chamber's resolution, probably under the same belief that the administration was being transferred to the Government of Egypt.

Lastly, we think it our duty to bring to Your Excellency's notice a rumour that is afloat that even if the administration of Aden be transferred to the Colonial Office, the military expenditure of the country and, furthermore, the naval expenditure on the port of Aden, will wholly or to a great extent fall on the Indian Treasury we are sure the Government of India will not only protest against and resent any such proposal, but, on the other hand, will demand a share of the present and future military and naval expenditure from the Colonial and the Imperial Treasury as this gateway is and will be maintained for the safety of the Empire. It is our firm belief that under any circumstances the civil administration of Aden can safely and fairly be kept under the Government of India, even if the military and naval administration be transferred to the Imperial Government, but we make bold to point out, that as suggested in Esher Committee's Report if the Commander-in-Chief of India is going to have direct communication with the Imperial Staff, then there is not the slightest reason for snatching away Aden from the Government of India. We therefore request the Government of India to publish the conditions under which the administration is proposed to be transferred to the Colonial Office.

In conclusion, we pray to Your Excellency who is upheld as the model of British justice and fairplay and who has been specially sent here to govern this country justly and to satisfy the aspirations of the Indians, that Your Excellency's Government will strongly put forth the Indian case and advocate the Indian point of view in the Imperial Councils of the British Empire and will thus prevent the transference of an important seat of commerce which was up to now developed at the cost of the Indian Exchequer and by the Indian people.

We beg to subscribe,

Your Excellency's most obedient servants,

*

A copy of the Representation signed by Indian, Arab and Jew merchants of Aden.

ADEN, 3RD MARCH 1921.

To

MAJOR-GENERAL T. E. SCOTT, C.B., C.I.E., D.S.O.,

Officer Commanding and Political Resident, Aden.

SIR,

We have the honour to bring the following to your favourable consideration.

We, the Indian and Arab merchants, trading at Aden, supported the Chambers' Resolution for transfer of Aden to the Colonial Government simply under the belief that the Government had decided to transfer Aden to the Egyptian Government and we preferred

* Signatures not reproduced.

the former to the latter. We are strongly of opinion that Aden must continue under the Government of India as our chief trade and interest are connected with India.

As you are shortly proceeding to Egypt, we respectfully urge that our views be placed before the responsible authority.

We have the honour to be,

SIR,

Your most obedient servants,

Cowasjee Dinshaw & Bros.
 Menahim Messa.
 Hajeebhoy Lalljee & Co.
 Abdoolabhoy and Joomabhoy Lalljee.
 Syed Ahmed Taha Safi.
 Mohamed Omar Bazara.
 M. A. Hassanali & Bros.
 Syed Mohamed Hassan.
 H. Adamally & Co.
 Motabhoy Mahomedali.
 Aman Salah.
 Hajee Mahomed Mowjee.
 Mohamed A. Basindwa.
 M. J. Saleh Jaffer.
 Saleh Barahim.
 Abdulla Banani & Co.
 Moolji Raghavji Dhanki.
 Omer Basindwa.
 Cassim Abdulla Algirby.
 Syed Abdullah bin Hamad Safi.
 Meralibhoy Dosa & Sons.
 Said Ahmed Bahassan.
 Mohamed Haji Ayub.
 Khamisa Haji Janmahomed.
 Hassanbhoy Mahomed.
 Hirachand Sunderji.
 Nathu Mulji.
 Mahomed Awad Mahreiz.
 Syed Ahmed Bin Husen Elhamed.
 Omer Abdulla Basoudan.
 Haji Ahmed Fareh.
 Mahomedali Saad.
 Jasaraj Gokuldas.
 Alibhoy Chagla & Company.
 Kalidas Bhimjee.
 Kapoorchand Lakmichand & Company.
 Sha Panachand Manekchand.
 Bhagwandas Devji.
 Sha Abhechand Savchand.
 Valbhajee Tarachand.
 Devchand Vithaljee.
 Soonderjee Motichand.
 Bhagwandas Amarchand.
 Jagjiwan Tarachand.
 Ali Mahomed Cassim.
 Bakar Bashrahil.
 Hoozen and Saleh Jaffer.
 Saleh Basoden.
 Syed Abdrahim Algotfree.
 Meghjee Chapsee.
 Abdulkadar Hussenal Vasi.
 Chaturbhai Harakchand.
 Soonderji Harchand.
 Ahmed Bin Omar Basaleh.

Noormahomed Moosa & Co.
 Abdulla bin Mahomed Bataw.
 Saleh bin Omar Bashanffer.
 Kalianji Virjee.
 Mahbub and Raiban Farhat & Son.
 Kalanjee Vasanjee & Co.
 Parmanand Laljee.
 Dadbhoy & Co., Arabia.
 Hajee Ebrahim Noor.
 Abdrehman Bin Othaman.
 Syed Omar Taha Safi.
 Rattonjee Damjee.
 Morarjee Indgerjee.
 Kanjee Haridas.
 Haridas Gokuldas.
 Sha Ladaha Sheskaran.
 Sha Sanghjee Lakhmichand.
 Narandas Harjiwan.
 Paranjivan Valbbjee.
 Shantilal Parmanand.
 Manekchand Amarsi.
 Premjee Jetha.
 Amilal Haridas.
 Jannadas Nemchand.
 Hirachand Vasanjee.
 Abdulaziz Dadabhoy.
 Siddik Moosa.
 Jagjiwan Sobhagchand.
 Gobindjee Jutha.
 Henraj Hirachand.
 A. A. Nabi.
 Chhagan Moolji.
 H. M. Saleh Fikree.
 Paragji Anderji.
 M. N. Joshi & Company.
 Raghunath Vitbaldas.
 Badroodin & Company.
 Madhavjee Laljee & Bros.
 Meghjee Parmanand.
 Harilal Ratilal.
 Abdulgafoor Haji Abdulla.
 Abdulkadar Adamji.
 Abdulgaoni Abduhakoor.
 Hassanali Eshabhai Rupawalla.
 Derchand Hirachand.
 Hirachand Soonderjee.
 Talakchand Motichand.
 G. M. Mahmedali & Company.
 Ranchordas Girdhar.
 Harjiwan Shankar.
 Madhabji Hirji.
 Tribhuwandas Chotalal.
 Harising Poonmalji.
 Vanmali Virji.

up their trade, step by step, during the last eighty years, that they at present command the major portion of the Red Sea Ports business and, for this object, some of the prominent firms have established their Head Offices at Aden for many a year past.

7. We may also be permitted to point out, that the British and other Europeans scarcely form a considerable part of the population. They are merely temporary residents carrying on trade as shipping and coaling agents; and it was these few who were actually instrumental in passing the Chamber's resolution, probably under the same belief that the administration was being transferred to the Government of Egypt.

8. Lastly, we think it our duty to bring to Your Excellency's notice a rumour that is afloat, that even if the administration of Aden be transferred to the Colonial Office, the Military expenditure of the country and, furthermore, the Naval expenditure on the port of Aden will wholly or to a great extent fall on the Indian revenues. We do not believe in the rumour but, should there be a grain of truth in it, we are sure, the Government of India will not only protest and resent any such proposal but, on the other hand, will demand a share of the past, present and future enormous Military and Naval expenditure from the Colonial and the Imperial Treasury as this gateway has been and will be maintained for the safety of the Empire. It is our firm belief, that under any circumstances, the civil administration of Aden can safely and fairly be kept under the Government of India, even if the Military and Naval administration be transferred to the Imperial Government; but we make bold to point out, that as suggested in the Fisher Committee's Report, if the Commander-in-Chief in India is going to have direct communication with the Chief of the Imperial Staff, then there is not the slightest reason for snatching away Aden at all from the Government of India. We therefore earnestly trust, the Government of India will be pleased to publish the full conditions under which the administration is proposed to be transferred to the Colonial Office.

9. In conclusion, we pray Your Excellency who are regarded as a model of British Justice and Fairplay and who have been specially sent here to govern this country justly and to satisfy the aspirations of the Indians, that Your Excellency's Government will strongly submit the Indian case and advocate the Indian point of view in the Imperial Councils of the British Empire and will thus prevent the transference of an important seat of commerce which up to now has been undoubtedly developed at the cost of the Indian Exchequer and by enterprise, patient industry and capital of the Indian people.

We beg to subscribe,

Your Excellency's most obedient servants,

HOUSEINBHOY ABDOOLABHOY LALLJEE,
HORMUSJI C. DINSHAW,

Vice-Presidents.

BUNDALIBHOY HAJIBHOY,
BAKUBHAI MANSUKHBHAI,
MATHURADASS CANJEE MANTANI,

Members of Managing Committee.

ALLADIN MAHOMED,
VAZIRALLY BANDEALLY,

Honorary Secretaries.

BOMBAY;

The 15th May, 1921. }

Extract from a copy of the Resolutions for transmission to the Secretary of State passed at a meeting of the Council of the Western India National Liberal Association on the 20th August, 1921, Bombay.

TRANSFER OF ADEN.

The Council of the Western India National Liberal Association consider the contemplated transfer of Aden from the Indian Government to the Colonial Office as detrimental

to the interests of India on political, administrative and financial, grounds. They strongly support the representation of the British Indian Colonial Merchants' Association to His Excellency the Viceroy and Governor General in Council on this subject and urge on the Government of India and the Secretary of State for India the continuance of the *status quo* in regard to the civil and political administration of that port, not merely because Indians have played a great part in the development of it and constitute over one-fourth of its population, but also because of its strategic and political importance to India for own defence when she attains her full Dominion status within the British Commonwealth.

Dated the 29th August 1921.

From—**FAIZ B. TYABJI, Esq.,** for Self and Co-Secretaries, Bombay Presidency Association,

To—The Secretary to the Government of India in the Foreign and Political Department.

I beg to enclose a copy of a Resolution passed by the Council of the Association at its meeting held on the 24th instant in connection with the transfer of Aden to the Colonial Office, and trust that the Government will pay due consideration to it.

The Council of the Bombay Presidency Association beg strongly to oppose the contemplated transfer of Aden from the Indian Government to the Colonial Office, as being distinctly detrimental to the interests of India and of the Indians settled in Aden and the country around Aden who have played a great part in its development and constitute over one-fourth of its population. The transfer is opposed on political, administrative, financial and strategic grounds. The Council need not dilate on these grounds as the same are more fully stated in the representation of the British Indian Colonial Merchants' Association to His Excellency the Viceroy and Governor-General in Council on this subject and which the Council entirely endorses. The Council therefore respectfully but strongly urge on the Government of India and the Secretary of State for India, that the civil, military and political administration of Aden be continued as heretofore.

No. 180, dated Bombay, the 2nd September 1921.

From—The Honorary Secretaries, British India Colonial Merchants' Association Bombay,

To—The Private Secretary to His Excellency the Viceroy.

We have the honour to inform you that our Association has submitted some time back a representation to His Excellency the Viceroy through the Governor of Bombay, regarding the contemplated transfer of administration of Aden to the Colonial Office.

We beg to bring to your notice that the most influential bodies in Bombay, representing various interests and shades of opinion have all with one voice protested against this proposed transfer as detrimental to India on political, administrative and financial basis; this clearly be seen from the copies of the resolutions passed by the Bombay Presidency Association, the Western India National Liberal Association, the Imperial Indian Citizenship Association, the Reform Conference and the Indian Merchants' Chamber and Bureau.

Our Association is pained to find that the Government had not taken special steps to ascertain the views of the Indian trading community concerned, as is evident from the reply which the Right Honourable Mr. Montagu gave to Sir T. Bennett in the House of Commons; and, therefore, our Association begs to put its most emphatic protest against the handing over of Aden to the Colonial Office without consulting the views of those who have played a great part in its development and who contributed over one-fourth of the population. My Association is further grieved to find that the Indian public is utterly kept in dark by the Government regarding the financial clauses under which the transfer is to be made; and judging from the speech made by the Secretary of State for Colonies, while moving a vote to the Colonial Office in the House of Commons on the 14th July, 1921, my Association is under the belief that this transfer would involve heavy Military expenditure and that India will have to bear tremendous financial burden for maintaining a fortress of first-class consequence to India.

Our Association therefore hopes that His Excellency the Viceroy will be pleased to consider the case from the Indian point of view, after ascertaining the opinion of the Indian Commercial Community in particular and the public in general. We may point out to you, in this connection, that the Government have not even taken the consent of the Indian Legislative Assembly.

In conclusion, my Association prays that His Excellency the Viceroy will not perpetrate an act of grievous injustice and inequity by allowing this transfer and thus will not be a party in creating another contested problem as in British East Africa, as it is sure to follow the transfer in spite of the assurance of the Secretary of State for India that 'the Government accepted without reservation the condition of the Government of India that its transfer should in no way impair the interests and status of Indians who should receive precisely the same treatment as other subjects of His Majesty'. We fervently hope that His Excellency, during the present state of the country and under his just régime, will act in the best interests of the Indian Empire.

Extract from the House of Commons' Report, 14th July, 1921

DURING A DEBATE ON THE COLONIAL OFFICE VOTE.

Mr. Churchill.— There is another possibility of a reduction of expenditure in Aden. The India Office has very kindly handed Aden over to the Colonial Office, and my acceptance of the gift has only been delayed by the financial negotiations, because India has hitherto paid a great part and I certainly should not be serving the interest of the British Tax-payer if I assumed the whole burden without any of the funds which are necessary to maintain a fortress of first-class consequence to India, but I hope for a happy solution; in fact, I think, that in a very few days we shall have reached an agreement. And the moment that Aden is transferred to the Colonial Office, it will be possible to amalgamate the administration of Aden and Somaliland. Somaliland and Aden are really the most happy marriage that could be made. They are really necessary to one another. The high ground, five or six thousand feet high, in Somaliland will afford a hill station to which the British soldiers in Aden under the most trying conditions all through the summer could go company by company in one night's journey across the sea to Somaliland. You could not have a more harmonious minor proposition, and if this amalgamation be carried out in such a way as to effect, perhaps a saving of £200,000 to £300,000 a year in the reduction of Military expenditure, it will repay the trouble which it takes to arrive at such a conclusion.

Copy of the messages sent by Mr. Jehangir B. Petit on behalf of the Council of Imperial Indian Citizenship Association, to the Secretary of State for India and the Government of India.

'The Council of the Imperial Indian Citizenship Association strongly protests against contemplated transfer of Aden from India Government to Colonial Office, London, and prays that Aden should continue to be administered as at present by Bombay Government.'

'The Council of Imperial Indian Citizenship Association strongly supports protest of British Indian Colonial Merchants' Association against transfer of Aden from India Government to Colonial Office, London, and prays Aden should continue to be administered as at present by Bombay Government,' 5th July 1921.

Copy of the Resolution passed by the Council of the Western India National Liberal Association at a meeting held on the 20th August, 1921, under the presidency of the Honourable Sir D. E. Wacha.

'The Council of the Western India National Liberal Association consider the contemplated transfer of Aden from the Indian Government to the Colonial Office as detrimental to the interests of India on political, administrative, and financial grounds. They strongly support the representation of the British Indian Colonial Merchants' Association to His Excellency the Viceroy and Governor General in Council on this subject and urge on the Government of India and the Secretary of State for India, the continuance of

status quo in regard to the civil and political administration of that port, not merely because Indians have played a great part in the development of it and constitute over one-fourth of its population, but also because of its strategic and political importance to India for her own defence when she attains her full Dominion status within the British Commonwealth.'

Copy of the Resolution passed by the Bombay Presidency Association.

'The Council of the Bombay Presidency Association beg strongly to oppose the contemplated transfer of Aden from the Indian Government to the Colonial Office, as being distinctly detrimental to the interests of India and of the Indians settled in Aden and the country around Aden who have played a great part in its development and constitute over one-fourth of its population. The transfer is opposed on political, administrative, financial and strategic grounds. The Council need not dilate on these grounds as the same are more fully stated in the representation of the British Indian Colonial Merchants' Association to His Excellency the Viceroy and Governor General in Council on this subject and which the Council entirely endorses. The Council, therefore, respectfully but strongly urge on the Government of India and the Secretary of State for India that civil, military, and political administration of Aden be continued as hithertofore.'

Extract from letter No. T-989, dated the 16th June, 1921, from the Secretary, Indian Merchants' Chamber and Bureau, to the Private Secretary to His Excellency the Viceroy and Governor General of India, Simla.

I am directed by my Committee to say that they strongly support the representation sent by the British Indian Colonial Merchants' Association to His Excellency the Viceroy, through His Excellency the Governor of Bombay, dated the 15th May, 1921.

Copy of the Resolution passed by the Reform Conference held in Bombay under the auspices of the National Home Rule League on the 30th August, 1921, Mrs. Besant presiding.

'This conference considers the contemplated transfer of Aden from the Indian Government to the Colonial Office as detrimental to the interests of India on political, administrative and financial grounds. It strongly supports the representation of the British Indian Colonial Merchants' Association to His Excellency the Viceroy and Governor General in Council on this subject and urges on the Government of India and the Secretary of State for India the continuance of the *status quo* in regard to the civil and political administration of that port not merely because Indians have played a great part in the development of it and constitute over one-fourth of its population, but also because of its strategic and political importance to India for her own defence, when she shall have attained her full Dominion status within the Indo-British Commonwealth.'

No. 5991, dated Simla, the 13th October 1921.

Endorsed by the Department of Commerce.

TRANSFER OF ADEN TO COLONIAL OFFICE.

A copy of the undermentioned paper is forwarded to the Foreign and Political Department:

Extract from a letter from the Deccan Sabha, Poona City, dated the 2nd October, 1921.

Extract from a letter from the Deccan Sabha, Poona City, dated the 2nd October, 1921.

I am desired to forward for your information the following two Resolutions passed at a recent meeting of the Council of the Deccan Sabha:

'In view of the very large Indian interests created in Aden since its conquest in 1839 by an officer deputed by the Government of Bombay, the Council of the Deccan

Sabha protests most emphatically against the proposed transfer of its administrative control from the Government of India to the Colonial Office and trust that the step, fraught as it is with far-reaching consequences to the well-being of the people composing the Settlement, will not be carried out without consulting the wishes of the people concerned and giving the Indian Legislature an opportunity to examine it in all its bearings.

QUESTIONS IN THE VERNACULAR.

43. * **Mr. K. Ahmed:** In view of the fact that the Members of this Assembly can take part in the debate of a Resolution or a Bill in their vernacular language commonly spoken by them, will the Government be pleased to state whether they can put in the vernacular questions starred and unstarred in this Assembly including the supplementary question they may desire to put arising out of any question or questions and the answers of such questions of this Assembly? If the answer is in the negative, will the Government be pleased to explain the principle and reasons of such refusal?

Mr. President: The procedure which governs questions is under the sole control of the President. I therefore propose to answer this question. Rule 14 declares that the business of the Assembly shall be transacted in English provided that the President may permit any Member unacquainted with English to address the Assembly in a vernacular language. I interpret this rule as meaning that Members unacquainted with English may put their questions, including supplementary questions, in the vernacular. Up to the present moment, I have not yet considered it necessary to issue instructions in this matter. If any specific need for such instructions arises, I am prepared to take steps to meet it.

COUNCIL SECRETARIES WITH KNOWLEDGE OF THE VERNACULARS.

44. * **Mr. K. Ahmed:** Do Government propose to appoint Council Secretaries qualified to interpret the vernacular languages used by the Members and thereby facilitate the business of the House?

The Honourable Sir William Vincent: I invite a reference by the Honourable Member to the provisions of section 43-A of the Government of India Act. The appointment of Council Secretaries is a matter to be decided by the Governor General and is not a business of the Governor General in Council.

GHUTTIYARI SHERIFF STATION OF THE EASTERN BENGAL RAILWAY.

45. * **Mr. K. Ahmed:** Are the Government aware that at Ghutiyari-Sheriff station on the Canning branch of the Eastern Bengal Railway line the platform is much lower than the foot-board of carriages and it being the pilgrim station many people, specially the females, find great inconvenience in alighting from the train?

(b) Do the Government propose to give proper warning to the local authorities to supervise their work duly, so that in case any step is to be taken for improving the station platform or otherwise wanting in any other stations, may report on the subject in order that the inconveniences of the passengers may be removed?

Colonel W. D. Waghorn: (a) Ghutiyari-Sheriff station has a medium height platform 1'—2" above rail level. The lower foot-board of the passenger carriages is generally level with the platform and no special difficulties are experienced in alighting from trains.

(b) No special action is thought necessary.

Mr. K. Ahmed: Is it not a fact that there is no raised platform and the ladies going there are not helped to alight?

If that answer is in the affirmative, I am very thankful to the Honourable Member. But if it is in the negative, I ask for a definite answer.

Colonel W. D. Waghorn: I have nothing to add to what I have already said.

MALDA RAILWAY STATION.

46. * **Mr. K. Ahmed:** (a) Are the Government aware that Malda Railway station on the Eastern Bengal Railway line is situated far away from the town of Malda, the District Headquarter across the river Mahananda, and that near the station on the road leading to the town there are jungles from where tigers come out and attack passengers going to and coming from the railway station?

(b) Is it a fact that owing to their long-felt grievances of the people of Malda, frequently memorials are being made to the authorities and the Governor of Bengal?

(c) Do the Government propose to take immediate steps and relieve the passengers and the people of Malda of the great danger and inconvenience, by either removing the railway line near the city or clearing the jungles and bridging the river to help the passengers going to and coming from the railway station?

Colonel W. D. Waghorn: (a) The railway station at Malda is situated at a distance of about 1½ miles from the town, the Railway Administration has received no reports of any passengers having been attacked by tigers.

(b) Government are not aware of any memorial about the so-called long-felt grievances having been received by the railway authorities, or the Governor of Bengal.

(c) It is not possible to shift Malda station from its present site. The clearing of the jungle along the road and the bridging of the river are matters which concern the District Board and not the Railway.

Mr. K. Ahmed: Has the Government, Sir, inquired of the Local Government? Are the Government in a position to answer that question without making any inquiries?

Colonel W. D. Waghorn: No.

Mr. K. Ahmed: Will the Government be pleased to do that?

Colonel W. D. Waghorn: I don't think it is the business of the Government.

Mr. K. Ahmed: To start with, the railway has been stationed in the middle of the jungle. The railway authorities will do nothing and the people are being eaten up by tigers. May I ask an answer to my question, Sir?

Colonel W. D. Waghorn : I have already explained to the Honourable Member that there have been no reports of any passengers having been eaten by tigers and the Government are not aware of any memorials having been sent in.

Mr. K. Ahmed : I repeat the same question again; Sir. Has the Government taken the trouble to inquire into the matter whether anybody has been eaten up or not? Is not there any jungle on both sides of the station which is situated unnecessarily too far from the town of Maida?

Colonel W. D. Waghorn : If the Honourable Member will give us a specific case, I am quite prepared to inquire.

Mr. President : Order, order. The Honourable Member must be aware that there is a Standing Order which prescribes that those who make statements in their questions must make themselves responsible for the accuracy of them.

Mr. K. Ahmed : I am quite responsible, Sir. I know the facts and I am asking on that responsibility. Without having made any inquiries with regard to the question, how can the answer be given by the Honourable Member in charge?

The Honourable Mr. C. A. Innes : I just want to say, Sir, that if Mr. Kabeer-ud-Din Ahmed will quote to us any specific instance of any man having been eaten up by a tiger, we are quite prepared to go into the matter.

Mr. K. Ahmed : Will the Government be pleased to make inquiries with regard to the jungles, Sir, situated on the road leading to the station?

Mr. President : I drew the Honourable Member's attention to the Standing Order which imposes on the Member asking the question the responsibility for the accuracy of the statements made in his question. I ask the Honourable Member to consider the meaning of that Standing Order in relation to the questions which he has just been asking.

Mr. J. Chaudhuri : May I ask Mr. Kabeer-ud-Din Ahmed, who comes from Malda, if he can undertake to shoot the tigers going about the station or scare them away?

Mr. K. Ahmed : I am neither the Chairman of the Railway Board nor any high officer of the State Railway, and I am not responsible for that.

TELEGRAPHIC COMMUNICATION FOR CHAPAI, NAWABGANJ, ETC.

47. * **Mr. K. Ahmed :** (a) Are the Government aware that the people of Chapai, Nawabganj and Kansat, specially the merchants as consignors and consignees of goods and parcels at the stations of Amnura and Rahanpur on the Eastern Bengal Railway, are under great disadvantage and inconvenience for a long time for the want of telegraphic communication, the above mentioned railway stations being far away from the localities?

(b) Is it a fact that for a long time complaints are being made and memorials were sent to the Government of Bengal on the subject without any result?

(c) Do the Railway Department propose either to remove these stations at some suitable places, advantageous to the people, or confer with the

Telegraph Department to consider the desirability of joining those important places by telegraphic communication ?

Colonel Sir S. D'A. Crookshank : (a) Both Amnura and Rahanpur railway stations are open to the public for receiving telegrams.

(b) The Government of India are ~~not aware~~ that any complaints or memorials on the subject have been sent to the Government of Bengal.

(c) It is not possible to shift the stations from their present sites but the desirability of opening telegraph offices in the towns referred to in (a) of the Honourable Member's question will be considered.

TRANSFER OF A VILLAGE FROM BIHAR AND ORISSA TO BENGAL.

48. * **Mr. K. Ahmed :** (a) Will the Government be pleased to state whether a memorial signed by over 500 of the residents of the village within the Police Stations Rajmahal and Barharwa in the District of Santal Parganas in Bihar and Orissa Province has been received by the Government ?

(b) Do the Government propose to transfer the area under these two police stations to the Province of Bengal immediately ?

The Honourable Sir William Vincent : (a) A copy of the memorial has been sent to me personally, but the memorial has not been sent officially to the Government of India.

(b) Government do not propose to take any action until the memorial is transmitted by the Local Government.

Mr. K. Ahmed : Will the Government of India be pleased to forward those memorials to the Local Government to make necessary inquiries ?

The Honourable Sir William Vincent : I have explained that a memorial on this subject is, I believe, being sent by certain persons through the Local Government to the Government of India, and we are awaiting receipt of that memorial from the Local Government. In the meantime, an advance copy has been sent to me by name because I am supposed personally to be interested with the areas. We are at present awaiting the receipt of the memorial from the Local Government with the opinion of that Government on the proposal and I believe that this is the proper and reasonable course.

Mr. K. Ahmed : I am very much obliged for this satisfactory answer, Sir.

COSTS OF THE TREATY WITH AFGHANISTAN.

49. * **Mr. K. Ahmed :** Will the Government be pleased to state in full and lay the particulars on table as regards the exact amount of the costs of the treaty with Afghanistan from the beginning to end, date by date, which Sir Henry Dobbs, his committee, the Government of India and others have incurred from the Indian Exchequer ?

The Honourable Dr. T. B. Sapru (on behalf of the Honourable Mr. Denys Bray) : From December 18th, 1920, when the Kabul Mission assembled at Peshawar, up to the end of December, 1921, the total cost of the Kabul Mission including the estimated cost of such items for which final charges have not yet been presented but excluding the telegraph material which is to

be presented to the Afghan Government amounted to Rs. 3,85,594. It will not be in the public interest to lay the particulars date by date on the table.

Mr. K. Ahmed : Will not the public realise the situation and appreciate the answer of my Honourable Friend, if date by date the items of expenditure are given ?

The Honourable Dr. T. B. Sapru : I have already stated that it will not be consistent with the public interest to answer that question.

UNSTARRED QUESTIONS AND ANSWERS.

INDIAN APPRENTICES IN THE JAMALPUR RAILWAY WORKSHOP.

1. **Rai G. C. Nag Bahadur :** (a) With reference to clause (b) of Question No. 157 asked by Mr. K. C. Neogy on the 15th September last, and the answer given by Colonel Waghorn, will Government be pleased to state whether the Indian apprentices, while entering the Jamalpur Railway Workshop, are at liberty to use the gateway hitherto used by European and Anglo-Indian apprentices ?

(b) Do Government propose to issue definite instructions to this effect ?

(c) With reference to the answer to clause (d) of the said question, do Government propose to consider the desirability of adopting the method of payment in vogue in the case of the Indian apprentices in the case of the European and Anglo-Indian apprentices as well, in view of the merits of the said method as stated by Colonel Waghorn in the said reply ?

Colonel W. D. Waghorn : (a) and (b). It has been ascertained that there is no objection at all to Indian apprentices of the special grade and 1st class using the gateway referred to. In fact some of them do already.

(c) The matter is not one for Government to consider. The Railway Company is at liberty to arrange for the disbursement of the pay of their staff in such manner as they see fit. Payments are usually made in the manner considered most suitable and expeditious in regard to the class and numbers of staff to which they are applicable.

APPOINTMENT OF THE HONOURABLE MR. C. A. INNES TO THE VICE-ROY'S EXECUTIVE COUNCIL.

2. **Rai G. C. Nag Bahadur :** With reference to Government of India Home Department, Notification No. 2128, dated the 10th September, 1921, appointing Mr. Charles Alexander Innes, C.S.I., C.I.E., to be a temporary Member of the Council of the Governor General of India in the vacancy caused by the resignation of the Honourable Sir Thomas Holland, will the Government kindly state whether seniority in service or other reasons have determined the choice of the authorities in making the temporary arrangement ?

The Honourable Sir William Vincent : The gentleman named in the question was appointed to the post because in the opinion of the Governor General in Council his appointment was in the public interest.

RATIONS FOR INDIAN SOLDIERS.

3. **Sardar Gulab Singh** : (1) Is the Government aware :

- (a) That the issue of *gur* for making tea to Indian soldiers of some non-silladar regiments is objected to except as emergency rations ?
 (b) That the Indian soldiers are dissatisfied with the supply of impure ghee at present ?

(2) Has Government considered the question of having regimental management for the supply of ghee in such regiments as desire it ?

(3) Is it a fact that in boards for matters about rations the Indian officers are not sufficiently represented ?

Sir Godfrey Fell : (1) (a) *Gur* is issued as a standard ration for Indian troops except :

- (1) During some of the hot and moist months of the year when sugar is issued as a substitute, and
 (2) When sugar is cheaper than *gur*.

Experience has shown that *gur* is readily acceptable.

(b) Government are not aware that the Indian soldiers are dissatisfied with the ghee supplied. The greatest care is taken to obtain ghee of pure quality and the strictest tests are applied before it is passed as fit for issue to Indian troops. The price of the ghee supplied to the Indian troops has averaged about Rs. 112 per 100 lbs. for the past 12 months.

Complaints are rarely made, and if made are invariably attended to.

(2) Yes. It is undesirable, however, from the point of view of the Indian soldiers' health and physique, that regimental arrangements should be made for the purchase of ghee.

When, as a temporary measure, a money allowance was allowed in lieu of ghee it was found that the ghee purchased by the troops in the Bazaars was impure, often adulterated as much as 40 per cent., and possessing in many cases little or no food value. This entailed loss to Government who were getting a relatively small return for the money.

With a ghee supply supervised as at present the State receives full value for the money spent and the individual soldier a pure and wholesome article of food. Careful control and scientific tests cannot in practice be effectually enforced under any system whereby units purchase their own ghee.

(3) Boards presided over by a medical officer and on which Indian officers are represented are provided for in Army Regulations.

(i) These boards are assembled under the orders of the Officer Commanding Station, and in practice one Indian officer of each of the classes of men by whom the rations will be consumed is included on the boards.

(ii) The Officer Commanding any unit (advised by Indian officers in all cases where necessary) is required to reject any apparently unsatisfactory supplies tendered to his unit.

(iii) Indian officers are detailed to accompany Inspectors in the supply service and advise them when inspecting depot stocks.

These safeguards are simple and are found to be effective in practice. They are identical in the case of British, Indian and mixed units.

EDUCATIONAL STANDARD FIXED BY THE STAFF SELECTION BOARD FOR WAR-SERVICE CANDIDATES.

4. Rai Bahadur Bakshi Sohan Lal : (a) Is it a fact that the condition of minimum educational qualifications fixed by the Staff Selection Board for outside candidates to appear at their examination for 1st Division of the Secretariat and attached offices was relaxed in the case of certain candidates with war services ?

(b) If so, was there any public announcement made to this effect to enable all concerned to avail themselves of the privilege ?

(c) If the reply to (b) is in the negative, do the Government propose to consider the advisability of extending this concession to other deserving Undergraduates with war services who passed for the 2nd Division but could not apply for the 1st Division for want of information on the point ?

The Honourable Sir William Vincent : (a) The answer is in the negative.

(b) and (c). In view of the answer to (a) these questions do not arise.

PROPORTION OF CERTAIN RAILWAY APPOINTMENTS HELD BY SIKHS.

5. Bhai Man Singh : (a) Will the Government be pleased to lay on the table a statement showing the posts of Assistant Traffic Superintendents, Traffic Inspectors, Claims Inspectors on Railways held by Sikhs as compared with Hindus, Muhammadans and Christians ?

(b) Do the Government propose to consider the question of appointing Sikhs (new candidates or those already in service) to these posts ?

Colonel W. D. Waghorn : (a) A statement giving the information asked for is placed on the table.

(b) It is not possible to make communal distinctions in appointing Indians to the Railway establishments. The most suitable candidates are selected both on first appointment and for promotion subsequently.

Statement showing the posts of Assistant Traffic Superintendents, Traffic Inspectors, and Claims Inspectors held by Sikhs as compared with Hindus, Muhammadans and Christians on the North-Western Railway.

Class.	Assistant Traffic Superintendents.	Traffic Inspectors.	Claims Inspectors.
Sikhs	1	...	1
Hindus	4	5	7
Muhammadans	8	...	4
Christians	27	44	...
Total	40	49	12

ELECTRIC INSTALLATION IN CANTONMENTS.

6. **Bhai Man Singh :** (a) Is it a fact that a large electrical installation has been started at Peshawar and smaller ones at Nowshera, Jamrud, Risalpur and Attock, and that a similar installation at Ambala is under construction ?

(b) In what other cantonments have electric installations been provided or started within the past two years ?

(c) In what other cantonments are new installations under contemplation ?

(d) How much money has been spent on these installations and how much more is estimated to be spent ?

(e) How much of this money will be spent in this year ?

(f) Having regard to the assurance given by the Government to keep the military expenditure as low as possible, do the Government propose to order that the expenditure on electric installations and similar luxuries be stopped or deferred till financial conditions improve ?

Sir Godfrey Fell : (a) Yes.

(b) Small temporary installations have been provided at the Quetta Station hospital ; Rawalpindi hospital and some of the barracks ; Agra hospital ; Fyzabad hospital ; Kohat ; Bannu ; Dera Ismail Khan ; and the Aden hospital and certain other buildings.

(c) A list is laid on the table.

(d) The approximate Capital cost of these electrical installations up to date has been Rs. 55,00,000.

It is estimated that approximately 1½ crores will be required to complete the present electrical programme.

(e) If the scheme progresses as rapidly as is anticipated, the sum expended will be approximately Rs. 8,25,000.

(f) The policy of introducing electrical installations into hospitals, barracks and other regimental buildings was accepted so long ago as 1903, when the Secretary of State for India approved of annual expenditure on the provision of joint electrical systems for lighting and punkah-pulling in large stations. Since that date the policy has been to introduce these amenities into the various cantonments, as far as funds have permitted.

The Army in India Committee, in paragraph 47 of Part V of their Report, emphasised the necessity for better lighting and cooling arrangements in British barracks and, in paragraph 83 of the same part of the Report, advocated the provision of free lighting, on an adequate scale, throughout Indian troops lines. The Government of India are of opinion that it is essential to improve both barracks and lines in this respect, so as to maintain the health and, consequently, the efficiency of the troops, whose health and spirits cannot but be adversely affected by occupying barracks which are ill-lighted and badly ventilated. The importance of having a good electric lighting system in hospitals, both with

reference to the comfort of the patients and in connection with operations, etc., cannot be over-estimated.

List of the Cantonments in which it is proposed to install Electricity.

Allahabad; Cawnpore; Lucknow; Sialkot; Rawalpindi; Jullundur; Multan; Agra; Jabulpore; Quetta (lighting only); Bangalore (lighting only); Hyderabad (Sind); Nasirabad; Kampur; Benares; Ahmednagar; Dinapore; Secunderabad; Muttra; Campbellpore; Fyzabad; Rurki; Mhow; Rangoon; Karachi and Poona.

ELECTRIC LIGHTS AND FANS FOR INDIAN TROOPS IN AMBALA CANTONMENT.

7 **Bhai Man Singh:** (a) Is it a fact that the benefits of the electric lights and fans to be put up at Ambala Cantonment are intended to be confined to the British section of His Majesty's troops and that it is not proposed to extend the same to the quarters and residences of the Indian section of these troops?

(b) Is it further a fact that poles for carrying cables have already been put up in the Staff Road and Mall Road, etc., and has the putting up of poles on other roads of Ambala Cantonment been stopped, and if so, does this mean that the roads occupied by British officers only are to be lighted and they alone will receive private connections?

(c) Has the same scheme of putting up the poles in the British quarters only been adopted in all other cantonments where these installations are started?

(d) Is it not a fact that Indian troops and Indian officers at Ambala have invariably to remain there all the year round and have thus to stand the rigour of the hot weather, whereas the British troops are often sent up to the hills to avoid the heat of the plains?

Sir Godfrey Fell: (a) The proposals are as stated, except that it is intended to supply the Indian troops hospital with electricity.

(b) The Government have no precise information as to the progress that has been made with the erection of poles in the Ambala Cantonment. All work, however, has been stopped pending the revision of the present scheme for the electrification of the Cantonment.

(c) In the electrification of cantonments the usual practice is to provide electricity in British and Indian hospitals, in British troop lines and in streets. It is not proposed to extend the policy of electrification to Indian troops lines until funds permit.

(d) It is not the fact that Indian officers and other ranks have invariably to remain at Ambala all the year round. The rules permit of Indian officers and other ranks being granted leave liberally during the hot weather months. As regards British troops, a certain number from each unit especially the younger men are, as a rule, sent to the hills for the hot weather months, or a part thereof. The choice of the individuals to be sent is governed by medical considerations.

ELECTRIC INSTALLATION IN THE AMBALA CANTONMENT.

8. **Bhai Man Singh:** (a) Is the Government aware that there is a great complaint at Ambala Cantonment that pressure is being brought on the

proprietors of the bungalows situated in military lines where electricity is to be supplied to have electric house connections therein ?

(b) If so, do the Government propose to issue orders to the effect that the house proprietors are at liberty to have electric house connections or not, and to give broadcast publicity to such orders ?

Sir Godfrey Fell: (a) The Government of India have no information on the subject. As, however, it is clearly desirable that when electric power is available in a cantonment, privately owned bungalows should also share in the benefits of the scheme, the owners of such bungalows are invited and encouraged to instal electric fittings. When this is done, it is the invariable rule to increase the rent of the bungalow.

(b) The Government do not consider it necessary to issue any orders of the kind suggested.

LAW RELATING TO THE MANUFACTURE OF COTTON THREADS IN BOMBAY.

9. Bhai Man Singh: (a) Is it a fact that there is a law in the Bombay Presidency prohibiting the manufacture of cotton threads of a finer thinness than that of a fixed standard ?

(b) Is there such a law in England ?

(c) If so, are the standards of thinness prescribed by both the laws the same ?

(d) If there is a difference, what is the reason for it ?

(e) Will the Government be pleased to lay on the table a copy of the Act relating to this matter with all amendments ?

Mr. A. C. Chatterjee: (a) No such law is in existence in India.

(b) The Government of India are unaware of the existence of any such law in England.

2. The remainder of the question does not arise.

SPECIAL OFFICER WITH THE RAILWAY BOARD.

10. Bhai Man Singh: Will the Government be pleased to state :

(a) Has there been a special officer with the Railway Board during the last three years ? If so, on what special duties has he been employed ?

(b) In what way has he improved the system of the railway working and its offices and what savings in the staff (European and Indian) and costs have been effected through him ?

(c) What has been the total cost of the said officer and his establishment during the last three years ?

(d) Will the Government be pleased to lay on the table a copy of the suggestions and improvements made by him together with the final orders thereon by the Government ?

Colonel W. D. Waghorn: (a), (b) and (c). The Honourable Member is referred to the answer* given by me on the 19th September, 1921, to Khan Sahib Mirza Muhamad Ikramulla Khan on the same subject.

* Vide Legislative Assembly Debates, Volume II, pages 435-434.

(d) The Government do not think it necessary to lay on the table a copy of all the suggestions and improvements made by Mr. Heseltine.

RATES OF FODDER AND FOOD GRAINS IN OTHER COUNTRIES.

11. **Bhai Man Singh :** (a) Have the Government of India any information about the rates of fodder and food grains prevalent in other countries which grow wheat and other food grains ?

(b) If not, will the Government be pleased to make inquiries in the matter ?

(c) Do the Government propose to consider the advisability of importing food grains from other countries if that could be cheaper taking into consideration the very high prices now prevalent in various parts of India and specially in the Punjab ?

Mr. J. Hullah : (a) and (b). The Government are regularly supplied with information regarding wheat prices. They have also a certain amount of information regarding prices of rice and no further inquiries are contemplated.

(c) As the Honourable Member must be aware, the importation of a large quantity of foreign wheat into India has already taken place. It does not appear that any other food grains largely consumed in India could be imported at prices lower than those prevailing in this country.

MAHARATTA NATIVE COMMISSIONED OFFICERS IN THE MILITARY DEPARTMENT.

12. **Mr. K. G. Bagde :** (a) Will the Government be pleased to state :

- (i) The number of the Maharatta Native Commissioned Officers—Jamadars, Subadars, Risaldars and Risaidars—serving in the Military Department as combatants ;
- (ii) The number of such officers who have been recommended by the Soldiers' Board for grant of land for their meritorious services in the past war ;
- (iii) The number of such officers, if any, who have been refused such grants only because they happen to be residents of some Native States; and if so, why ?

(b) Will the Government be pleased to state :

- (i) The number of Native Maharatta Commissioned Officers who have been given King's Commission—honorary Captainship excluded—eligible for higher rank and pension in the Indian Army ; and
- (ii) The number of the Maharatta candidates selected direct for such commissioned posts ?

Sir Godfrey Fell : (a) (i) The number of Maharatta Indian commissioned officers serving in the Indian Army on the 1st January, 1921, was 207.

(ii) The number of Maharatta Indian officers who have been recommended by the Indian Soldiers' Board for grants of land on account of distinguished service rendered during the Great War is 93.

(iii) The Government know of no instance in which a Maharatta Indian officer recommended for a grant of land under the special War Reward scheme has been refused such a grant for the reason that he is a resident of a Native State. The latter part of this question does not, therefore, now arise.

(b) (i) Five Maharatta Indian officers have been granted Honorary King's Commissions of the kind described.

(ii) One Maharatta candidate has been granted a permanent King's Commission.

ERECTION OF BUNGALOWS AND A HOTEL IN POONA.

13. **Mr. K. G. Bagde** : Will Government be pleased to state :

- (a) Whether they have received offers to build bungalows on the Hill, opposite to the Rifle Range, Poona, and a hotel on the vacant plot of ground in front of the Polo Ground, Poona ;
- (b) Whether they will place them on the table ; and
- (c) Whether before accepting these offers they intend to invite offers from the public ?

Sir Godfrey Fell : (a) Yes.

(b) The Government are not prepared to lay the papers on the table.

(c) The matter is under consideration.

ADDITIONAL EXPENDITURE DUE TO THE ENHANCEMENT OF PAY AND PENSIONS OF GOVERNMENT SERVANTS.

14. **Lieut.-Col. H. A. J. Gidney** : (a) What addition to the annual expenditure of Government has been made :

(i) by increasing the pay and allowances of its present servants in all Departments ;

(ii) by increasing the pensions of certain officials, or classes of officials, who retired after 23rd July, 1913 ?

(b) What reason is there for the recent raising of the pensions of Chaplains, and that, too, with arrears from the 1st April, 1919 ?

(c) Are those who have retired from service and are in receipt of pensions still to be regarded as Government servants, subject to the rules of Government regulating the conduct of public servants ?

(d) Do the Government of India propose to define the position and responsibilities of retired servants of Government and issue such rules as will secure for them suitable positions ?

The Honourable Sir Malcolm Hailey : (a) (i) The additional expenditure involved in the revision of the pay of the superior civil services in India, whether paid from Central or Provincial revenues, is approximately Rs. 1½ crores per annum. I am unable to furnish information as to the additional cost of revision of pay of all subordinate appointments throughout India.

(ii) From calculations made early last year, the results of which were placed on the table of the House in September last, the additional cost

charged to Central revenues on account of increase in pensions paid in India and England to the officers referred to by the Honourable Member, was approximately Rs. 19,100 and £13,200, respectively.

(f) The increase in the pensions of Chaplains on the Indian Ecclesiastical Establishment was sanctioned by the Secretary of State after considering the revised scale of pensions for uncovenanted services in India and with special reference to the revised scale of pensions payable to the Chaplains of the Royal Army Chaplains Department in England.

(g) The Government Servants' Conduct Rules do not apply to pensioners, but under Article 351, Civil Service Regulations, the right is reserved of withholding or withdrawing a pension or any part of it, if the pensioner be convicted of serious crime or be guilty of grave misconduct.

(h) The Government of India see no reason for taking the action suggested. The proposal is in any case one which is primarily for the consideration of Local Governments.

PETITION FROM MR. G. N. NAIDU FOR COMPASSIONATE ALLOWANCE.

15. **Rao Bahadur T. Rangachariar:** (a) Is it a fact that the petition of appeal against the order of the Government of Madras (G. O. No. 4-Mis., dated 4th February, 1921, Finance, Persian Department) refusing to grant a compassionate allowance, submitted by Mr. G. Narayanaswamy Naidu, late Receiver, Niladawole and Medur Estates, Kistna District, Madras Presidency, for transmission to the Government of India, was withheld by the Government of Madras, under rule XI (3) of the rules for the submission of memorials to the Government of India?

(b) Is it a fact that thereupon, the said Mr. Narayanaswamy Naidu brought to the notice of the Local Government that rule XI (9) and not XI (3) applied to his memorial and that his memorial came under the exception contemplated by rule XI (9), and yet the Local Government refused to send on the memorial?

(c) Will Government be pleased to call for the memorial and deal with it?

(d) Is it a fact that Mr. G. Narayanaswamy Naidu was on foreign service drawing a salary of Rs. 650 a month and that he was subject to the rules regulating the pensions of the servants of the Government of India?

Mr. J. Hullah: (a) and (b). The answer is in the affirmative.

(c) The Government of Madras were asked in October last to forward the memorial to the Government of India and it is now under consideration.

(d) The answer to the first part of the question is in the affirmative. With regard to the latter half, Mr. Naidu was subject to the ordinary rules regarding pensions laid down in the Civil Service Regulations.

STAFF SELECTION BOARD EXAMINATIONS AND STANDARD OF QUALIFICATIONS FOR EUROPEAN, ANGLO-INDIAN AND INDIAN CANDIDATES.

16. **Dr. Nand Lal:** (a) Is it a fact that according to the rules of the Staff Selection Board, European and Anglo-Indian candidates having

passed the Senior Cambridge Examination are eligible for the 1st Division of the Secretariat Offices without possessing a University degree which is necessary for Indian candidates ?

(b) If so, do the Government propose to consider the advisability of extending this concession to Indian candidates as well to remove the racial distinction ?

(c) Is it a fact that the total number of marks and position of the passed candidates of the Staff Selection Board has not been made known to them (candidates) ?

(d) If so, do the Government propose to remove this complaint at an early date to enable the candidates concerned to see that due justice is done to their claims according to the relative position secured by them in the examination ?

(e) Is it a fact that travelling expenses were sanctioned for the journey performed by candidates called by the Staff Selection Board for interview at various centres ?

(f) If so, will the Government be pleased to say whether all such candidates were paid this travelling allowance, and if not, why not ?

(g) What steps were taken by the Staff Selection Board to make this concession known to the candidates concerned to enable them to claim the travelling allowance due to them ?

The Honourable Sir William Vincent : (a) Yes.

(b) The educational qualifications required for Upper Division appointments were fixed provisionally for the purposes of the first examination, and the suggestion of the Honourable Member will be considered by the Staff Selection Board. The distinction was not made on any racial grounds but with a view to secure men with the highest qualifications obtainable for the pay offered from both communities.

(c) The Staff Selection Board's examination was a qualifying and not a competitive examination. Candidates were informed whether they had qualified or failed. They were not arranged in order of merit.

(d) In view of the answer to (c), this question does not arise.

(e) Travelling expenses were only sanctioned by Government in the case of candidates summoned for interview from other provinces.

(f) The total number of candidates paid travelling allowance was seven, representing candidates for interview from Bihar and Orissa, Central Provinces and Assam, which provinces were not visited by the Board.

(g) Any candidate summoned from another province (except those from the neighbourhood of Delhi) was informed by the Board at its interview that he was entitled to travelling allowance. And in most cases the Secretary then and there helped the candidates to fill up the claims.

BOY SCOUT MOVEMENT.

17. **Bhai Man Singh :** With reference to the question asked by Mr. Kamini Kumar Chanda on 30th January, 1920, regarding the Boy Scout Movement, will the Government be pleased to state whether the Circular referred to in the reply given by the Honourable Khan Bahadur Mian

Mohammad Shafi, was sent to the Local Administration of the North-West Frontier Province? If not, why not?

Mr. H. Sharp : The reply is in the affirmative.

RECRUITMENT OF HEADMASTERS IN THE NORTH-WEST FRONTIER PROVINCE.

18. **Bhai Man Singh :** (a) Is it a fact that the Government contemplated recruiting Headmasters of Kohat and Dera Ismail Khan Government High Schools from military men through Formation Commanders, and that the selection was to be made by the Commander, Waziristan Force, to whom the applications were to be forwarded by the 30th June last?

(b) Were any applications received and the appointments made?

(c) Will the Government be pleased to state the reasons why the selection was not to be made by the Director of Public Instruction, North-West Frontier Province, and why it was thought necessary to be made through the Headquarters, Waziristan Force?

(d) Will the Government be pleased to state when were the grant-in-aid rules first promulgated in the North-West Frontier Province by the Director of Public Instruction?

(e) Have they undergone revision since then, if not, why not?

(f) Did the Director of Public Instruction, North-West Frontier Province, surrender any of his budgetted amount to the Local Administration during the years 1918-19, 1919-20 and 1920-21? If so, how much each year?

(g) What is the amount of grant-in-aid for a primary teacher in the aided schools in the North-West Frontier Province?

(h) Do the Government propose to consider the question of revising the grant-in-aid rules at an early date in view of high prices?

Mr. H. Sharp : (a) The reply is in the negative.

(b) Two applications were received from some military officers about to be demobilised, but they were not eventually submitted to the Government of India as the Secretary of State had in the meantime secured the requisite officers in the United Kingdom.

(c) The Director of Public Instruction, North-West Frontier Province, has no power to make final selections for permanent appointments in the Indian Educational Service. Nor can they be made by any other authority except the Secretary of State.

(d) The grant-in-aid rules in force in the North-West Frontier Province were published in 1913.

(e) The rules in question have not since then been revised for the reason that up to very recently no revision was considered necessary or practical.

(f) The reply is in the negative in so far as the years 1918-19 and 1919-20 are concerned. In the year 1920-21, however, a sum of Rs. 66,000 was surrendered chiefly from the building grants and was devoted to the general revision of the pay of teachers.

(g) Rupees 12 and Rs. 8 per month, respectively, for every trained and untrained teacher in aided primary schools.

(*) Grants for secondary schools, both for maintenance and equipment, are already very liberal, but those admissible in the case of primary schools require some enhancement. The question of amending the grant-in-aid rules relating to the latter is accordingly engaging the local Administration's attention.

INDIANS ON THE STAFF OF THE GOVERNMENT OF INDIA SECRETARIAT.

19. **Lala Girdharilal Agarwala:** (a) Is it a fact that out of 647 Indians employed in the Government of India Secretariat, 499 belong to the Punjab and Bengal while only 147 belong to the rest of India?

(b) Do the Government propose to fill future vacancies by appointment of suitable candidates from those Provinces which are not adequately represented having regard to their extent, population and importance, and to send this suggestion to the Staff Selection Board for necessary action?

(c) How many persons belonging to the United Provinces have been recruited to the Secretariat within the last 3 years and given permanent posts?

The Honourable Sir William Vincent: (a) Yes.

(b) The Honourable Member is referred to the answer given on the 10th September, 1921, to Mr. J. Ramayya Pantulu's question (No. 72) on the subject.

(c) 12 permanent.

2 provisionally permanent.

1 on probation.

25 temporary or officiating.

UNIVERSITIES IN THE UNITED PROVINCES, PUNJAB AND BENGAL.

20. **Lala Girdharilal Agarwala:** How many Universities are there in the United Provinces and how many in the Punjab and Bengal?

Mr. H. Sharp: There are four Universities in the United Provinces, one in the Punjab and two in Bengal.

KASGANJ-AGRA RAILWAY PROJECT.

21. **Lala Girdharilal Agarwala:** (a) Will Government be pleased to lay upon the table all papers connected with the Kasganj-Agra Railway project?

(b) What is the total length of the projected Kasganj-Agra Railway and at what intermediate places between Kasganj and Agra are stations proposed to be constructed?

(c) What is the estimated cost of the Kasganj-Agra Railway project and what is the estimated annual income?

(d) Are the Government prepared to construct the Kasganj-Agra Railway? If so, when?

(e) In case the Government are unable to undertake the construction of Kasganj-Agra Railway at their own cost, are the Government prepared to permit somebody else to do it?

(f) When was the Kasganj-Agra Railway project started and what progress has been made in regard to it?

Colonel W. D. Waghorn: (a) The papers connected with the project referred to are very voluminous, and the Government of India do not propose to lay them on the table.

(b), (c), (d), (e) and (f). The project was put forward in 1913 as an extension of the Rohilkund and Kumaon Railway and the line was surveyed in 1914-15. The project report and estimate, prepared as a result of the survey, showed that the line would be 74.70 miles in length and provided for stations at the following intermediate places between Kasganj and Agra:

Nandou.
Anwalkhera.
Bhains.
Khalilganj (Jalesar).
Pondri.
Awagarh.
Bausa.
Etah.
Murthara.
Amanpur.
Babupur.

The line was estimated to cost Rs. 46,61,555 and to yield an annual return thereon of only 4.26 per cent. Under present conditions the cost would be very much in excess of this figure.

The Kasganj-Agra Railway was projected as a metre gauge line, and its construction would be contrary to the Government's policy of restricting the extension of metre gauge railways to certain areas.

DISMISSAL OF HEAD CONSTABLE BISHAMBHAR DAYAL.

22. Mr. B. H. Jatkar: Will the Government of India be pleased to state:

- (a) Whether one Bishambhar Dayal, Head Constable of Delhi Police, who had served for over 16 years, was dismissed from service by the Senior Superintendent of Police, Delhi, on suspicion that he was implicated in a criminal offence, and his appeal to the Chief Commissioner was disallowed?
- (b) Whether the man was put on regular trial in a Criminal Court and was acquitted?
- (c) Whether according to the Police rules and general rules about conduct of Government servants, the Head Constable could not be dealt with departmentally and dismissed even after he was acquitted in a Court of Justice?
- (d) Whether the Government propose to take into consideration his long service and reconsider his case?

The Honourable Sir William Vincent: Bishambhar Dayal served in the Delhi Police from June 1906 to November 1917.

The order of the Senior Superintendent of Police, Delhi, dated 17th November, 1917, dismissing Bishambhar Dayal from the Force ran as follows :

'H. C. Bishambhar Dayal has been tried and acquitted of the offence of rape. The Magistrate, however, though judicially not satisfied as to the man's guilt, is morally certain that he is guilty. The whole nature of the case as revealed by the evidence is revolting and for a man to have taken advantage of his official position as this man has is a stigma on the Delhi Police. For such as Bishambhar Dayal there can be no extenuating circumstances and no mercy shown. He has violated the trust placed in him and shown that he is not fit to be a police officer.

I order that he be dismissed from the force with effect from 10th November, 1917.'

The man's appeal to the Chief Commissioner was rejected on 3rd February, 1918, and the dismissal confirmed after a careful examination of all the facts of the case.

In the circumstances the Government of India consider the order of dismissal a proper order, and do not propose to reconsider the case.

PASTEUR INSTITUTES IN INDIA.

23. **Mr. B. H. Jatkar :** (a) How many Pasteur Institutes are maintained in India at Government cost and at what places ?

(b) What is the amount of expenses incurred every year over each of these institutes ?

(c) Are the Government prepared to give those who claim to have devised remedies for rabies proper facilities to go to any such Institution and prove the efficacy of their medicine ?

Mr. H. Sharp : (a) There are no Pasteur Institutes maintained entirely at Government expense. There are, however, four Pasteur Institutes in India which are maintained partly at Government expense and partly by contributions from local bodies, Municipalities, Indian States and private individuals. These Institutes are at Kasauli, Rangoon, Shillong and Coonoor.

(b) The expenditure incurred during the year 1920-21 by Government on these Institutes, as obtained from the latest annual reports, is as follows. (Except as regards Kasauli, the matter does not directly concern the Government of India.):

	Rs.
Kasauli	31,000
Rangoon	20,000
Shillong	57,519
Coonoor	12,000

In addition, the pay of the Directors of these laboratories is met in the case of Coonoor, Shillong and Rangoon by Local Governments and in the case of Kasauli from the Central revenues.

(c) The Government of India are prepared, in the case of the Kasauli Pasteur Institute with which alone they are directly concerned, to give to those who claim to have devised cures for rabies, facilities to prove their efficacy under the following conditions :

- (1) They must produce reliable evidence of actual cure of definite cases of rabies.

- (2) They must cure in the presence of the Director of a Pasteur Institute definite cases of rabies in animals, the person claiming to possess the remedy paying the necessary cost of the trial.
- (3) If the remedy should pass these tests then, before Government can allow it to be tried on human beings, the claimant must declare the composition of his remedy, which, if found to be as stated, will be tried on human beings who agree to try it, and the results will then be published.

WATER TAPS IN GOVERNMENT QUARTERS AT SIMLA.

24. **Rai G. C. Nag Bahadur:** (1) Will the Government be pleased to state how many water taps have been provided in each unit of the houses for :

- (i) Europeans at the Bemloe and the Park estates in Simla, and at Summer Hill.
- (ii) Indian Clerks at Phagli ?
- (2) Is it a fact :
- (a) That the number of water taps in the existing houses at Bemloe, the Park and Summer Hill has been reduced, while it has been decided to reduce the number of taps in the case of existing quarters for Indian clerks at Phagli.
- (b) That it has been decided not to provide any water taps in those Indian Clerks' Quarters which have been constructed recently ?

(3) If the reply to 2(a) and (b) is in the affirmative, will the Government be pleased to state the reason for reducing the number of water taps in the existing quarters and for not providing taps in quarters recently constructed ?

(4) Will the Government be pleased to state for what reasons it has been decided to reduce the number of water taps in the Indian Clerks' Quarters only and not in the case of houses at Bemloe, the Park and Summer Hill ?

Colonel Sir S. D'A. Crookshank: (1) Number of taps provided per units :

(a) (i) *Park estate*—5 taps.

Bemloe estate—Class A—4 taps.

Class B—4 taps.

Class C—3 taps.

Class D—3 taps.

Summer Hill—4-roomed married quarters } 2 taps in each.
3-roomed married quarters }

(ii) *Phagli*—2 taps in each quarter, except in those constructed this year where there are none.

(2) (a) Yes.

(b) Yes.

(3) Shortage of municipal water-supply.

(4) (a) One tap was temporarily removed from each of the old quarters at Phagli for the following reasons :

- (i) Shortage of water in Simla.
- (ii) Water consumption in the Phagli clerks' quarters was greatly in excess of the free allowance and it was hoped that the removal of one tap would reduce waste of water.
- (iii) Water was required for the water closets of the new quarters under construction at Phagli, and this was granted by the Municipal Committee on the condition that one tap was removed from existing quarters.

These taps will be replaced when the water-supply improves.

(b) No reduction in the number of taps provided was made in the European Clerks' quarters at Summer Hill as it was decided not to put in water closets or taps in the new quarters under construction, but to provide instead outside stand posts and commodes. The European clerks and the Members of the Council of State and Legislative Assembly quartered out at Summer Hill are therefore much worse off than the Indian clerks at Phagli.

No taps were removed in the houses on the Bemloe and Park estates as building operations were completed on these estates, and as the quantity of water consumed was very little in excess of the free allowance. Had building operations been in progress, some reduction in the number of taps would have had to be made. In any case, no true comparison can be drawn between the clerks' quarters at Phagli and the Officers' houses at the Bemloe and Park estates as they are separately classed and differently rented.

FURTHER RELIEF TO SECRETARIAT STAFF ON THE LINES OF ARMY HEADQUARTERS REORGANISATION.

25. **Rai G. C. Nag Bahadur :** (a) Is it a fact that in reorganisation of Army Headquarters offices a fixed sliding scale of immediate increase was granted to all members and they were then allotted their respective positions in the time scale. If this is so, will Government be pleased to state whether they intend to grant similar relief to all members of the Civil Secretariat?

(b) Are Government aware that there is discontent among a large number of the staff on account of the high cost of living and of their getting little or no relief in the reorganisation? If so, do Government propose to devise any scheme other than counting the past service which would do away with the many anomalies at present created; and would ensure the extension to all of a uniform rate of increase?

The Honourable Sir William Vincent : (a) All members, who were serving in the Army Headquarters offices on the 1st of April, 1920, were given an increase of 20 per cent. on their old rates of substantive or sub. *pro tem.* pay on that date, and their initial pay on the new time-scale of pay was regulated accordingly, subject to certain provisos. There is no intention at present of giving further improved terms to members of the Civil Secretariat.

(b) Government have received memorials expressing discontent with the revision of pay in the Secretariat. It is not intended to revise the system

on which those serving in the Secretariat were brought on to the time-scale, as the improvements recently effected are considered adequate.

HAILEY COMMITTEE'S REPORT ON THE IMPERIAL SECRETARIAT SERVICE.

26. **Rai G. C. Nag Bahadur** : (a) Will Government be pleased to lay on the table a copy of the Hailey Committee Report containing the recommendations for increase of salary of the Imperial Secretariat Service ?

(b) Is it a fact that as the result of the introduction of the time-scale, in certain cases, men who had on account of their approved merit earned higher rates of pay, are now made to draw lower rates of pay than their juniors, and that consequently merit, which has always been considered as the chief criterion for advancement, has been ignored ?

(c) If so :

(i) What steps are the Government taking to help such men to retain their seniority in position and particularly in pay ?

(ii) Do Government propose to consider the "next below" rule ?

The Honourable Sir William Vincent : (a) I will give the Honourable Member a copy of the Report.

(b) and (c). The purport of the question is not clear, but so far as can be judged, no cases of the kind have occurred. An automatic time-scale is bound in certain cases to give more preference to seniority over merit but this tendency is corrected, so far as possible, by the system of an efficiency bar.

DISTRESS IN BURMA OWING TO RISE IN THE PRICE OF RICE.

27. **Mr. P. P. Ginwala** : (a) Is the Government aware that there is much distress, especially among the poorer classes, in Burma owing to the sudden and excessive rise in the price of rice ?

(b) Will the Government be pleased to state whether it proposes to take any, and if so what, action to alleviate such distress ?

Mr. J. Hullah : (a) and (b). Since notice of this question was received there has been a very substantial fall in the price of rice and paddy in Burma, and in view of this fact and of the favourable character of the rice crop in Burma the Government of India decided to remove all restrictions on the export of rice from Burma, with effect from the 13th December, 1921, as announced in their press communiqué of the same date.

MEMORIALS FROM THE POSTAL CLERICAL STAFF FOR A UNIFORM RATE OF TIME-SCALE OF PAY.

28. **Mr. Muhammad Faiyaz Khan** : (a) Is it a fact that since the announcement of the time-scale of pay, Government have been receiving further memorials from the Postal Clerical Staff throughout India praying for a uniform rate of time-scale of pay, viz., Rs. 60—200 in 18 years ?

(b) Is it a fact that that was the time-scale of pay suggested by most of the European and Indian witnesses who appeared before the Postal Inquiry Committee ?

(c) Does the Government propose to consider the memorials with reference to the scale so suggested ?

(d) Is it a fact that there are different scales of pay and promotion for men and women postal clerks doing the same duties? If so, will the Government be pleased to state the reasons for the distinction?

Colonel Sir S. D'A. Crookshank: (a) Yes. Some telegrams on the subject have been received from the staff.

(b) A reference is invited to paragraph 4, Chapter II of the Postal Committee's Report.

(c) For the reasons given in paragraph 8, Chapter II of the Postal Committee's Report, Government do not propose to consider the prayer made in the telegrams.

(d) There is a difference in the time-scales of pay, in that the minimum for women is higher and the maximum is reached within a shorter period; but there is no difference in status or as regards promotion. The difference in pay is not confined to the Post Office, but exists in all Departments of the Government of India. The Honourable Member's attention is invited to the Report of Mr. Sharp's Committee issued with Home Department Resolution No. 165-C. of the 29th November, 1916, in which the reasons for offering a higher pay to women are fully explained.

DIFFERENT RATES OF PAY FOR POSTAL CLERKS AND TELEGRAPHISTS.

29. **Mr. Muhammad Faiyaz Khan:** (a) Is it a fact that the postal clerks and signallers and departmental telegraphists working in one and the same Department, controlled by one D. G., having equal educational qualifications are given different rates of pay?

(b) If so, will the Government be pleased to state the reasons why the postal clerks and signallers are started on a lower scale of pay?

Colonel Sir S. D'A. Crookshank: (a) No. The position is not correctly stated.

(b) The matter has been clearly explained in the replies given to part (b) of Rai Bahadur T. Mukherjee's unstarred question No. 5 on the 22nd September, 1921, and to Mr. B. H. Jatkar's unstarred question No. 41 on the 26th September last, to which the Honourable Member is requested to refer.

DISTRESS OF POSTAL CLERKS OF SIMLA OWING TO INCREASE IN PRICES OF FOODSTUFFS.

30. **Mr. Muhammad Faiyaz Khan:** (a) Is it a fact that the Postal clerks of Simla have been petitioning for an immediate increment in their local allowance from Rs. 25 to 40 per mensem on account of very high cost of living in Simla, and the sudden abnormal increase in prices of foodstuffs?

(b) If so, what steps do the Government contemplate to remove the distress immediately?

Colonel Sir S. D'A. Crookshank: (a) and (b). Government have received a telegram to this effect. In addition to the sanctioned local allowance, postal clerks in Simla have been granted grain compensation allowance at the rates and under the conditions sanctioned by the Local Government with effect from the 1st August, 1921, on account of the temporary rise in the prices of grain.

EXTRA ALLOWANCE FOR POSTAL CLERKS.

31. **Mr. Muhammad Faiyaz Khan :** (a) Is it a fact that the departmental telegraphists, in addition to the common local allowance, draw an extra allowance in the shape of house-rent to the extent of Rs. 35 per mensem?

(b) If so, what are the reasons for this concession not being extended to the postal clerks and signallers?

(c) Do not the Government contemplate to extend the concession to them?

Colonel Sir S. D'A. Crookshank : (a) There is no common local allowance for telegraphists. Local allowances are granted at a few frontier posts and remote stations. House-rent allowances are granted to telegraphists where free quarters are not provided, varying according to locality and length of service from Rs. 15 and Rs. 20 to Rs. 30 and Rs. 45 for single and married men, respectively.

(b) Paragraph 22 of the Report of the Telegraph Committee, 1920, states that the efficiency of the service requires that the staff should live in the vicinity of the telegraph office where quarters are procurable only with great difficulty and at prohibitive cost. This concession has not been extended to postal clerks and signallers, because the conditions of the service do not require that they should ordinarily live in the immediate vicinity of the post office.

(c) Government do not contemplate the extension of this concession to postal clerks, but the Director General is considering a scheme for providing quarters for them where necessary.

POSTS FOR PASSED CANDIDATES OF THE STAFF SELECTION BOARD.

32. **Babu Braja Sundar Das :** (a) Is it a fact that the Staff Selection Board has not been able to provide during this year permanent vacancies for more than 2 or 3 out of the hundreds of its passed candidates and not even temporary or officiating posts for more than half of them?

(b) If the answer to (a) be in the affirmative, will the Government be pleased to say when and how the passed candidates are likely to be provided with permanent posts after probation of one year as promised to them in the preliminary notification of the Board?

(c) Do the Government propose to see that no further examination or recruitment takes place—either direct or through the Board—until all the already passed men have been provided with permanent jobs either in the Imperial Secretariat or in other Government offices?

The Honourable Sir William Vincent : (a) No. Full information regarding the number of appointments made up to the 21st December, 1921, is contained in the statement which is laid on the table.

(b) The question does not arise.

(c) A further examination will be held when the number of passed men on the Board's books is inadequate to meet likely demands in the near future.

The rights of those candidates who have already passed the Board's examination will be fully safeguarded.

Number of candidates passed—220.

No. of passed candidates appointed in temporary posts.	No. of passed candidates nominated for temporary posts.	No. of passed candidates appointed in permanent posts.	No. of passed candidates nominated for permanent posts.	No. of passed candidates who have declined the offer of appointment or not replied to the offer of employment.	No. of passed candidates who are over-age and who have been notified.	No. of passed candidates resigned.	No. of passed candidates not appointed.	Total.
55	48	23	1	23	16	12	42	220

RECOGNITION OF WAR SERVICES BY THE STAFF SELECTION BOARD.

33. **Babu Braja Sundar Das :** (a) Is it a fact that there was a column for war services in the Application Form prescribed by the Staff Selection Board? If so, will the Government be pleased to say in what respect preferential treatment was given for military services rendered by the candidates concerned?

(b) Is the Government prepared to reconsider the cases of those men who did not apply for the 1st Division and could not thus be passed in the 1st Division although they had recognised military services and good clerical experience to their credit?

The Honourable Sir William Vincent : (a) Yes. Candidates who had approved war service to their credit were granted the concession authorised in paragraph 3 of the Government of India, Home Department, Resolution No. 1099, dated 8th August, 1919.

(b) Special consideration was paid by the Board to those who had rendered military service, and Government think it unnecessary to ask the Board to reconsider individual cases of the kind referred to, if such exist.

IMPROVEMENT IN STARTING PAY FOR THE SECOND DIVISION OF THE SECRETARIAT OFFICES.

34. **Babu Braja Sundar Das :** (a) Do the Government propose to lessen the difference in the rates of starting pay for the 1st and 2nd Divisions of the Secretariat offices (i.e., Rs. 200 and Rs. 100, respectively)?

(b) Do Government propose to consider the question of raising the minimum pay of the 2nd Division clerks from Rs. 100 to 150?

(c) If the reply to (b) be in the negative, will the Government consider the advisability of appointing a Committee to report on the matter after due consideration of the cost of living of a Secretariat clerk?

The Honourable Sir William Vincent : (a) Government consider the difference between the initial pay of the 1st and 2nd Divisions appropriate to the difference in the qualifications required of the entrants to the two divisions.

(b) and (c). Government see no necessity for changing the existing initial rates of pay in the two divisions.

(d) The existing rates of pay were fixed as a result of the recommendations of a Committee which inquired into all the circumstances, including the cost of living, and the appointment of a further Committee is thought unnecessary.

POSITION OF THE SECRETARY OF THE STAFF SELECTION BOARD.

35. **Rai D. C. Barua Bahadur:** (a) Will the Government be pleased to say whether the present Secretary of the Staff Selection Board is a whole-time officer?

(b) If the answer is in the negative, how much of his time is devoted daily by him for the Staff Selection Board's work?

(c) In case he does not devote any time outside the usual office hours, is he entitled to get any extra remuneration?

The Honourable Sir William Vincent: (a) No.

(b) Under the existing arrangement about one hour a day on the average, except when an examination is being held and during the periods immediately before and after the examination.

(c) The officer who performs the duties of Secretary does so in addition to his own work, and Government consider it only reasonable that he should be compensated for the additional work by extra remuneration.

EXEMPTION OF ANY ASSISTANT OR CLERK FROM STAFF SELECTION BOARD'S WRITTEN TEST.

36. **Rai D. C. Barua Bahadur:** (a) Will the Government be pleased to state whether any assistant or clerk, who has rendered temporary service under the Government of India for the past two or three years without any break and who has rendered field service for one or two years is to be exempted from the written test of the Staff Selection Board?

(b) Has the Board made any such exemption?

The Honourable Sir William Vincent: (a) and (b). The answer is in the negative.

DUTIES OF ASSISTANT DIRECTOR OF THE CENTRAL BUREAU OF INFORMATION.

37. **Rai D. C. Barua Bahadur:** (a) Will the Government be pleased to say what work is done by the Assistant Director of the Central Bureau of Information?

(b) Do the Government propose to consider the question of replacing the present Assistant Director by a competent office Superintendent drawing lesser rate of pay than that now drawn by the present incumbent?

The Honourable Sir William Vincent: As the title of his office implies, the Assistant Director, Central Bureau of Information, aids the Director in

the discharge of his duties, which are now far too heavy for one individual. So far from being merely responsible for office correspondence, as the question suggests, the Assistant Director is in general charge of the relations between the Central and Provincial publicity organisations. He assists in the production of the various publications of the Central Bureau, supervises the Press cutting work, English and Vernacular, and acts as Secretary of the Advisory Publicity Committee. He is in general charge of the work of communicating information to the public departments, as well as to Members of both Houses of the Legislature who may consult the Central Bureau of Information. Government do not think that this work could be discharged by a Superintendent on a lower rate of pay than that enjoyed by the present incumbent of this office.

CLERICAL STAFF IN THE BUREAU OF INFORMATION OFFICE.

38. **Rai D. C. Barua Bahadur:** (a) Will the Government be pleased to say whether the clerical staff employed in the Bureau of Information Office have passed the Staff Selection Board's examination?

(b) If not, why have they not been replaced by passed men of the Board and why has that particular office been exempted from the examinations of the Staff Selection Board?

The Honourable Sir William Vincent: (a) The answer is in the negative.

(b) The Superintendent of the office being a retired official, the question of his passing the examination of the Staff Selection Board does not arise. The stenographer has passed the Board's examination for the 1st Division. The general assistant was appointed prior to the constitution of the Staff Selection Board and has been employed ever since in the office. As there was no question of his qualifying himself for appointment in any other office, it was not necessary for him to take the Board's examination. The typist and the despatcher were engaged, respectively, from the 22nd of April, 1921, and the 8th August, 1921. At that time no clerks passed by the Board were available. No examination of the Staff Selection Board has since been held. They will be required to take the Board's next examination when held. The Section dealing with newspaper work consists of a trained journalist and four assistants who were appointed because of their technical qualifications and therefore were not required to pass the Board's examination under the terms of the Government of India Resolution No. 2366, dated the 15th September, 1920. The official Photographer also falls in this category.

It will thus appear that the office has not been exempted from the operation of the Staff Selection Board.

REVISION OF THE SIMLA ALLOWANCE CODE.

39. **Rai D. C. Barua Bahadur:** (a) Will the Government be pleased to say when the Simla Allowance Code fixing the Simla House Rent Allowances was last revised?

(b) In case it was done some time ago, does not the Government propose to revise it now on account of the general rise of house rent in Simla?

The Honourable Sir William Vincent : The existing scale of house rent allowances was sanctioned in 1907. A recent inquiry into the rent actually paid by the clerical establishments indicated that the allowances were on the whole adequate, and Government do not therefore think it advisable to revise the scale.

EXTRA REMUNERATION FOR OVERTIME WORK DONE BY GOVERNMENT OF INDIA CLERKS.

40. Rai D. C. Barua Bahadur : (a) Will the Government please say whether the clerks, assistants, etc., under the Government of India are required to work in the office after 5 P.M., and also required to come to office during the holidays?

(b) If the reply is in the affirmative, will the Government be prepared to allow them extra remuneration according to their pay for such work?

The Honourable Sir William Vincent : As regards work after 5 P.M., the Honourable Member is referred to parts xi and xiii of the statement laid on the table in reply to Mr. Seshagiri Ayyar's question of the 10th September. Assistants and clerks as well as stenographers are whole-time servants.

The practice as regards holidays is laid down in the Office Memorandum of the 30th September, 1901, of which I lay a copy on the table. Government consider its terms sufficiently liberal, and are not prepared to take up the question of granting extra remuneration to those whose presence on a holiday may be necessitated by a rush of work in any Department.

No. 5411-16.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

PUBLIC.

Simla, the 30th September, 1901.

OFFICE MEMORANDUM.

The undersigned is directed to forward a copy of the letters addressed to the Governments of Bengal and the Punjab, Nos. 5234 and 5236, respectively, dated the 16th September 1901, and to communicate to the Finance Department the principles which should in future regulate the grant of holidays to ministerial establishments in the Government of India Secretariats.

2. The holidays to be given may be divided into four classes. The first two classes are (i) those prescribed by section 25 of the Negotiable Instruments Act, 1881 (XXVI of 1881), and (ii) those declared by the local Government by notification under that section to be public holidays. The third class of holidays are holidays announced by the local Government to take effect in Government offices either in respect of all classes of Government servants, or in respect of the class who observe the fast or festival on account of which the holiday is announced. Lastly, there are local or special holidays, such as the Sipi Fair day or the last Saturday of the month.

3. The general rule in respect of the first two classes of holidays mentioned above should be to close an office entirely, subject to the conditions (i) that a holiday notified under the Act may be stopped in the case of any individual guilty of idleness or inattention to duty, unless the day in question is deemed specially sacred by the members of the religion which the offender professes, and (ii) that very urgent work may be required on a holiday provided that a man who has to attend on a holiday shall get another one in its place, and that, if possible, a man of the religious persuasion which observes the holiday shall not be called upon to work on it. In the case of holidays given on account of a local fair such as the Sipi Fair, or on the last Saturday of the month on the ground that the state of the work permits of a holiday, all establishments should be allowed, subject to the conditions laid down in the case of holidays under the Negotiable Instruments Act, to take full advantage of the holiday.

4. On holidays announced by the local Government, the general rule should be to close an office only where the absence of the persons on whose behalf the holiday is given will prevent the work of the office from being properly done. To this rule, an exception should be made in respect of the Christian holidays which should, if possible, be granted to all establishments, whatever their race or creed.

5. As regards the grant of 'notified' or 'announced' holidays, the rule should be to observe the holidays declared in the Calcutta Gazette, while the Government of India are at Calcutta, and those declared in the Punjab Gazette, while the Government of India are at Simla. In respect of the Durga Puja holidays, however, the practice hitherto adopted in some offices, of giving a whole holiday on every Saturday in September and October in lieu of them, should be followed—the Hindus only being allowed additional holidays on the two special Puja days.

In following the list of Hindu holidays published in the Punjab Gazette, it would be advisable, if the same festival is notified on different dates by the Governments of Bengal and the Punjab, to observe the date published in the Calcutta Gazette, as the majority of Hindu clerks in the Secretariats of the Government of India are natives of Bengal.

(6. The undersigned is to request that the substance of the general principles stated above may be communicated to the Heads of offices subordinate

() Not to Legislative Department. to the Foreign Department.)
Finance
 etc.

J. P. HEWETT,

Secretary to the Government of India.

To

The Foreign Department.
Finance
Military
Public Works
Legislative
 Department of Revenue and Agriculture.

REVISION OF PAY IN THE OFFICE OF THE DIRECTOR-GENERAL, INDIAN MEDICAL SERVICE.

41. **Rai Bahadur Bakshi Sohan Lal:** (a) With reference to the answer given by Sir William Vincent on 26th September, 1921, to Sir Sivaswamy Aiyer's question No. 237, will the Government be pleased to state the reasons for granting less and in some cases practically no increase to the members of the Office of the Director-General, Indian Medical Service?

(b) Have Government taken any steps to grant them percentage increase to the full extent sanctioned over the amount drawn on 1st April, 1920, and if not, why not?

Mr. H. Sharp: The percentage increases sanctioned by the Government of India for the members of the office of the Director-General, Indian Medical Service, aimed at placing the men on stages of incremental pay which would give them immediate increases not exceeding 30 per cent. of their pay to those drawing Rs. 100 and less a month, 25 per cent. to those drawing pay at more than Rs. 100 but not more than Rs. 200, and 20 per cent. to those drawing more than Rs. 200 a month. The percentage increase was, however, sanctioned generally and could not be applied rigidly in every individual case. The intention was that no one should be allowed by the increase to go beyond efficiency bars unless he would in the ordinary course have passed those bars. In certain cases it was not possible to grant the full percentage increase for the following reasons :

- (a) the increase granted placed the clerk on the maximum of the grade beyond which no promotion was possible at the time ;
- (b) the clerks concerned had to be placed at a suitable stage of the progressive grade and the percentage increase worked out at a lower rate ; and
- (c) the increase was based on the substantive pay and although there was no apparent increase over temporary acting salary there was an actual increase of pay.

REVISION OF PAY IN THE OFFICE OF THE DIRECTOR-GENERAL OF OBSERVATORIES.

42. **Rai Bahadur Bakshi Sohan Lal :** (a) Is it a fact that the members of the Office of the Director-General of Observatories (Meteorological Department) were granted percentage increase of 20, 25 and 30 per cent. and those with over 20 years' service of 40 per cent. over their monthly average salaries of one year drawn from 1st April, 1919, to 31st March, 1920?

(b) If so, is the reply given by Mr. Sharp, in No. 53, dated the 26th September, 1921, with regard to the 2nd part correct?

Mr. H. Sharp : The reply to (a) is in the affirmative.

(b) The reply given on the 26th September, 1921, referred to the general lines applied in the case of all attached offices. The deviation adopted in the case of the office of the Director-General, Observatories, was intended to meet special circumstances.

TOTAL PENSIONABLE SERVICE OF THE STAFF OF THE DIRECTOR-GENERAL, INDIAN MEDICAL SERVICE.

43. **Rai Bahadur Bakshi Sohan Lal :** Will the Government be pleased to state the total pensionable service of each member of the Office of the Director-General, Indian Medical Service, on 1st April, 1920, and the total service at which they will reach the maximum of their grades?

Mr. H. Sharp : A statement is laid on the table.

Name.	Pay on 1st July 1920.	Pay pro- posed by Director- General.	Percent- age in- crease.	Pay sanc- tioned by Home Depart- ment.
1	2	3	4	5
1. Mr. Stuart Wilson	650	800	23	780
2. E. B. Upendra Nath Mukerjee	450	550	22	540
3. Mr. F. Buller Wade	400	500	25	480
4. Mr. E. N. L. Hypher	400	425	6	425
5. Mr. A. C. McCormick	350	400	14	350 + 50*
6. Mr. N. M. Dalton	300	350	17	320
7. Babu O. N. Chatterjee	300	300	Nil.	300
8. Mr. J. C. C. Peachey	200	250	25	250
9. Pt. Kapur Singh Nehno	200	250	25	250
10. K. S. Barkat Ali	200	300	50	250
11. Mr. F. B. Evans	200	250	25	230
12. Pt. Mazaji Lal	190	240	26	230
13. Malawa Ram	130	170	30	160
14. L. Ram Rakha Mal	130	170	30	160
15. B. Bisaldar Bahndar	100	136	36	128
16. Mr. D. L. Dawson	350	400	14	400

Percentage increase.	Length of pensionable service on 1st April 1920.	Total service at which maximum will be reached (including boy service).	REMARKS.
6	7	8	9
20	30	32	
20	25	28	
20	18	24	
6	20	29	
14	11	Drawing maximum.	* Personal allowance.
7	9	12	
N/A.	17	22	
25	23	33	
25	25	35	
25	27	37	
15	12	24	
21	15	29	
23	18	37	
23	13	32	
28	14	37	
14	23	30	

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Name.	Pay on 1st July 1920.	Pay pro- posed by Director- General.	Percent- age in- crease.	Pay sanc- tioned by Home Depart- ment.
1	2	3	4	5
17. L. Daulat/Ram	150	175	17	175
18. B. Vishnoo Das	150	...	...	...
19. L. Prabh Dyal	130	170	30	180
20. Babu N. C. Roy Chowdry	150	155	3	155
21. M. Gulam Ahmed	100	131	31	131
22. Babu N. C. Roy	100	131	31	131
23. M. Habibullah	100	131	31	131
24. M. Umar Din	100	131	31	131
25. Babu S. K. Mukerjee	95	123	29	123
26. B. Bhal Chand	100	131	31	123
27. M. Abdur Razaq	85	123	29	119
28. B. Nando Gopal Ghosh	95	123	29	111
29. B. Promotho N. Mukerjee	75
30. M. Nur Mohammad	75	99	32	99
31. B. Baboo Ram	75	99	32	99

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Percent- age in- crease.	Length of pension- able ser- vice on 1st April 1920.	Total service at which maximum will be reached (including boy service).	REMARKS.
6	7	8	9
17	26	Drawing maximum.	
...	32	On leave pending retirement.	
23	21	24	
3	24	Drawing maximum.	
31	22	28	
31	15	21	
31	28	34	
31	16	22	
29	14	22	
23	10	19	
25	9	20	
17	9	20	
...	...	...	On deputation to the office of Controller of War Ac- counts.
32	7	21	
32	9	23	

32. L. Bishan Das Jerath	75	99	32	99
33. B. Ganda Ram Sharma	75	99	32	99
34. M. Nur Elabi Maruf	75	99	32	99
35. M. Fateh Ali Sheikh (Temporary)	75	91	21	91
36. B. Harnam Singh (Temporary)	75	91	21	91
37. M. Masud Ali (Temporary)	70	91	30	91
38. Pt. Bhagwan Das Sharma (Temporary)	100	20	20	99
39. B. Jagdish Sahai (Temporary)	50	75	50	75
40. B. Prem Singh Farmer (Temporary)	50	75	50	75
41. M. Abdul Wahid (Temporary)	70	90	29	91
42. B. Bhagwan Das Mehra (Temporary)	50	75	50	75
43. B. Dan Singh Thapa (Temporary)	50	75	50	75
44. Mr. A. C. Swarris (Temporary)	75	...	...	...
45. B. Dev Raj Kundra (Temporary)	50	...	...	...
46. Mr. V. A. Dighe	210	250	19	250
47. B. Mahesh Chand	90	150	67	150
48. Mr. S. Krishnaawami	150†	...	...	†
49. Babu H. M. Roy (Temporary Draftsman).	150†	...	...	...

32	7	21
32	6	20
32	6	20
21	6 months	17
21	3 years.	19
30	2 "	18
—1	2 "	16
56	1 year.	21
50	1 "	21
30	3 years.	19
50	9 months	21
50	5 "	21
...
...
19	11 years.	16
67	7 "	22
...
...

Provisionally permanent.

On deputation.

Resigned on 21st November 1920.

†New appointment. Employed from 23rd February 1921.

‡Temporary appointment.

UNSTARRED QUESTIONS AND ANSWERS.

TOTAL AMOUNT OF RESERVES AND TREASURY BALANCE.

44. **M. K. Reddi Garu**: Will the Government be pleased to lay on the table a statement showing :

(1) the total amount of the following reserves and balances up to the 1st of January, 1922 :

(a) Paper Currency Reserve, (b) Gold Standard Reserve, (c) Treasury balances of the Government of India ;

(2) how much of the above reserves and balances are held in England and in India at present and in what form, either as sterling loans or securities, as gold or rupees, or as temporary loans ; and

(3) at what rate of interest these reserves are invested in the sterling securities ?

The Honourable Sir Malcolm Hailey : (1) and (2). The figures required by the Honourable Member are published in the Press, and the information so far as available can be obtained from the Gazette of India or financial journals. I shall be glad to show him where to look for it.

(3) All the securities in the Paper Currency Reserve and most of those in the Gold Standard Reserve consist of British Treasury Bills with rates of interest varying from time to time according to the date of purchase. The other securities in the Gold Standard Reserve consist of Exchequer Bonds and Colonial Government Securities at 5 per cent. to 5½ per cent. and about £2½ million worth of Consols at 2½ per cent. and 2¾ per cent. and Transvaal Stock at 3 per cent.

STERLING SECURITIES HELD BY DIFFERENT COUNTRIES AND BANKS.

45. **M. K. Reddi Garu**: Will the Government be pleased to state what different countries, banks, or private firms hold our sterling securities, and the total amount held by each at present ?

The Honourable Sir Malcolm Hailey: It would be extremely difficult to ascertain who are the actual holders of our sterling securities ; in any case it would necessitate a prolonged inquiry, and I do not think that the matter is of sufficient importance to justify the trouble and expenditure involved.

CASH BALANCES OF THE GOVERNMENT OF INDIA HELD IN ENGLAND.

46. **M. K. Reddi Garu**: Will the Government be pleased to lay on the table a statement showing :

(1) the cash balances of the Government of India held in England for the years 1912 to 1922 ;

(2) the names of the various firms to which these balances were lent in London during these years ?

The Honourable Sir Malcolm Hailey : (1) I lay on the table a statement showing the cash balances of the Government of India held in England.

(2) I have no information, and could not obtain it without having a laborious examination made of the Bank of England's books, which I do not feel justified in asking for.

Statement showing the cash balances of the Government of India held in England on 31st March.

1911-12.	1912-13.	1913-14.	1914-15.	1915-16.	1916-17.	1917-18.	1918-19.	1919-20.	1920-21.	1921-22. (Revised.)
£	£	£	£	£	£	£	£	£	£	£
19,463,723	9,789,634	8,157,733	7,915,336	12,503,348	11,391,993	16,625,416	14,715,837	11,997,593	7,093,154	5,118,000

ASSISTANT TRAFFIC SUPERINTENDENTS IN THE NORTH-WESTERN RAILWAY.

47. **Baba Ujagar Singh Bedi:** (a) How many Assistant Traffic Superintendents are there in the North-Western Railway?

(b) How many of these posts are now vacant and held by officiating subordinates?

(c) Are these subordinates Anglo-Indians?

(d) Did the Traffic Manager, Lahore, recommend six of these subordinates to be confirmed as Assistant Traffic Superintendents and did the Railway Board refuse to agree?

(e) Have these six posts been filled up yet? If not, why are such large number of Assistant Traffic Superintendent's posts not being filled up?

Colonel W. D. Waghorn: (a) The sanctioned scale of the North-Western Railway provided for 39 Assistant Traffic Superintendents, and against this scale there are 39 permanent officers. This number of appointments is about to be reduced as a consequence of the formation of a local Traffic service, *vide* (d) below.

(b) None of the posts are substantively vacant, but in the room of officers on leave or officiating as District Officers there are certain subordinates officiating as Assistant Traffic Superintendents.

(c) With one exception these officiating Assistant Superintendents are Anglo-Indians or Europeans.

(d) and (e). As explained above, there have, hitherto, been no permanent vacancies in the sanctioned cadre against which officiating subordinates could be confirmed. But following the reorganization of the Engineering Department, the Traffic Department has been reorganized and while the number of appointments on the old superior cadre will be reduced gradually as vacancies occur, a local Traffic service of Assistant Traffic Superintendents has been constituted in the Railway Board's Resolution No. 370-E.—21, dated the 31st August, 1921. To this service the permanent appointment of selected men officiating as Assistant Traffic Superintendents will now be made. The recommendations of the North-Western Railway have already been considered by the Railway Board and terms of appointment are now being fixed; the number of first appointments to be made must, necessarily, be few as the excess under the old cadre has yet to be absorbed.

INDIANS AND LOCOMOTIVE DEPARTMENT IN THE NORTH-WESTERN RAILWAY.

48. **Baba Ujagar Singh Bedi:** (a) Is it a fact that there is no Indian (with one exception) in the whole of the Locomotive Department in the North-Western Railway? If so, why?

(b) Do the Government propose to admit, in future, Indians into this Department?

Colonel W. D. Waghorn: (a) There is no Indian in the Superior Branch of the Locomotive Department on the North-Western Railway. The reason for this is that hitherto it has not been possible to get qualified candidates of the class and general standard of education and training necessary to occupy these appointments.

(b) If candidates with the necessary qualifications are forthcoming, Government will certainly admit them into this Department.

PASSENGER TRAINS BETWEEN MADRAS AND PALLAVARAM.

49. **M. K. Reddi Garu:** (a) Will the Government be pleased to state:

- (i) the number of passenger trains that run between Madras and Pallavaram,
- (ii) the speed at which they run and the time taken to cover the distance,
- (iii) the number of first and second class coaches attached to each train,
- (iv) the number of first and second class passengers that travel by these trains on an average per day?

(b) Do the Government propose to arrange for quick traffic between these two stations and also to increase the number of these trains?

Colonel W. D. Waghorn: (a) A statement is being sent to the Honourable Member which gives the required information.

(b) Until the line between Madras Beach and Pallavaram stations is doubled, it is not possible to take any action in the directions suggested. An estimate of the cost of doubling this section of the railway is now being revised.

DOUBLE LINES BETWEEN MADRAS AND CHINGLEPET.

50. **M. K. Reddi Garu:** Do the Government propose to consider the advisability of laying double lines between Madras and Chinglepet—a distance of 38 miles, in order to avoid the time lost at each station in the crossing of trains?

Colonel W. D. Waghorn: The question is mainly one of finance. If arrangements can be made by the Government of India to finance a programme of Railway capital expenditure over a series of years, the question of including this work in the programme will certainly be considered.

OVERCROWDING OF THE SOUTH INDIAN RAILWAY TRAINS.

51. **M. K. Reddi Garu:** (a) Are the Government aware of the very great discontent and agitation in consequence of overcrowding of the South Indian Railway trains and the insufficient accommodation given to the third class passengers?

(b) If so, do they propose to institute an inquiry into the causes of the overcrowding of trains and the measures necessary to give relief to the travelling public?

Colonel W. D. Waghorn: (a) The Honourable Member is referred to the answer given on 10th September, 1921, during the session of September, 1921, to Question No. 144 asked by Rao Bahadur C. S. Subrahmanyam on the same subject.

(b) The Government do not think that any useful purpose would be served by an inquiry. The Honourable Member has, no doubt, seen the Railway Finance Committee's report. If the recommendations of the Committee in respect of the provision of funds for capital expenditure are approved by the Legislature, the Government hope that the conditions of travel of 3rd class passengers will be improved in the next few years not only on the South Indian Railway but on all railways.

INCOME AND EXPENDITURE OF THE SOUTH INDIAN RAILWAY COMPANY.

52. **M. K. Reddi Garu:** Will the Government be pleased to lay on the table a statement showing the income and expenditure of the South Indian Railway Company since the year 1915—and the average profits earned by this company during these years?

Colonel W. D. Waghorn: A statement showing the gross earnings and working expenses of the South Indian Railway and the share of surplus profits and the percentage of return earned by the South Indian Railway Company for the last six years is placed upon the table for the Honourable Member's information.

Statement showing the gross earnings and working expenses of the South Indian Railway and the share of surplus profits and the percentage of return earned by the South Indian Railway Company during the years 1915-16 to 1920-21.

Year.	Gross earnings.	Working expenses.	Profits earned by the Company (exclusive of interest and Government share of net revenue receipts).	Percentage of return earned by the Company on their capital.
	Rs.	Rs.	Rs.	
1915-16 . . .	2,95,90,946	1,45,99,870	4,32,328	6.38
1916-17 . . .	3,23,83,253	1,61,57,513	5,10,664	6.95
1917-18 . . .	3,53,66,666	1,51,64,137	7,97,904	8.85
1918-19 . . .	3,56,36,133	1,60,30,886	7,64,444	8.60
1919-20 . . .	4,01,49,515	2,19,03,270	8,09,917	9.67
1920-21 . . .	4,07,28,036	2,48,34,019	7,11,217	7.01

TOTAL PENSIONS PAID BY GOVERNMENT TO OLD PENSIONERS.

53. **Lieut.-Col. H. A. J. Gidney**: (1) What are the totals of pensions in (a) each Province and (b) the Government of India paid per annum at present to the old pensioners (*i.e.*, those who have not benefited by increases to former pensions, under any new order) who draw pensions from Rs. 2,001 to Rs. 4,999 per annum?

(2) What are the totals of pensions in (a) each Province, or (b) the Government of India paid per annum at present to the old pensioners (*i.e.*, those who have not benefited by increases to former pensions, under any new orders) who draw pensions of Rs. 5,000 per annum (*plus* Rs. 1,000 per annum in special cases of Commissioners, Inspectors-General, etc.)?

(3) What would be the total initial cost per annum to (a) the Provincial Governments and (b) the Government of India, of an increase of 15 per cent. in existing pensions referred to in part (1)?

(4) What would be the total initial cost per annum to (a) the Provincial Governments and (b) the Government of India, of the enhancement, as granted to those who retired from 23rd July, 1913, on existing pensions referred to in part (2)?

The Honourable Sir Malcolm Hailey: (1) and (2). The collection of the details required by the Honourable Member will involve considerable work in all accounts offices throughout India, and I do not feel justified in putting this additional work upon them at a time when they are already extremely busy with the preparation of the budget. Steps will be taken, however, to supply the Honourable Member with the information during the course of the summer.

(3) and (4). I regret that I cannot undertake to arrange for the preparation of such calculations for Honourable Members.

INDIA'S CONTRIBUTION TOWARDS THE EXPENSES OF THE LEAGUE OF NATIONS.

54. **M. K. Reddi Garu**: (a) With regard to the expenses of the League of Nations, is it a fact—

(i) that India is obliged to pay as much as independent nations like Japan, Italy and China; if so, what is the proportion to be contributed towards the total expenses of the League by each one of these nations and India?

(ii) Is it a fact that Self-governing Dominions like Canada, Australia, South Africa, and Newfoundland contribute only a fourth of what India is asked to pay?

(b) Are the Government aware that there is already discontent in the country regarding the award of the Imperial Conference that India should get only 1.20 per cent. while the Dominions get 4.35 per cent. of the reparation receipts?

(c) Do the Government propose to take any steps in the matter?

The Honourable Dr. T. B. Saprú: (a) (1) The Second Assembly of the League of Nations at its meeting held on 5th October, 1921, decided on a provisional allocation of the expenses of the League amongst Member States with effect from January 1st, 1922, based on the population on

31st December, 1919, and net revenue for the year 1918. This scheme replaced the original plan under which these expenses were borne by Member States in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union. It is to remain in force pending the submission of a final scheme in 1923 by a Committee appointed for the purpose. India, Japan, Italy and China are placed in class II and will contribute 65 units (*i.e.*, 1,654,786 gold francs) each. Under the original plan India was placed in class I.

(ii) Canada is placed in class III and will contribute 35 units (*i.e.*, 891,038 gold francs). Australia and South Africa are placed in class IV and will contribute 15 units (*i.e.*, 381,873 gold francs) each. Newfoundland is not a member of the League.

(b) The Government has received no representation to this effect.

(c) In view of the fact that the allocation of reparation receipts has been finally settled, the Government do not propose to take any action under this head. As regards India's contribution towards the expenses of the League of Nations the representatives of India on the Assembly have succeeded in getting India reduced from class I to class II of the contributing States and will no doubt endeavour to protect her interests when the matter comes up again before the Assembly.

CREATION OF AN INDIAN BAR.

55. **Lala Girdharilal Agarwala :** (a) Will the Government be pleased to lay on the table all correspondence and opinions relating to the Resolution *re* Creation of an Indian Bar which was moved in the Legislative Assembly on 24th February, 1921?

(b) What further action is proposed to be taken in the matter?

The Honourable Sir William Vincent : Government do not propose to lay the papers on the table, but when the correspondence is complete Government will probably print copies which will be available for those Members of the Assembly who are interested in the subject on application to the Home Department. The various authorities were consulted on the question in May, 1920, and many replies are still outstanding. For this reason Government are unable to say what further action they will take in the matter.

OUDH RENT BILL.

56. **Lala Girdharilal Agarwala :** (a) Are the Government aware that the Oudh Rent Bill was passed in the United Provinces Council in the teeth of strong opposition by the representatives of the tenants and that its passage into law will be resented by the tenants?

(b) Will the Government be pleased to lay on the table representations made on behalf of the tenants by certain members of the United Provinces Legislative Council or Members of the Select Committee on the Oudh Rent Bill?

(c) What action, if any, has been taken or is proposed to be taken by the Government in the matter?

Mr. J. Hullah : (a) The reply to the first part of part (a) of the question is in the affirmative. It is believed that certain parts of the legislation are welcome, and others unwelcome, to the tenants.

(b) Copies will be supplied to the Honourable Member.

(c) The matter is under the consideration of His Excellency the Governor General.

POSITION OF MEMBERS OF THE EXECUTIVE COUNCIL IN RELATION TO GOVERNOR GENERAL'S ASSENT TO PROVINCIAL LEGISLATION.

57. **Lala Girdharilal Agarwala :** (a) Are any Honourable Members of the Government consulted, in practice, whether formally or informally, generally or individually by His Excellency the Governor General before assenting to or withholding assent from any law passed by any Provincial Legislature?

(b) Was any Honourable Member of the Government so consulted with reference to the Oudh Rent Bill?

The Honourable Dr. T. B. Sapru : (a) and (b). There is no provision of any law or rule which requires the Governor General to consult any Member of his Executive Council before he assents to or withholds assent from an Act passed by a local Legislature and it is entirely within his discretion to do so or not as he pleases. The Government of India are not therefore in a position to reply to the question.

LISTED POSTS IN THE INDIAN CIVIL SERVICE.

58. **Lala Girdharilal Agarwala :** (a) Will the Government be pleased to lay on the table detailed information and papers showing how far and in what manner has the Resolution *re* Listed Posts in the Indian Civil Service adopted by the Legislative Assembly on 17th February, 1921, been given effect to and what is the present proportion of members of the Provincial Civil Service in such posts in each Province?

(b) In case full effect has not been given by any of the Local Governments to the said Resolution, do the Government of India propose to inquire from such Local Governments their reasons for not so doing and place the same on the table?

The Honourable Sir William Vincent : The Honourable Member is referred to the answer given on the 15th September, 1921, to Rai Bahadur Girish Chandra Nag's question on the subject.

The replies of certain Local Governments are still due. When the replies of all Local Governments have been received and examined, the Government of India will consider the question of laying the correspondence on the table.

EXPORT OF GOOD BREEDS OF CATTLE.

59. **Lala Girdharilal Agarwala :** Will the Government be pleased to state what practical step has so far been taken to carry out the Resolution of the Legislative Assembly passed on 2nd March, 1921, *re* export of good breeds of cattle?

Mr. J. Hullah : The replies of Local Governments who were consulted in the matter are now under consideration and it is hoped that a decision will be reached very shortly.

ULTIMATE COURT OF APPEAL IN INDIA.

60. **Lala Girdharilal Agarwala :** (a) Will the Government be pleased to lay on the table all information and papers including correspondence, opinions and proposals regarding the Resolution of the Legislative Assembly adopted on 26th March, 1921, re Ultimate Court of Appeal in India?

(b) What further action is proposed to be taken in the matter?

The Honourable Sir William Vincent : Government do not propose to lay the papers on the table, but when the correspondence is complete they will probably print copies, which will be available on application to the Home Department for those Members of the Assembly who are interested in the subject. The various authorities were consulted on the subject on the 9th May, 1921, and some replies are still outstanding.

(b) The action to be taken must depend on the nature of the replies

CAPITAL RETENTION COMMITTEE AT ALLAHABAD.

61. **Lala Girdharilal Agarwala :** (a) Are the Government aware that a Capital Retention Committee has been formed at Allahabad?

(b) Have Government received any representation from the Capital Retention Committee of Allahabad urging against the action of the United Provinces Government in their attempts to remove the capital of United Provinces from Allahabad to Lucknow, virtually, and regarding the construction of a new Council Chamber at Lucknow and not at Allahabad? If so, will the Government be pleased to lay the same on the table?

(c) What action, if any, has been taken or is proposed to be taken by the Government of India in the matter?

The Honourable Sir William Vincent : (a) and (b). Yes; a copy of the memorial addressed to His Excellency the Viceroy and Governor General in Council will be supplied to the Honourable Member if he desires. Government see no sufficient reason to lay a copy on the table.

(c) The memorialists have been informed, through the Local Government, that the Government of India accept the statement made by His Excellency the Governor, in reply to an address presented to him on the 23rd July, 1921, that there is not and has not been any question of transferring the capital from Allahabad to Lucknow. The Government of India have also communicated to the memorialists their decision that the location of the Council Chamber is a matter for the Local Government and their Legislative Council to settle.

INDIANISATION OF THE POSTS OF SECRETARIES, DEPUTY SECRETARIES, UNDER SECRETARIES, ETC., IN SECRETARIATS.

62. **Lala Girdharilal Agarwala :** (a) How many of the Secretaries, Under Secretaries, Deputy Secretaries, etc., in the Government of India and the Provincial Secretariats, as given in the statement in answer to my question number 48 printed at page 66 of Volume II of the Legislative Assembly Debates, are Indians and how many are non-Indians?

(b) What steps have been taken or are proposed to be taken to Indianise the posts referred to above by employment of suitable persons to the said posts whenever possible?

(c) How many postings have been made to the posts referred to above within the last 6 months in the Central and Provincial Governments and how many of the said posts were given to Indians?

The Honourable Sir William Vincent: (a) and (c). The information is being collected in so far as the Government of India Secretariat is concerned, and will be furnished to the Honourable Member when complete. As regards provincial Secretariats, it is suggested that Honourable Member might obtain the information required from the various civil lists. The Government of India have no information beyond what is contained in those lists.

(b) The Indianisation of the posts alluded to will proceed *pari passu* with the Indianisation of the services from which they are filled. The Assembly has been informed on more than one occasion of the steps which have been taken in the latter connection.

APPOINTMENT OF INDIANS OTHER THAN BENGALKEES AND PUNJABIS IN THE IMPERIAL SECRETARIAT.

63. **Lala Girdharilal Agarwala:** In view of the statement printed at page 187, Volume II, Legislative Assembly Debates, showing that 647 Indians are employed in the Government of India Secretariat (besides 252 Europeans and Anglo-Indians) of whom 499 Indians belong to the Punjab and Bengal while only 51 belong to the United Provinces, and very few or none from other Provinces, do the Government propose to consider the desirability of filling future temporary or permanent vacancies by suitable Indians belonging to the United Provinces and Provinces other than Bengal and the Punjab?

The Honourable Sir William Vincent: The Honourable Member is referred to the answer given to-day to a similar question on the subject.

CONDITIONS FOR THE TRANSFER OF A PROPERTY HELD ON ORIGINAL TENURE.

64. **Mr. W. M. Hussanally:** (a) Is it a fact that when applications are made to the Cantonment authority in Karachi for the transfer, of a property held on original tenure from one owner to another, the owners are informed that applications will be considered provided they are prepared to recognize the proprietary right of Government in the land and that they are willing to execute leases on Form B?

(b) If so, will the Government be pleased to quote the authority under which such conditions are tried to be enforced?

Sir Godfrey Fell: (a) and (b). The attention of the Honourable Member is invited to the reply given on the 22nd September last to his Question No. 556.

IMPROVEMENTS TO AND REBUILDING OF HOUSES ON PLOTS OF LAND HELD ON ORIGINAL TENURE.

65. **Mr. W. M. Hussanally:** (a) Is it a fact that sanction to various applications for effecting improvements, alterations and additions to and

rebuilding of houses on plots held on original tenure within the Cantonment Area of Karachi, and for transfer of such property from one owner to another were made conditional unless and until the applicants executed leases on Form B, chapter XXI, Cantonment Code, 1912?

(b) Have any such leases been executed, and have about 41 houses in the Cantonment limits of Karachi been affected thereby?

(c) If so, will Government be pleased to state under what authority the owners were asked to sign such leases?

Sir Godfrey Fell: (a) and (c). I would invite the attention of the Honourable Member to the reply given on the 22nd September last to his Question No. 556.

(b) As I pointed out in that reply, occupants, whose title to the land is considered doubtful, are asked if they are willing to execute leases in perpetuity for their original holdings as well as for extensions. The Government understand that the landlords of 35 houses in the Cantonment of Karachi have executed leases in Form 'B' in respect of properties transferred to them by their previous owners.

EXPULSION OF THAKUR AMAR SINGH.

66. **Mr. W. M. Hussanally:** (a) Is the Government aware of the expulsion of Thakur Amar Singh, a resident of Mhow Cantonment, under Section 216 of the Cantonment Code?

(b) Is it a fact that the expulsion order was issued after Thakur Amar Singh had given evidence in a police corruption inquiry? If so, is there any connection between the evidence he gave in the inquiry and his expulsion?

(c) If the reply to the latter part of question (b) be in the negative, will the Government state the reasons for which the expulsion order was issued?

(d) Is it a fact that Thakur Amar Singh has been seeking for an opportunity to explain his case to the higher authorities but no opportunity has been given to him so far?

(e) Under the circumstances, do the Government propose to direct an inquiry to be made into the case?

Sir Godfrey Fell: (a) Yes.

(b) and (c) In March, 1914, Thakur Amar Singh, with certain others, accused an Inspector of Police of taking bribes. As the result of a careful inquiry, it was found that all the complaints that had been made were absolutely false.

In June, 1914, Thakur Amar Singh was expelled from the Cantonment of Mhow, as his presence in that Cantonment was considered, by both the local civil and military authorities, to be prejudicial to good order and military discipline. Thakur Amar Singh appealed against this order, but His Excellency the then Commander-in-Chief, who is the appellate authority in cases of this kind, saw no reason to interfere. The General Officer Commanding, 5th (Mhow) Division, after consultation with the local civil authorities, permitted Thakur Amar Singh to re-enter the Cantonment on the 24th December, 1915, and he has not since been expelled.

(d) The Government of India have no information on the subject. It may be mentioned, however, that Thakur Amar Singh is at present awaiting trial in the Indore jail on a charge under section 131 of the Indian Penal Code.

(e) No.

CANTONMENT MAGISTRATES AS COURTS OF SMALL CAUSES.

67. **Mr. W. M. Hussanally:** (a) Is it a fact that at some stations Cantonment Magistrates are also Courts of Small Causes for such cantonments?

(b) Is it a fact that sometimes intricate questions of law have to be decided by them?

Sir Godfrey Fell: (a) and (b) The replies to both parts of this question are in the affirmative.

INDIANS IN THE MILITARY WORKS SERVICES.

68. **Mr. W. M. Hussanally:** (a) Is it a fact that Indians are as a rule excluded from the Military Works Services?

(b) In view of the progressive policy of Indianisation of all services, will Government be pleased to state if they propose to Indianise the Military Works Services also?

Sir Godfrey Fell: (a) The reply is in the negative, except that Indians are not at present appointed to the Barrack Department.

(b) The question of Indianising the Military Works Services, as well as other services, is being considered.

INDIANS ON THE STAFF OF GENERAL OFFICERS COMMANDING.

69. **Mr. W. M. Hussanally:** (a) Have the General Officers Commanding any Indians on their staffs?

(b) If so, how many and what positions do they occupy?

Sir Godfrey Fell: (a) Yes.

(b) Four Indian officers are attached to the staffs of the General Officers Commanding-in-Chief, Commands, as *Aides-de-Camp*. In addition, one Indian officer is attached to the General Staff Branch, Army Headquarters, as Assistant Translation Officer; and there is one Indian Staff Officer at the Cavalry School, Saugor.

ADMINISTRATION OF LAND CUSTOMS IN THE FRONTIERS OF PONDICHERY.

70. **M. K. Reddi Garu:** (a) With regard to the British and French villages in the frontiers of Pondicherry will the Government be pleased to state if it is a fact (1) that groups of British villages are entirely surrounded by French villages and similarly some French villages by British villages; (2) that in some border villages one side of the street is British and the other French; (3) that the British residents who go to purchase vegetables or paddy in an adjacent French village have to take the things purchased to the British customs to get them assessed to duty, at a distance of four or five miles away?

(b) Are the Government aware that even goods carried by free pass duty cannot directly pass on to their destination but should go *via* a land customs British chauki which in some cases is at a distance?

(c) Is there any proposal on the part of the Government to cancel the land customs duty on the produce and indigenous manufactures in these frontiers?

(d) Are the Government aware that on account of these land customs duties much hardship is felt by the subjects of both the British and French villages situated within this frontier?

(e) Are the Government further aware of the great discontent and agitation in these frontier villages for some relaxation of the rules applicable to sea customs, especially in the matter of land customs?

(f) In 1916 when the tariff rates were raised, did Sir William Meyer, the Finance Member, state that he had some idea of mitigating this troublesome land customs duty? If so, how far has this suggestion been given effect to?

The Honourable Mr. C. A. Innes: The Madras Inland Customs Act, 1844, is a local Act administered by the Government of Madras. The Honourable Member should, therefore, apply to that Government for detailed information on the subject of his question. The Government of India are aware, however, that the frontier is intricate and ill-defined and they have no doubt that the administration of land customs is harassing both to British and to French subjects living near the frontier. The whole subject has recently been examined and the question of improving the arrangements is at present under the consideration of the Government of Madras.

CASE OF BABU TARAPADA MUKERJI.

71. **M. K. Reddi Garu:** (a) Is it a fact that some of the statements made by one Babu Tarapada Mukerji in his speech as the President of the All-India P. and O. and R. M. S. Conference held at Lahore, have been taken objection to by the Post Master General of Bengal as being untrue and disloyal?

(b) If so, will the Government be pleased to lay on the table the correspondence that passed between Babu Tarapada Mukerji and the Post Master General of Bengal?

(c) Is it a fact that Babu Tarapada is threatened with dismissal, if he fails to make a public apology to the Government?

(d) Is this Tarapada Babu the same gentleman on whose transfer to Burma there were protests and memorials to Government? If so, what has become of his transfer?

(e) Is it a fact that the Government desire to get rid of him at any cost, because he is the chief moving figure in the P. and O. and R. M. S. Associations of Calcutta?

Colonel Sir S. D'A. Crookshank: (a), (b) and (c). The facts of the case are as follows:

On the 9th October, 1921, Babu Tarapada Mukerji, who was President of the All-India Post Office and R. M. S. Conference, made a speech at the opening of the Conference at Lahore. The speech was previously printed and circulated and a copy of it is laid on the table.

This speech contained serious mis-statements and was calculated to cause disloyalty and disaffection amongst the postal staff and was of an objectionable nature generally. The Director-General of Posts and Telegraphs, although he considered that Babu Tarapada Mukerji had rendered himself liable to severe disciplinary action amounting to dismissal, decided to give him an opportunity to express his regret and called upon him through his superior officer, the Postmaster-General, Bengal and Assam, to make a public apology or else resign the service. A copy of the Director-General's letter to the Post Master General, Bengal and Assam, with its enclosure, is laid on the table.

Babu Tarapada Mukerji replied to the charges made and refused to apologise or resign. A copy of his letter is laid on the table.

The Director-General was, however, willing to give Babu Tarapada Mukerji another chance and had an interview with him on the 17th November in Calcutta. He told him that he was prepared to overlook his conduct on this occasion if Babu Tarapada Mukerji wrote him a letter expressing regret for certain objectionable passages in his speech. At the close of the interview, the Director-General understood that such a letter would be sent and he agreed that as soon as he had received it, he should issue orders allowing Babu Tarapada Mukerji to rejoin from leave and take up the appointment of Sub-Postmaster, Amherst Street, Calcutta.

The Director-General was surprised to receive no communication from Babu Tarapada Mukerji on either the 18th or 19th November and he telephoned to the Postmaster-General, Bengal and Assam, to call upon him for his letter of regret. On the 20th November, the Director-General received a letter from Babu Tarapada Mukerji, a copy of which is laid on the table. On receipt of it, orders were issued dismissing Babu Tarapada Mukerji from the service with effect from the 20th November.

(d) Yes. The Honourable Member's attention is invited to the reply given by me to a question put by him on September 21st last. Babu Tarapada Mukerji was not, however, actually transferred. He was on leave and was appointed to act as Sub-Postmaster, Amherst Street, Calcutta, upon rejoining duty.

(e) The reply is in the negative, and there are no grounds whatever for the insinuation made.

ALL-INDIA (INCLUDING BURMA) POST OFFICE AND R. M. S. CONFERENCE.

Held at Lahore on the 9th, 10th and 11th October, 1921.

PRESIDENTIAL ADDRESS OF BABU TARAPADA MUKERJI, DELIVERED ON THE 9TH OCTOBER 1921.

Mr. Chairman, Mr. Secretary and Members of the Reception Committee and brother Delegates :

I am deeply sensible of the honour that you have done by electing me President of the second session of the Conference of the All-India (including Burma) Post Office and R. M. S. employees. I know my own shortcomings, and in all humility recognise my unfitness to discharge the very responsible duties of the President of an Assembly, composed of men coming from all parts of India and Burma, gathered together to form decisions on momentous questions, and to mature plans for carrying those decisions into effect. I am sadly conscious of my limitations and I have not the conceit to think that I deserve the trust you have reposed in me. Now that you have chosen me to preside over your deliberations, it would be false modesty to hesitate. But at the outset I prefer to tell you,

brothers, that I seriously count upon your help to pilot me successfully through this difficult task; and it encourages me to think that you will most willingly render all possible help. Last year the Honourable Mr. Kharparde, a political leader of all-India reputation, than whom a better champion the poor Post Office and R. M. S. employees can hardly find, was at the helm of the first session of the Conference held at Delhi, and with what signal success you all know; and you have called upon me to step into his shoes!

2. My election as President is not, however, without a special significance of its own. I have passed my life in the subordinate service of the Post Office, and am still in harness. I have lived the miserable life of the subordinate staff, and it has become almost a part of my existence. In choosing me you have chosen one of your fellow sufferers to lead you; you have grasped the true spirits of Labour Union; you have demonstrated that you are prepared to accept the leadership of one who has been the object of persecution on account of the active interest he has taken on behalf of brother officials; you have honoured one whom the Director-General wanted to harass by illegally transferring him from Bengal to Barina; you have shown to the world that you have confidence in your own brothers and are prepared to depend upon your unaided strength for your salvation.

3. I have come here under the deep shadow of an impending domestic calamity. I had thought that I would not be able to leave alone, in Calcutta, my dying wife and come to Lahore to attend the Conference. But when I was told that you had chosen me President, it sent a thrill through me, not only because I was the recipient of such unique honour, but because it revealed that you have learnt to place full confidence in yourselves and no longer hang upon extraneous help. I could not bear the idea of damping your ardour by refusal and I, therefore, readily responded to your call, of course with the full consent of my ailing wife. With my poor equipments and in the present state of my mental anxiety, I shall be guilty of many shortcomings, but I earnestly hope you will not mind them and you will lend all possible help in the discharge of my duties to make me a success.

4. The Punjab has, from time immemorial, been the gate-keeper of India, and as such she has had to bear the first shock and the brunt of fight in all struggles for national existence. It is, therefore, in the fitness of things that in our struggle for emancipation from the slavery, economic or otherwise, that prevails in the Post Office and R. M. S. service, our stalwart brothers of the Punjab should play a worthy part, and the first two sessions of the Conference should be held in the Land of Five Rivers. We are grateful to our Punjab brothers for their earnestness and spirit of sacrifice manifested in the fact of their having invited the Conference for two successive sessions.

5. Let us take a brief survey of the events happening since we met at the last Conference. The much-talked of Postal Committee's report has been published to give us an insight into the mentality that formulated a scheme of revision grotesque in the extreme, absurd as absurd can be, and insulting to the dignity of labour. It is, by this time, familiar to you all what monster the mountain in labour has produced, of which many of you are probably victims.

6. The Postal Committee starts with the very curious and insulting proposition that 'all concession is of the nature of a gift, and this being so, it is for the donor to decide what the measure of the gift shall be.' This tantamounts to saying that the employers are donors and the workers are beggars and they must, therefore, be satisfied with beggar's doles. I am astonished and you are astonished that a Committee of responsible men appointed by a civilised Government in the twentieth century, can so far forget themselves as to place workers in the category of beggars at a time, when labour has become self-conscious enough to contemplate taking 'Direct Action' even in affairs of State. Perhaps our crime of age-long silence in the past is responsible for such humiliating remark, or, it may be, that the Committee wanted to give a quietus to the growing manifestation of life in the Post Office by reminding the employees that they were no better than beggars, bound to accept without a murmur what charity the Government as donors were pleased to give, and it was useless to clamour for more.

7. Ah! Brothers, workers are not beggars; they are the salt of the earth, they are the only people who produce wealth. Wealth consists of the labour imprinted on material substance; and in the absence of workers, where is the labour to come from which is necessary to create wealth? Those who do not work are parasites sucking like vampire the life-blood of society and are battenning on the wealth produced by the workers. Is it not amusing that the wealth produced by workers should be appropriated, and then the producers of wealth be called beggars and then the pittance doled out to them, so that they may keep the body and soul together for further production of wealth for the benefit of others.

8. Consider, brothers, what this world would be, were the workers to stop work. Not a grain of cereals would be produced, not a yard of yarn would be spun and woven, not a brick would be laid, not a tenement would be built. Those bloated, over-indulged finely draped figures airing their best manners to their own class, would have no food to allay hunger, no clothes to cover the body, no home to afford shelter; and they would soon cease to exist to call workers beggars. Brothers, shake off the hypnotic spell, the somnambulism of past life, wake up and be self-conscious, appraise your value at its real worth, do not remain forgetful of the dignity of labour, realise your own strength, and march on double quick to the goal, 'heart within and God overhead.'

9. Brothers, what better could be expected from the Committee, constituted as it was? Through your Associations you sent up the names of certain persons on whom you had faith, and who could represent your view-point, had they been given a place on the Committee. But the Government religiously excluded every person whom you nominated, and selected men on whom you had absolutely no faith. You cannot be bound by the findings of a Committee with which you had nothing to do, and who had nothing to do with you.

10. The Committee had rejected the evidence given by your witnesses as worthless and conflicting and unreliable. They were, however, scrupulous in comparing and weighing the schemes prepared by different Postmasters-General, and considering other reports emanating from the Government side. Even in doing so, the Committee brushed aside higher scales proposed by certain Postmasters-General, when a lower scale was proposed by another. The fact of the matter is that the Committee was dominated by one idea in framing their scheme, and that is to keep down any considerable increase of expenditure, and they make no secret of this view in their report.

11. The consideration of economy is, however, cast to the four winds when the question of raising the pay of the upper strata arises. You will be surprised to learn that in the course of twelve months more than one revision has been sanctioned for those who are paid by thousands instead of by tens, but when the poor underpaid, overworked subordinate staff is concerned, that is another matter. The soulless cruel cant of 'demand and supply' then comes in, family budget is discarded, evidence of those affected is declared extravagant and unreliable, comparison is made with commercial firms, as if the Government are to follow, instead of setting example to, capitalist profiteers in the matter of remuneration to the employees, and every quarter is ransacked for the justification of denying what constitutes the real living wage in the present time.

12. If we have a look at the scale of wages in the pre-war time and the advance sanctioned to compensate the increased cost of living in England, we may form a fair idea of the difference of treatment we receive from what our brothers in the British Post Office get. In England a postman at the age of 18 years, on first appointment, used to get, before the war, 20 shillings per week, but on account of increased cost of living at present he is paid 53 shillings per week. Two very striking features rivet our attention: firstly, the pay of a postman on first appointment is Rs. 175 in Indian money; and secondly, the increase of over 160 per cent. granted on pre-war pay. The maximum pay sanctioned for clerks in the Indian Post Office varies from Rs. 120 to Rs. 140 to be attained after a service of 25 years, if they are at all able to cross the two efficiency bars, to be rigorously enforced after 10 and 18 years' service. They have to start on an initial pay of Rs. 35, 40 or Rs. 45 or Rs. 50 as the case may be, against Rs. 175 for a postman in England. Congratulate yourselves, brothers, on your good luck! Your increase has been limited to 50 per cent. and most of you have got only a very small increase, and many have even been adversely affected.

13. This increase of wages in England was not confined to the cadre of postman alone, the clerks got their wages enhanced in like manner. To pay the enhanced rate of wages, the British Post Office had to work at a loss of ten million pounds in the first year the increased pay was sanctioned. To make up the loss the British inland postage has been raised for letters to 2d and for postcard to 1d, equivalent in Indian money to two annas and one anna, respectively. If we look to the Indian Postal Administration, what do we find? Year after year large surplus revenue is appropriated by the Government, and in this way over five crores of rupees out of Postal revenue has been saved in the course of eight years. It has been the declared policy of Government both in the days of the East India Company and after the transference of the administration to the Crown that no surplus revenue would be derived from the Post Office; but the large savings year after year do not give indication of the promise having been kept.

14. Brothers, we are to thank ourselves for the shabby treatment we have been receiving. We have been content to be silent workers for ages, for which such eulogium was

bestowed on us by Sir Arthur Fanshawe; and this crime of silence brought its retribution in the neglect to which we were relegated so long. Instead of being silent workers, had we been a little more clamouring for our rights, then the Government would not have sweated us in the manner they have done. It is time we take lessons from past experience, and carry on our fight for all that makes life worth living.

15. The burning question of the day is the question of bread and decent living. Are we paid a living wage? Do we get sufficient wages to nourish our children with healthy and nutritious food, to clothe them decently, to house them in proper and ventilated quarters with sufficient accommodation for purposes of decency and healthy moral development, to give them education, to pay for proper medical help, to meet their marriage expenses and various other social obligations, and provide for the rainy day? Ah! Brothers, we all know to what strait we have been reduced. We do not live, but we merely exist to drudge on to sustain life. Brothers, do you consent to live this life if you can help it?

16. Man is something more than an animal. He cannot afford to pass his days in mere animal existence. He cannot live contented if only his physical needs are satisfied. His moral nature will rise in rebellion if it is altogether neglected. It is impossible to live the life of a moral being who exists for a higher end,—namely, to develop into full manhood and bring it into harmony with the universe and its author—unless he has a mind free from anxiety, and unless he has sufficient leisure for contemplation and introspection. It is, therefore, necessary that the income should be adequate to dispel domestic cares, and time must be available for the development of the higher nature.

17. But what opportunities have we to live a human life in the Postal Service? The pay is too low, in consequence of which we are in a constant state of anxiety, the long hours of duty and the hard labour of office are very exhausting. We are thus reduced to a state of mere animal existence, and even that—not a healthy one. Brothers, we cannot afford to continue as we are, unless we belie our nature. We must, therefore, determine to have our pay increased and working hours reduced. We must fight and fight strenuously to secure what alone can make life worth living. We must make up our minds at this conference whether we shall continue to live as human cattle or 'take up arms against a sea of trouble and by opposing end them.'

18. Brothers, again do I reiterate that we are to thank ourselves if we continue to live this present degraded life. It is the law of nature that we should receive the treatment we actually deserve. We have fallen from our high pedestal and we have lost the consciousness of our true self. We have forgotten that we have a soul which is the essence of God. Once our hypnotism is gone and once we succeed in overcoming mean terror and low selfishness and abject submission to fate, the soul will manifest in all its glory and it will triumph over whatever obstacles may stand in our way.

19. Brother delegates, you had expected a good deal from the Postal Committee; and the animation and activity displayed by the postal officials throughout India and Burma at the time was an index to the high hopes raised by what then appeared as a genuine desire of the Government to do justice to the long neglected subordinate staff of the Post Office. Your hopes have been shattered, your expectations have been cast to the four winds, and you stand to-day in a position hardly better than when the Committee was appointed. I ask you, brothers, as to whether the disappointment has broken your spirit, or whether it has given you a new impetus to redouble your energy and give no rest to the Government till our legitimate claims are fully satisfied?

20. If you are convinced in your heart that the recommendations of the Postal Committee are humiliating and unsatisfactory, if you feel you have been very shabbily treated, and you deserved better, and if you are determined to obtain what you have a right to claim, only one course is open to you, and that is summed up in the one word 'Organise.' Organise if you want real living wage, organise if you want to have your working hour reduced, organise if you desire better treatment from your superior officers, organise if you want that the authorities should consult and consider your opinion on all administrative measures affecting you.

21. Simply because the Postal workers' organisation was still in a liquid state, that the Postal Committee could dare to characterise the workers as beggars, to openly give expression in their report to the view that the witnesses chosen by the workers were unreliable, to prepare schemes of revision altogether inadequate, grotesque and ridiculous in the extreme. Had the Committee found the Postal Organisation as strong as the Telegraph Association, they could have changed their tune and sung quite a different song. We should take lessons from the attitude of the Government towards the telegraphists. Simply because the Telegraph Association is a very powerful body with strong financial backing, every member of

which is alive with class consciousness ready to do in concert whatever circumstances demand. The Telegraph Committee, of which the President was the same Mr. Haseltine who presided over the Postal Committee, recommended almost everything demanded by Mr. Barton of the Telegraph Association, and Government accepted the recommendations without demur. They do not dare to call the Telegraphists beggars, or to characterise the witnesses as unreliable.

22. Take it from me, brothers, that petitions and memorials and supplications will count for nothing so long as you do not organise yourselves in a manner to convince the Government that you will no longer stand nonsense. This organisation, when perfected, will be ten times more powerful than the Telegraph Association. But there are difficulties in the way. We have scattered units spread over the length and breadth of the country; and so much the stronger must be our efforts to enthuse them with the spirit of Association, and secure them to the service of the common cause. The spirit of Association is already in the air, there is a universal awakening in the Post Office, spirit of unrest has captured the entire Postal Service, every one is eager to contribute his mite for the furtherance of the common cause. The ground is ready; only some daring spirits are wanted to sow the seed and reap abundant harvest.

23. Organisation to be effective, must be centralised. Scattered Associations with very loose ties to bind them is useless for action and the authorities know it well. Unless, therefore, we can concentrate our scattered forces to be set in motion by some one central authority we may rest assured that our efforts will not be crowned with full success. The All-India (including Burma) Post Office and Railway Mail Service Union is intended to supply the place of the central authority. To make the All-India Union a reality demands a good deal from us. We must rise superior to provincialism, we must broaden our outlook, we must cultivate a spirit of trust, we must be identified with the All-India Union wherever it may be located, we must fully develop class consciousness, we must have implicit faith in the All-India Executive; in one word, we must strongly feel that we are for the Union, and the Union is for us. So long as we cannot thus identify ourselves fully, the Union will lack the full strength necessary for our salvation.

24. Brothers, our weaknesses arise from the fact that we have forgotten our true selves. From this forgetfulness of the self are engendered the vices that mar our life. Flunkeyism, cowardice, selfishness, treachery, supineness, and insincerity—these are the tools used by Beelzebub to asphyxiate the soul. Brothers, beware of them, shun them as viper's breath, train the mind to be impervious to the devil's wiles, and there is no power that can deny you the rights and dignities of man.

25. Now comes the question as to what are the requisites to make organisation successful. I cannot do better than repeat the advice given by Colonel Wedgwood, one of the labour leaders of England, at a meeting of the Postal employees in Calcutta. The first requisite, he said, was a strong feeling of class consciousness. The bond of all unions is this feeling of class consciousness. We all belong to the Postal Service, and we are, therefore, brothers. We may come from different provinces, we may speak different tongues, we may be separated by wide areas extending over thousands of miles, but all this difference must disappear before our common brotherhood. We may have our private disputes, tempting offers may be in work to seduce particular officials to create divided interest, but we must rise superior to all these. Private quarrels never so bitter, and temptation never so powerful, should not alienate us from our allegiance to brother officials and make us traitors to our cause. This feeling is class consciousness, without which no organisation worth the name is possible.

The second requisite is that no official should stand aloof from our Union. Union is strength, and we cannot afford to have division in our camp. In the interest of service as much as for individual interest, every one should join the Union with heart and soul, so that our demands may have behind them the united strength of the entire body of officials.

The third requisite is to create a substantial Reserve Fund. Brother delegates, full purse constitutes the sinews of war, and no special emphasis is at all necessary on this point. You all know that without a strong financial backing, satisfactory work cannot be done.

The fourth requisite is to give publicity to our grievances through the press. The labour organisations in the West have their own organs for their purpose. In India we had, until lately, practically no organ of our own entirely devoted to the interest of Postal and R. M. S. employees. This want has now been supplied to a certain extent by the 'Labour', a monthly magazine issued under the auspices of the Provincial Association, Bengal and Assam. If the All-India Union could undertake to issue its own paper or, failing that,

recognised the 'Labour' and gave it sanction to assume the All-India character in name as it has already done in its methods, it would be better still. The organ of the Union should be very largely subscribed, so that every employee may have opportunity to acquaint himself with the activities of associations and become familiar with the progress of ideas.

The fifth requisite is to influence the members of the Legislative Assembly and the Council of State with a view to bring pressure on the Government. The value of help in this direction will, however, depend to a great extent on the strength of our organisation. The members are in a position to render help no doubt, but their help will not be very effective, unless our organisation becomes powerful.

26. These are the five requisites for a successful organisation. I wish to add one more to the Colonel's list—I mean a proper sense of discipline. I said in my speech at Mymensingh the Colonel does not appear to have laid emphasis on the point, simply because discipline is so spontaneous in England, although the spirit of discipline is almost moribund in India. Discipline requires that when you have a duly elected Executive you must abide by their decision in all matters which are within their competence. If you find the Executive going wrong you have the choice to elect a fresh Executive; but you cannot consistently with the principles of discipline, keep an Executive body in office and override their action. Then discipline demands that when there is a difference of opinion, the minority must abide by the verdict of the majority; there must be no secession. 'I do not agree with you on a particular question and I cannot, therefore, act with you'—this spirit is subversive of discipline. If my view does not find favour with the majority, I must subordinate my views to the views of the majority, and loyally work whole heartedly for the common cause. This is discipline. Brother delegates, the spirit of discipline is still weak in us, and it is, therefore, so very necessary always to remember that without discipline no organisation can stand and work with success.

27. The Government do not forget to reiterate, in season and out of season, that a strong Committee was appointed to investigate the grievances of Post Office officials. The Government have accepted their recommendations; what cause of complaint have we then. We must admit that the Committee was strong enough to call workers beggars, strong in their anxiety to recommend as little as possible, strong in declaring the witnesses chosen by the workers as unreliable, strong in rejecting the unanimous demands of the men, strong in accepting whatever was suggested from official quarters, strong in murdering logic and facts, strong in preparing absurd and grotesque schemes.

28. Most of you have, I hope, gone through the memorial submitted to His Excellency the Viceroy by the Secretary, Provincial Postal and E. M. S. Association, Bengal and Assam Circle, which contains a criticism of the Committee's report. The Committee richly deserved the castigations it has received. After a prolonged sitting, the Committee produced a scheme, which contains within itself its own condemnation. Junior men would get higher pay than senior men, a graduate newly appointed would march four years in advance of graduates in service. A graduate appointed paid probationer before December 1919 would be entitled to the initial pay of a Reserve clerk, but a graduate made paid probationer after December 1919 would start on an initial pay 4 years in advance in the time-scale, what greater absurdities could be conceived to discredit the report of the Committee.

29. The distinction made between first class and second class Head offices is based on reasons inconsistent with facts. Neither it is true that cost of living in places with first class Head Offices is higher than places with second class Head Offices, nor it is a fact that work in a first class Head Office is more arduous and more difficult. Then a first class Head Office may be reduced to a second class Head Office and *vice versa* as it has happened before and what scale of pay would then apply is a problem for the gods to solve. The curious part of the whole affair is that the Committee made this fanciful distinction on their own initiative or on the initiative from official quarters, without caring even to question the workers' witnesses what they had to say on the subject. The fact of the matter is that the committee did not care a jot for the opinion of workers' witnesses, and the fact of calling these witnesses was a mere form and nothing else.

30. I refrain from giving a full catalogue of the absurdities as they are too numerous. We are ashamed of the committee and the Government should be ashamed of the committee. We reject the findings of the committee, and the Government should do likewise as the only honourable course.

31. Now, brothers, we should consider what we actually want and determine what we should fight for. To my mind four things are necessary to establish the subordinate service in the Post Office on a correct basis. The first thing we must have is adequate and decent wages; the second thing, curtailment of hours of duty; the third thing, moderation

of punishment and good treatment from superior officers; and the last thing that we must have is a voice in the administration in matters affecting the subordinate staff.

32. At the last conference held at Delhi we agreed that the scale of pay for clerks and sorters should be uniform, and we formulated our minimum demands. I do not think anything has happened since then to alter our views. We must fight for the minimum irreducible demands we determined after mature consideration. I think it was time that we took up the question of irreducible minimum wages for other classes of employees in the subordinate service as well.

33. Brothers, time-scale of pay for the subordinate service is meant to give a living wage. Efficiency bars are out of place where living wage is the question. Efficiency bars are, therefore, inconsistent and anomalous and out of place in the time-scale of pay in the subordinate service. In the superior services pay is determined, not by the standard of living but to attract men of superior stamp and to give dignity to high officers and it is, therefore, in the fitness of things that there should be efficiency bars in the time-scale of pay in the superior services. Brothers, we cannot, therefore, tolerate any bars in the time-scale of pay in the subordinate service of the Post Office.

34. The reduction in the hours of duties is of equal importance. Under existing conditions one is required to work very long hours, generally from 10 to 12 hours daily. The responsibility of Post Office duty is very heavy. Hard labour for inordinately long hours with considerable money responsibility reduces the men to a state of physical and mental paralysis; and it should not be allowed to continue for a day to the detriment of the service if we can help it. The authorities are, however, altogether callous. In the year 1919-20, the work of the Post Office increased over 11 per cent. and only 1·8 per cent. increased staff was sanctioned. Where is the wonder then that the manipulating staff should be harder pressed year after year. With the question of reducing hours of duty is involved the question of revising the Time-Test. We must press for workers' representatives in any committee that may be appointed to revise the Time-Test.

35. The question of punishment is another matter which we must take up in earnest. The superior officers treat their subordinates not as public servants but as public slaves. One who cares to know can easily find for himself, if one visits an important Post Office at a busy hour, how showers of abuse and insult pour down on the devoted heads of the clerks, as a most natural thing. Even assaults are not a very uncommon occurrence. But the clerks do not get protection from the Department they serve. They have to exercise Job's patience even under extreme provocation, lest their official career be ruined.

36. The Postal Administration is conducted by working on the terror of the subordinate staff. Circulars and instructions issued by the authorities always carry a sting in the tail and the sting is in the shape of a warning that 'mistake or failure to carry out instructions will be severely punished.' This betrays a mentality that has no faith in the sense of duty and loyalty of the workers, but depends entirely on the terror of punishment. Like slave owners, the Postal Administration always keeps the rod uplifted to get the work done. What is calculated to demoralise the men more than this? The authorities do not believe in the innate goodness of man. They appear to hold that man was not created by the Good God, but by the forces of Evil; and the evil propensities so inherited can be restrained only by the use of the rod.

37. Draco, the ancient law giver of Athens, is not dead. He lives in spirit in the Postal Administration. Have you missed a letter? You must be fined—you must bleed. Have you, through pressure of work, failed to exercise the necessary scrutiny prescribed in the Manual rules?—you must bleed, you must pay heavy penalty in fine and you must be degraded. Have you the hardihood of allowing your manhood to rebel against insults, abuses and assaults? You must bleed and your career is blighted. Any the smallest thing will be on record against you, and it will bar your progress beyond the efficiency bars, and your dream of entering the selection grades will vanish into the air. The Director-General, in his book recently published, admits, to quote his own words, 'Every official in the Department is supposed to have the contents of these four volumes of Manual at his finger's ends, but in reality few have ever read them through; and any one who attempted to obey all their instructions would find himself sadly hampered in the exercise of his duties.' But what of that? This frank admission by Mr. Clarke does not at all count when punishment is determined, and it goes on merrily as ever. We must seriously take up this question of punishment and the treatment due from superior officers. We cannot allow our manhood to be destroyed by such constant terror of punishment hanging like Damocles' sword over our head.

38. Brothers, our position will not be quite satisfactory, unless we can secure a voice in the Postal Administration in matters affecting the subordinate staff. The authorities have the knack of launching into schemes, hasty and defective; and the manipulating staff have to suffer. You know what happened when the despatch of Value Payable Money Order forms to offices of destination was abolished, what confusion it caused, what trouble it brought to the workers, what serious inconvenience it caused to the public, and how at last the old system had to be reintroduced. The abolition of Savings Bank Ledger maintained in the Audit Office was another instance of serious blunder, which generated endless difficulties and occasioned the ruin of many promising careers.

39. The disintegration of the Calcutta General Post Office and separation of the Sorting work to form a separate Sorting office under the control of the Deputy Postmaster General, R. M. S., was also a huge blunder. After a chequered career and various somersaults, the Calcutta Sorting has been restored to the control of the Presidency Postmaster. These blundering experiments have proved unqualified failures. But they involved a lot of wasteful expenditure and caused endless trouble to the workers. Such blunder can be easily avoided if the representative Associations of the workers are consulted, and due weight given to their opinion. For purposes of good administration, for the prevention of wasteful expenditure and for saving the workers from unnecessary troubles, we have a right to claim that in all administrative measures affecting the subordinate staff the All-India (including Burma) Post Office and R. M. S. Union should be consulted.

40. It may look ungallant, but I shall be failing in my duty if I do not refer to the invidious preference given to women clerks. They will start on a higher initial pay, much higher even than that of graduates; the rates of annual increments are higher, and there are no efficiency bars for them. All the world over, women clerks still hold a place inferior to male clerks, and only now a movement is going on in England on behalf of women clerks for an equal status with male clerks. But this natural order has been reversed in the Indian Post Office for reasons best known to the authorities. Are you going to accept this lower status assigned to male clerks or are you determined to remove the stigma of inferiority thus branded on your forehead?

41. Brothers, the tale of our woe is endless and I have touched only the fringe. But I have already inflicted on you a long lucubration to tire your patience. I do not dare to take further advantage of your goodness out of which you have given me so patient a hearing. I shall, therefore, conclude by asking you to remember that you are men, and not dumb driven cattle: you have a soul which is the essence of God and which nothing can repress except your own folly and ignorance and supineness. You have immense potentiality, capable of moving heaven and earth. Organise this power, organise with a purpose, organise with determination, and I promise you success will knock at your door.

Copy of a communication No. 76c-Cons., dated the 13th October, 1921, from the Director-General of Posts and Telegraphs, to the Postmaster-General, Bengal and Assam.

I have the honour to say that the following extracts have been taken from a speech delivered by Babu Tarapada Mukerji at the Post Office and R. M. S. Conference, Lahore, on the 9th October, 1921.

Will you kindly ascertain from Mr. Mukerji if the extracts are correct and if he actually used these words in his address.

If so, I have the following remarks to make. The Address was a public one and has been printed for circulation. It is calculated to bring Government and the Postal Administration into contempt with their own employes.

Statements have been made which are unfair and untrue casting ridicule and scorn upon a Committee of Indian and European gentlemen who devoted a great deal of time and care to improve the pay and prospects of the Post Office subordinate staff. The cost of this revision was no less than 1 crore 31 lakhs a year and the result of the heavy increase in expenditure is that the Post Office which made a profit of 75 lakhs in 1919-20 has shown a deficiency of over 45 lakhs of rupees in 1920-21.

Other charges are made against the Administration of the Post Office which the speaker must have known to be untrue, I refer to extracts Nos. 2, 4, 5, 8 and 9.

Mr. Mukerji is a senior postmaster on Rs. 250—350 and has been officiating as Postmaster, Mymensingh. He is now nominated to act as Assistant Postmaster, Calcutta, on

Rs. 350—450, but it is impossible to place an officer in this important position who has publicly brought false and unfounded charges against his superior officers and against the Government. There is no objection to reasonable criticism of any action, but public abuse of the Postal Administration by a responsible officer belonging to it cannot be tolerated. If Mr. Mukerji holds the views expressed in this address, he is disloyal to himself by remaining in the Department. His whole speech is designed to stir up disaffection and disloyalty among the staff and I am sorry to find that any officer of this Department could be capable of such unseemly and disloyal conduct.

Ordinarily no officer who made a public address of this kind could be retained in Government service. But I am willing to give Babu Tarapada Mukerji an opportunity of withdrawing his assertions and expressing regret. If he makes a public apology in the following terms I shall ask Government to overlook the matter upon this occasion. If he refuses to do so, he may be given the option of resigning his appointment or of being removed from Government service.

FORM OF APOLOGY.

I, Babu Tarapada Mukerji, Postmaster in the Bengal and Assam Circle, admit that the extracts given below are correctly taken from my Address delivered at Lahore on 9th October 1921 at the All-India Postal and R. M. S. Conference.

I apologise sincerely for the expressions used in these extracts and for the unfair and unfounded statements which I have made about the Postal Administration and the Postal Committee. I withdraw everything which I have said as reported in these extracts and I promise, as a responsible officer of the Department of Posts and Telegraphs, to refrain in future from stirring up disaffection and disloyalty among the Postal Staff either by speech or actions.

(Signed) _____

Extract from a Presidential Address of Babu Tarapada Mukerji at the All-India (including Burma) Post Office and R. M. S. Conference at Lahore on the 9th, 10th and 11th October, 1921.

1. It is, therefore, in the fitness of things that in our struggle for emancipation from the slavery, economic or otherwise, that prevails in the Post Office and R. M. Service, our stalwart brothers of the Punjab should play a worthy part.

2. I am astonished and you are astonished that a Committee of responsible men appointed by a civilised Government in the twentieth century, can so far forget themselves as to place workers in the category of beggars, at a time, when labour has become self-conscious enough to contemplate taking 'Direct Action.'

3. Brothers, what better could be expected from the Committee, constituted as it was? Through your Associations you sent up the names of certain persons on whom you had faith, and who could represent your view point, had they been given a place on the Committee. But the Government religiously excluded every person whom you nominated, and selected men on whom you had absolutely no faith. You cannot be bound by the findings of a Committee with which you had nothing to do, and who had nothing to do with you.

4. The fact of the matter is that the Committee was dominated by one idea in framing their scheme, and that is to keep down any considerable increase of expenditure, and they make no secret of this view in their report.

* * * * *

5. The consideration of economy is, however, cast to the four winds when the question of raising the pay of the upper strata arises. You will be surprised to learn that in the course of twelve months more than one revision has been sanctioned for those who are paid by thousands, instead of by tens, but when the poor underpaid, overworked subordinate staff is concerned, that is another matter. The soulless cruel cant of 'demand and supply' then comes in, family budget is discarded, evidence of those affected is declared extravagant and unreliable comparison is made with commercial firms as if the Government are to follow, instead of setting example to, capitalist profiteers in the matter of remuneration to the employees, and every quarter is ransacked for the justification of denying what constitutes the real living wage in the present time.

* * * * *

6. Simply because the Postal worker's organisation was still in a liquid state, that the Postal Committee could dare to characterise the workers as beggars, to openly give expression in their report to the view that the witnesses chosen by the workers were unreliable, to prepare schemes of revision altogether inadequate, grotesque and ridiculous in the extreme.

* * * * *

7. I refrain from giving a full catalogue of the absurdities as they are too numerous. We are ashamed of the Committee and the Government should be ashamed of the Committee. We reject the findings of the Committee, and the Government should do likewise as the only honourable course.

* * * * *

8. The superior officers treat their subordinates not as public servants but as public slaves. One who cares to know can easily find for himself, if one visits an important Post Office at a busy hour, how showers of abuse and insult pour down on the devoted heads of the clerks, as a most natural thing. Even assaults are not a very uncommon occurrence. But the clerks do not get protection from the Department they serve. They have to exercise Job's patience even under extreme provocation, lest their official career be ruined.

* * * * *

9. The Postal administration is conducted by working on the terror of the subordinate staff.

* * * * *

10. Draco, the ancient law giver of Athens, is not dead. He lives in spirit in the Postal Administration. Have you mislaid a letter? You must be fined—you must bleed. Have you, through pressure of work, failed to exercise the necessary scrutiny prescribed in the Manual rules? You must bleed, you must pay heavy penalty in fine and you must be degraded. Have you the hardihood of allowing your manhood to rebel against insults, abuses, and assaults? You must bleed and your career is blighted. Any the smallest thing will be on record against you and it will bar your progress beyond the efficiency bars, and your dream of entering the selection grades will vanish into the air.

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11. The authorities have the knack of launching into schemes, hasty and defective; and the manipulating staff have to suffer.

* * * * *

To

THE DIRECTOR-GENERAL, POSTS AND TELEGRAPHS IN INDIA, CALCUTTA.

SIR,

In connection with the conversation I had the honour to have with you at an interview on the 17th November 1921, I have received a letter No. A.-9—T.-14, dated the 19th November 1921, from the Post Master General, Bengal and Assam, requesting me to submit my apology in the course of to-day.

I beg to remind you that I never told you that I would apologise for anything I had spoken at Lahore. I maintained that there was nothing in my speech which was unfair or unfounded.

My transfer from Bengal to Burma was in contravention of the accepted principle of the department; and although the transfer was ordered at the instance of Mr. G. P. Roy, Post Master General, and Rai Bahadur K. P. Sen, Deputy Post Master General, as I understood from you, one would naturally have the conviction that it was an act of persecution to transfer me out of India. I still believe that my transfer from Calcutta Barabazar to Dacca, and my transfer from Bengal to Burma were acts of harassment.

But from the conversation I had the honour to have with you I felt that a publication of the fact has been an exposure which you have taken much to heart, and out of respect for your feelings and position I agreed to express regret for it.

I also agreed to express regret for any strong language that may have been used with reference to Government, although I denied having used any, and you did not point out any particular passage or passages in my speech to which objection might be taken.

I beg most respectfully to say that I have been astonished that the conversation at the interview has been made to appear in a different light in the Post Master General's letter. After the conversation at the interview, it is needless to say that I decline to apologise for any part of my speech delivered at Lahore.

I have, etc.,

(Sd.) TARAPADA MUKERJI,

Postmaster, Pegu (on leave).

162, Bowbazar Street,
Postal Club, Calcutta,
The 19th November, 1921.

To

THE POST MASTER GENERAL, BENGAL AND ASSAM, CALCUTTA.

SIR,

With reference to your letter No. A.-9—T.-14, dated the 19th October 1921, I have the honour to state that I do not remember having said anything unfair or untrue in my Presidential address delivered at Lahore on the 9th October 1921.

2. The Presidential address was a printed document, and I actually used the words printed in it. The extracts forwarded with your letter under reply are extracts from my speech; but it is necessary to read them with context to avoid misconstruction.

3. The statements I made in my speech are none of them unfair or unfounded, so far as my knowledge goes. Unless therefore I am false and disloyal to myself, I cannot subscribe to an apology declaring my speech to contain unfair and unfounded statements.

4. As I have been called upon either to apologise or to resign, I submit it will not be irrelevant if I adduce facts in justification of what I said at the Lahore Conference, and I hope the Director-General will not refuse a patient hearing before he pronounces his final judgment. I will take up the extracts in the order they have been given.

5. *Extract No. 1.*—The extract is made from paragraph 4 of my speech; but it is altogether misleading if read by itself without reference to the context. The speech as delivered runs thus: 'It is therefore in the fitness of things that in our struggle for emancipation from the slavery, economic or otherwise, that prevails in the P. O. and R. M. S. service, our stalwart brothers of the Punjab should play a worthy part, and the first two sessions of the Conference should be held in the Land of Five Rivers. We are grateful to our Punjab brothers for their earnestness and spirit of sacrifice manifested in the fact of their having invited the Conference for two successive sessions'.

6. My submission is, there is absolutely no exhortation to the Postal officials of the Punjab to acts of disloyalty to the service to which they belong. My speech was only an expression of admiration and gratitude at the spirit of sacrifice manifested by inviting the Conference for successive sessions.

7. If objection is taken to the expression 'slavery, economic or otherwise, that prevails in the Post Office and the R. M. S.' I beg to say that the scales of pay in the P. O. even after the revision are quite inadequate; and this fact had been admitted by Rai Sahib Bawa Teja Singh, Postmaster of Lahore, in his speech as Chairman of the Reception Committee. When one of the chief officers of the Department holds the view that the scales of pay are inadequate, there is no denying the fact that living wage is denied to the men in the subordinate service of the Post Office. Economic slavery means nothing more nor less than that the workers in return for full time labour does not get full living wage. When the officials in the subordinate Postal and R. M. S. service do not get adequate wages, there can be no exaggeration to say that they are under economic bondage or economic slavery.

8. The public know, and whoever has taken the trouble to enquire knows, that the Postal officials have to work long and inconvenient hours. The Postal Committee in their report have admitted this fact. The R. M. S. sorters have in many sections to work more than 10 hours at a stretch in a running train or steamer. This is not economic slavery; but it is a slavery of the worst kind. The Postal officials do not practically enjoy holidays like Government servants in other Departments. They have to work 365 days in the year, and from 10 to 12 hours each day, often with split duty. If this is not slavery, one wonders what slavery really is.

9. From the explanations furnished in the foregoing paragraphs you will be pleased to see that there was no unfair or unfounded statement in the portion of my speech from which extract No. 1 has been made.

10. *Extract No. 2.*—This extract is incomplete without the addition of the words 'even in affairs of State' as is given in paragraph 6 of the speech. The Postal Committee in their report (*vide* page 6) lays down the maxim, to quote their own words, 'Any concession is entirely a gift, and this being so, it is for the donor to decide what the measure of the gift shall be.' This, I submit, tantamounts to saying that the workers are beggars, and they must be satisfied with beggars' doles. The Committee by this curious maxim denies the workers the right to claim living wage in return for full time work. The workers are not actually beggars and the employers are not donors. The workers are joint producers of wealth with the employers, and they have the inherent right to living wage as much as the employers. Naturally the strange dictum adumbrated by the Committee came as a surprise, and I and my brother workers were simply astounded.

11. The labourers of Great Britain were dissatisfied with the Cabinet for continuing military operations in the Archangel Region of Russia even after the conclusion of the Great War; and the Executives of the different labour Unions combined and advised the Cabinet to stop all military operations in Russia and to withdraw the troops that were in occupation of the Archangel region, failing which they said they would take Direct Action to make any military operation in Russia impossible.

12. Whatever therefore I said in my speech, from which extract No. 2 has been made, are all based on facts. Days of isolation are past. India no longer slumbers within the confines of her own boundary. She is wide awake to get her inspiration from abroad. The Indian labour world in general and the Indian Postal and R. M. S. officials in particular are alive to the World movement. It was therefore only natural that the Postal Committee's estimate of the Postal and R. M. S. employees should astonish by its contrast with the treatment of labour in Great Britain. I submit I was not therefore at all guilty of unfair and unfounded statement in the portion of my speech from which extract No. 2 has been made.

13. *Extract No. 3.*—As far as I have been able to ascertain from enquiry, the gentlemen who constituted the Postal Committee were, none of them, nominated by any one of the Postal Associations except perhaps Rao Bahadur S. Bangachari, whose name may have been suggested by the Bangalore Postal Union of which he was President. Those who had got the largest backing from the officials whose case the Committee was appointed to investigate, were, not one of them, given a seat on the Committee. It was therefore idle to expect that the Committee constituted as it was could at all command the confidence of the officials. I therefore cannot see wherein I have made unfair and unfounded statement.

14. It is an accepted principle all the world over that a Committee appointed to investigate the case of workers, should have in it equal representatives of the employers and the employee. The Postal Committee was constituted on quite a different principle,—and the workers' representatives were altogether excluded. If my information is not wrong, my name was suggested by a large number of Postal Associations; Bengal and Assam were unanimous in nominating me; there were other Provinces as well that suggested my name for membership. But I was not given a seat on the Committee. When the Postal Associations despaired of inducing the Director-General to appoint me as a member of the Committee, they approached Mr. Kamini Kumar Chanda, a member of the Imperial Legislative Council (as it was then called). Mr. Chanda wrote to the Director-General requesting him to have me on the Committee. The Director-General's reply to Mr. Chanda is very characteristic and I quote it *in extenso* to prove by the very tenor of the Director-General's letter that every word I wrote in my speech contained the barest truth. Many of the Postal Associations nominated Mr. P. G. Rogers and Mr. H. N. Hutchinson, Postmasters General. They were high administrative officers of the Department on whom the workers had faith, but not one of them was appointed member of Committee :

No. 5-S.-E. S.

OFFICE OF THE DIRECTOR GENERAL OF
POSTS AND TELEGRAPHS ;

Simla, the 30th—31st March, 1920.

DEAR MR. CHANDA,

In reply to your letter dated the 26th instant I am afraid that owing to a pressure of their official duties it will not be possible to depute either Mr. H. K. Baha or Babu Tarapada Mukerji to the Postal Committee as they cannot spare the time for a Committee which will have so much work to do. I am, however, asking the President of the Committee to call up Babu Tarapada Mukerji as a witness so that he will have every opportunity of expressing his views upon the points at issue. I think you will find the personnel of the Committee thoroughly satisfactory.

Yours sincerely,

(Sd.) G. R. CLARKE.

15. As to the portion where I said 'You cannot be bound by the findings of a Committee with which you had nothing to do, and who had nothing to do with you,' I have sufficient justification for the remark. The employees had actually no voice in the constitution of the Committee, and they had therefore nothing to do with it. The Committee on the other hand did not place any reliance on the evidence given by the witnesses chosen by the workers. The Committee summarily brushed aside their evidence, and built up their recommendations on the statements and papers produced by the Postmasters General and on documents supplied by other departments. Evidently therefore the Committee had very little to do with the men of the subordinate staff.

16. I submit that after the explanations furnished in the preceding paragraphs you will kindly see that I did not make any statement unfair or unfounded, so far as extract No. 3 is concerned.

17. *Extract No. 4.*—I beg to invite a perusal of the Committee's report, and no explanation will I submit then be necessary to prove that the dominant idea was to prevent any considerable increase of expenditure. The report of the Committee as a whole is pervaded with this idea and I fail to see how I could be guilty of an unfair and unfounded statement in merely repeating the same.

18. *Extract No. 5.*—A Member of the Bengal Legislative Council stated in his speech only at the Session just closed that more than one revision was granted to the members of the I. C. S., in the course of twelve months, and this statement was not challenged in the Council. This revision may have been in the shape of allowance, etc., instead of increase of substantive pay; but all the same, increase of income due to holding particular class of appointments is revision, whatever name may be given to it. I submit I cannot have done wrong in repeating the statement of a Member of the Legislative Council.

19. With regard to the last portion of Extract No. 5, I beg to invite your attention to the Director-General's reply in the Imperial Council given to an Honourable Member. He brought prominently to the fore the theory of "demand and supply", and he asked the Honourable Member as to why the Government should pay more when clerks could be had for less. Then, I beg to invite your attention to the majority report of the McAlpin Committee appointed to advise the Bengal Government as to the revision of pay of the Ministerial Officers and menials, and to the Note of Dissent by Rai Mahendra Chandra Mitra Bahadur. The majority report took shelter under the theory of "demand and supply", discarded family budget, declared the workers' evidence as unreliable, comparison was made with jail and hostel figures as well as with commercial firms.

20. Rai Mahendra Chandra Mitra Bahadur in his note of dissent met the theory of "demand and supply" by citing the authority of the Public Service Commission who declared the theory inapplicable to the conditions of India. I beg to quote a portion of the Note of Dissent to prove that every word I said in my speech, as far as Extract No. 5 is concerned, contains unexaggerated truth. Says the Rai Bahadur :

21. 'The comparison with Jail figures is bound to be an under-estimate, first, because in a Jail a very large body of men live together, which is not the case in a family; secondly, because in Jails several of the items of living have undergone either comparatively little or no increase. In adopting Jail figures, the important point to be borne in mind is that they do not include the increased cost of labour and the middle-man's profiteering. Paddy, pulses, mustard seed, yarn, etc., are purchased wholesale and prepared for final consumption by Jail labour itself; and while the cost of labour and the rates of profit have increased in the outside world, they have not effected Jails. We know that these are two substantial factors in making up the prices of articles. Again in Jails articles are purchased wholesale, and there is a considerable difference between the increase of wholesale and retail prices. A comparison with Jail figures is fallacious in several other ways. For instance, they do not show increases under the heads house rent, vegetable, doctor's fees, educational charge, etc.'

'Similarly I am not prepared to accept Hostel figures as an absolute basis of comparison, for the very good reason, that as every parent knows, the fixed monthly remittance is supplemented very frequently by the supply of several articles or cash. Moreover, the figures for particular Hostels referred to by my colleagues and quoted in appendices IV and V do not give a fair idea of the increase. For instance, the first item of appendix IV, viz., the Wan Hostel, is a missionary hostel, where accommodation is supplied at a concession rate and there is thus no increase in house rent. The second item, the Krishnagar Hostel, the estimate from which is regarded by my colleagues as most complete, does not include warm clothing and several other items, and here also the house rent is cheaper than it is elsewhere. The greatest defect in figures for the students hostel is that there are regular vacations, and the charges realised for these periods go a considerable way towards making up the deficit in the other period; and, besides, there are always a number of casual absentees, who do not consume food, but nevertheless contribute their share of the common cost.'

22. 'This comparison with commercial firms again is a misleading comparison. In the first place, in determining the rate of admissible increase in the pay of clerks, it was unnecessary to seek comparison with Commercial firms. Government themselves have recently revised the whole of their superior services and some of their subordinate services too; and the rate fixed for these services would give a fair data for comparison for appointments with the corresponding rates of pay in the clerical service. But as this gives a very inconvenient figure, this method of comparison has been avoided by my colleagues. To seek guidance from Commercial firms to determine the rate of wages to be given by the employer to the employee appears to me to be a strange idea, and in matters like these Government should rather lead capitalists than follow them.'

23. *Extract No. 6.*—This extract has been made from paragraph 21 of my speech. The extract is intelligible only if it is read with the context. It is my personal opinion, and it is the opinion of all postal employees who have given a thought over the matter that the Postal Committee would not have been indifferent to the evidence given by the witnesses

chosen by the workers, and would not have adumbrated the curious 'Donor and Gift' theory if the Postal organization had been as strong as the Telegraph Association. To this conclusion I and other postal employees have come to from the very courteous and reasonable attitude of the Telegraph Committee towards the demands of the Telegraph Association and I still hold on to the same opinion.

24. As regards my remarks that the Scheme of Revision was inadequate, grotesque and ridiculous in the extreme, I submit there was no exaggeration in what I said. I have already explained in paragraph 7 that the Postmaster of Lahore, who is one of the chief officers of the Department, declared in his Chairman's speech that the revision was inadequate. I am therefore not alone to hold the opinion that the revision is inadequate. Grotesque and ridiculous the revision certainly is, although it may sound uncharitable to say so. The Director-General, in reply to representations made to him, said that he was helpless if under the revision junior men should get higher pay than senior men. This one confession comprehends all that I said in my speech. A graduate who was made paid probationer prior to December 1919 would under the revision get as his starting pay the wage of a reserve clerk, but a graduate made paid probationer after December 1919 would get a start of four years, and he would always mark four years in advance of the graduate who had entered the Department before him. Then again, as a result of the Committee's recommendations, cases have occurred in which a graduate or an I. A. or I. Sc. would get higher pay if he resigned and got reappointed. I submit that it is no exaggeration to call such a scheme as grotesque and ridiculous; and there was nothing unfair or unfounded in what I said in this connection.

25. *Extract No. 7.*—This is only a matter of opinion. The absurdities pointed out in the preceding paragraph do not exhaust the list. The distinction made between first class and second class Head Offices is another matter, the absurdity of which is apparent. There are District Head-Quarters with first class Head Office where the cost of necessities is much lower than in places with second class Head Office. Then, Barisal was at one time first class Head Office, and Mymensingh a second class Head Office. The position was reversed afterwards. Now if on account of partition of the Mymensingh District or from some other cause the work of the Mymensingh Head Office does not justify its retention as a first class Head Office, and if it is on that account reduced to a second class Head Office, the question will at once arise as to whether the cost of living at Mymensingh would drop down simultaneously and the pay of the clerks reduced to the standard of a second class Head Office. Similar absurd situation will arise if a second class Head Office is raised to the status of a first class Head Office. When such absurd and grave and serious faults vitiated the recommendations of the Postal Committee, we are naturally ashamed of the Committee, and it is not only my personal opinion but the opinion of the thoughtful public as well that the Government who appointed the Committee should reject instead of adhering to the Committee's recommendations.

26. *Extract No. 8.*—I only narrated the barest truth when I made the remarks contained in extract No. 8. The Director-General in his book 'The Post Office of India and its Story' makes mention, in the Chapter on Post Office Buildings, of the disgraceful scene of scuffle and petty riots every evening near the windows of important and busy Post Offices for want of space. I have personal experience, and every Postmaster who has held charge of busy Post Offices have personal experience, that the scuffle and petty riot is not confined amongst those who come on postal business. The public go on abusing and sometimes assaulting the window clerks in their irritation; and no protection is afforded against such abuses and assaults. I may mention only one instance that occurred in the Calcutta General Post Office to prove my contention. A European lady came in the afternoon at the window of the Registration Department and she asked the window clerk to accept a registered parcel. The clerk explained to the lady that parcels were accepted in a different place and the one she had presented could not therefore be booked by him, and he requested her to go to the place where parcels were booked. The lady got irritated, and abused the clerk to her heart's content, and came to the Assistant Postmaster in charge and complained against the window clerk. The Assistant Postmaster called the window clerk to know what had happened. When the clerk was explaining to the Assistant Postmaster the real situation, the lady got more and more irritated and in the presence of the Assistant Postmaster slapped the clerk on the face. What protection did the clerk get? Absolutely none. The Assistant Postmaster quietly told the clerk to go and work, and politely asked the lady to go to the Parcel Window and gave his Chsprasi to escort her to the proper place. Simply because the public knew that the clerks get no protection from the Department, that they dare to abuse and assault the clerks even in the presence of officers in charge. The clerks know very well that their career in the Post Office would be ruined if they give way under provocation, and their

manhood is thus crushed out of them. The statement contained in Extract 8 is an unadulterated truth, and no language is strong enough to give expression to the deep and pent up feeling of the whole service in this connection.

27. *Extracts Nos. 9 and 10.*—I beg to take up extracts Nos. 9 and 10 together, as Extract No. 10 is only an amplification of the general observation contained in Extract No. 9. The accepted principle of the Postal Department is to consider an official guilty until he is proved innocent. This has been incorporated in the Post Office Manual for the guidance of investigating and administrative Officer. This is reversing the accepted principles of jurisprudence. Then, the circulars and instructions issued by the authorities are not considered complete without the warning that 'mistake or failure to carry out instructions will be severely punished'. I submit that the threats embodied in Circulars and Instructions can have only one signification, namely, want of faith in the sense of duty of the workers and faith in the efficacy of the terror of punishment alone.

28. The Postal Department has built up its own tradition quite in conformity with the above principle. The officers work under the impression that they must punish and punish heavily for every mistake, if they want to get work from their subordinates. I have had talks with some administrative and supervising officers on the subject of punishment, and some of them admitted that they have to be hard on the men, as otherwise the officers above them would hold them as too lenient. Then, every one of them was sure that in absence of the terror of punishment there would be nothing left to stimulate the officials to exertion. To such an extent has the tradition of working on the terror of punishment clouded the Post Office atmosphere that no count is taken of the most elementary moral truth, that constant terror of punishment serves only to demoralise, and demoralisation and efficiency cannot go hand in hand together.

29. The Director-General in his book 'The Post Office and its Story' has admitted that, to quote his own words, 'the marvellous set of rules known as the Post Office Manual was prepared, which has grown into four healthy volumes. Every official of the Department is supposed to have the contents of these at his fingers end, but in reality few have ever read them through, and any one who attempted to obey all their instructions would find himself sadly hampered in the exercise of his duties.' But, the Director-General's candid confession notwithstanding, there is no mitigation of punishment for failure to adhere strictly to any of the Manual Rules.

30. In the Chapter on 'People and the Post Office,' a very interesting story is related how the letters written by one Abbasali failed to reach their destinations. In the concluding portion of the story the Director-General writes: 'Poor Abbasali was quite perplexed and awfully sorry to know that all the valuable letters written by him for two weeks, sometimes containing cheques even, were thus washed away by the merciless waves; but no less embarrassed am I (Mr. G. R. Clarke) on hearing of the tomfoolery to think of what blame it may sometimes accidentally and unnecessarily entail on a Postmaster.' Here the Director-General admits that unless the truth is accidentally found out, as in the case of the letters written by Abbasali, the officials, although quite innocent and dutiful, are considered in the eyes of the Department as guilty. The Director-General himself therefore indirectly upholds me in the statement contained in Extracts Nos. 9 and 10.

31. Extract No. 10 contains an enumeration and description of the punishments to which the Postal officials are subjected. I submit there is absolutely no exaggeration in what I have said. The truth of my statement can be at once verified if a reference is made to the punishment awarded by Mr. C. D. Rae after his assumption of office as Presidency Postmaster, Calcutta. I am informed that a statement of punishment was compiled some time ago, at the instance of a member of the Imperial Legislative Council. I therefore submit that I made no unfair and unfounded statement so far as Extracts Nos. 9 and 10 are concerned.

32. *Extract No. 11.*—I submit that the extract, isolated from what precedes and what follows in my speech, is rather unfair to me. In paragraphs 38 and 39 of my speech I made it very clear why I made the statement, and I cannot do better than quote them below in justification of my observation.

33. I said in my speech: 'Brothers, our position will not be quite satisfactory, unless we can secure a voice in the Postal administration in matters affecting the subordinate staff. The authorities have the knack of launching into schemes, hasty and defective; and the manipulating staff have to suffer. You know what happened when the despatch of V. P. Money Order forms to offices of destination was abolished, what confusion it caused to the public, and how at last the old system had to be re-introduced. The abolition of Savings Bank Ledger maintained in the Audit Office was another instance of serious blunder, which generated endless difficulties and occasioned the ruin of many promising careers.'

34. 'The disintegration of the Calcutta General Post Office and separation of the Sorting work to form a separate Sorting Office under the control of the Deputy Postmaster General, Railway Mail Service, was also a huge blunder. After a chequered career and various somersaults the Calcutta Sorting has been restored to the control of the Presidency Postmaster. These blundering experiments have proved unqualified failures. But they involved a lot of wasteful expenditure and caused endless trouble to the workers. Such blunder can be easily avoided if the representative Associations of the workers are consulted, and due weight given to their opinion. For purposes of good administration, for the prevention of wasteful expenditure and for saving the workers from unnecessary troubles, we have a right to claim that in all administrative measures affecting the subordinate staff the All-India (including Burma) Post Office and R. M. S. Union should be consulted.'

35. I have given chapter and verse to show that the statements I made in my speech are all founded on facts; and my criticisms are all fair and reasonable. It was never my intention to bring Government and the Postal Administration into contempt with the employees. The report of the Postal Committee cause universal discontent; and petitions and memorials almost deluged the Directorate and the Government. This, I submit, was not my doing, nor the doing of a few malcontents. It was a spontaneous outburst of the dissatisfaction of the whole body of the subordinate staff at the recommendations of the Committee.

36. The petitions and memorials sent up to the Director-General and the Government did not evoke a sympathetic response; and this seeming indifference was bound to produce certain impressions in the minds of the men, which could not be conducive to the harmonious working of the Department. This simmering discontent was ominous; and I and the Associations with which I am connected wanted to get control over the men instead of leaving them alone to drift with the current, with a view to proceed on constitutional lines for securing redress of their grievances.

37. For this purpose it was necessary to win the confidence of the men whom we wanted to restrain and to acquaint the Government with their view-point and with the feelings so strongly working in them. To win the confidence of the men it was necessary to prove to them that we fully understood their case and were competent to help them out of their difficulties. My speech was carefully drafted always keeping this object in view; and I trust I succeeded in my attempt.

38. If the Director-General kindly condescends to consider my speech from the point of view mentioned above, I submit, he will be convinced that instead of attempting to bring the Government and the Postal Administration into ridicule, my sole endeavour was to create an atmosphere helpful to a mutual understanding. If I have succeeded in this, I have fulfilled a difficult task, and have rendered valuable service both to the Government and to the subordinate staff. If I have failed, it has been due to weakness and incapacity and not from lack of earnestness and zeal in the cause of peace and harmony in the Department.

39. As a senior Postmaster on Rs. 250 to 350, I had not lost touch with the subordinate staff. I possessed the unique advantage of knowing intimately the thoughts and feelings of the men; and I would be false to myself and disloyal to the service to which I belong if, at a critical time, an apprehension of trouble to myself had dissuaded me from an attempt to clear the lowering atmosphere by open and distinct utterances, as I have done.

40. In these circumstances I submit that I have done nothing unworthy of an officer of the Department. I would be false to myself if I were to apologise for doing what my conscience fully approves; I would be false to myself and to the service if I were to tender resignation for doing what I considered as the only honourable and sensible course conducive to the interest of both the Postal Administration and the workers in the Subordinate Service.

I have the honour to be,

Srs,

Your most obedient servant,

(Sd.) TABAPADA MUKERJI,

Postmaster, Pegu (on leave).

The Postal Club,

162, Bowbazar Street,

Calcutta, the 25th October 1921.

DAYS ALLOTTED FOR NON-OFFICIAL BUSINESS OF THE ASSEMBLY.

72. **M. K. Reddi Garu** : Will the Government be pleased to state how many days were allotted for non-official business during the two terms the Assembly was at work?

The Honourable Dr. T. B. Saprú : Five days were allotted for the transaction of non-official business during the Delhi Session and five days during the Simla Session of 1921. In addition, a number of non-official Resolutions and Bills were given time on days allotted for official business.

RESOLUTION OF THE TRICHINOPOLY DISTRICT NON-BRAHMIN CONFERENCE.

73. **M. K. Reddi Garu** : (a) Has the attention of the Government been drawn to the Resolution No. 14 of the Trichinopoly District Non-Brahmin Conference held on the 25th of September, 1921, urging the appointment of more Non-Brahmins in the several departments of the Railway administration?

(b) If so, what action do the Government propose to take in the matter?

Colonel W. D. Waghorn : It has been ascertained that a copy of the Resolution referred to has been sent to the authorities of the South Indian Railway Company. They have full powers in the matter of appointing their staff and the Government of India do not propose to intervene.

CENTRAL ADVISORY COMMITTEE ON EDUCATION.

74. **M. K. Reddi Garu** : (a) Will the Government be pleased to state with what object the Central Advisory Committee on Education has been created and what are its functions?

(b) Have the vacancies created by the absence of Messrs. E. M. Macphail and the Right Honourable V. S. Sastri been filled up? If not, what is this delay due to?

(c) If the Government should propose to fill up this vacancy now, do they propose to consider the question of appointing eminent educationists?

Mr. H. Sharp : (a) The main function of the Central Advisory Education Board is, as stated in the reply given to Mr. A. B. Latthe on the 15th February, 1921, the giving of advice to the Department of Education on subjects regarding which that Department may seek the advice of the Board. Its other functions are explained in the Department of Education's letter No. 1060, dated the 21st August, 1920, a copy of which is laid on the table.

(b) The vacancy created by the absence of the Reverend E. M. Macphail has been filled up. There is no vacancy in the place of the Right Honourable V. S. Sastri, as he is still a Member of the Board.

(c) There is one vacancy on the Board at present, namely, for the Principal of a privately managed college. In filling vacancies, the object aimed at is to appoint eminent educationists.

No. 1060, dated Simla, the 21st August 1920.

From—The Honourable Mr. H SHARP, C.S.I., C.I.E., Secretary to the Government of India, Department of Education,

To—
 { The Secretary to the Government of Madras, Home (Education) Department
 The Secretary to the Government of Bombay, Educational Department,
 The Secretary to the Government of Bengal, General (Education) Department.
 { The Secretary to the Government of the United Provinces, Educational Department.
 The Under Secretary to the Government of the Punjab, Home (Education) Department.
 { The Chief Secretary to the Chief Commissioner of the Central Provinces.

I am directed to address the Madras
Bombay
Government of Bengal on the subject of
the United Provinces
the Punjab
local Administration of the Central Provinces

the duties and constitution of a Central Advisory Education Board which it is proposed to establish with the Government of India.

2. The Calcutta University Commission considered that the Government of India perform an invaluable function by defining the general aims of educational policy, by giving advice and assistance to Local Governments and to universities, by acting as an impartial arbiter in cases of dispute, by supplying information, by helping to obtain the services of scholars and by guarding against needless duplication, etc. They proposed that the Governor General should be the Visitor of University of Calcutta and should have power to direct enquiries into its work. They added that, if the Government of India decided to establish a special organization to deal with university questions, the visitatorial function of the Governor General might be performed by the aid of this organization. They further proposed that the Governor General should have similar power over all universities—a power which, as they stated, is inherent in the Governments of all countries. They considered that the Visiting Committee should include at least one distinguished scholar from overseas and that the others should be men of Indian experience. They further indicated the functions which might be performed by the Government of India in paragraphs 54 and 56 of Chapter L of their Report.

3. At the present time, new universities are springing into being, and it is probable that certain local Governments will accept the further recommendation of the Commission that the admission stage to universities should be the intermediate and that secondary and intermediate education should be entrusted to boards separate from the university though including university representatives. This re-arrangement of the existing organisation may however be found unsuitable in some provinces. There is every likelihood therefore that the existing system, which is fairly uniform throughout India and is well understood, will become complicated by a variety of examinations held at different stages for admission to different universities; and this complication will be accentuated by the growth of new universities. Hence, in recent university legislation, visitatorial powers have been accorded to the Governor General and, further, the recognition of the Governor General in Council is required for the recognition of the equivalence of degrees or other examinations which may be regarded as qualifying for admission to newly established universities. It is clearly necessary that the Department of Education should possess some additional agency for formulating the advice which should be tendered to the Governor General or to the Government of India respecting these matters.

4. The adviser of the Government of India is at present the Educational Commissioner. In the new conditions, as described above, the creation of a larger and more representative advisory agency, comprising a non-official element, is desirable. In the opinion of the Government of India, therefore, the time has arrived for constituting a Central Educational Advisory Board which will not only serve the purposes of the visitatorial body proposed by the Calcutta University Commission but will also be in a position to tender advice on matters regarding universities as well as general educational questions.

5. The Government of India desire that it should be clearly understood that this body will possess purely advisory functions. It will be open to the Governor General, should he desire to make a visitation of any university with reference to which he is empowered by

statute to make such visitation, to utilise the proposed Board or certain members of the Board for purposes of inspection. But, apart from its use by the Governor General for such statutory purposes, the Board will have no administrative functions. Nor will it in any sense interfere with the control of education, which will be a Provincial transferred subject. It is possible that the Government of India may entrust to it the conduct of certain examinations which they will control, but this question has not yet been decided.

6. Apart therefore from its position as an agency for the 'exercise by the Governor General of his visitatorial powers mentioned above, the function of the Board will, as regards local Governments, be restricted to the giving of advice whenever they ask for advice and, as regards the Government of India, to the assistance of the Department of Education in such educational questions as will still come within the purview of the Imperial Government and may be referred to the Board by the Member-in-charge of Education. The precise duties, which it will be convenient to attach to it, will become clearer after it gets to work. But the following are suggested as among those it may naturally be expected to perform:

- (i) The visitation of universities on behalf of the Governor General as Visitor.
- (ii) The giving of advice regarding the equivalence of examination standards.
- (iii) The scrutiny of any points of university legislation which is either subject to Indian legislation or reserved, when the Government of India refer such points to it.
- (iv) The giving of advice regarding the management of Imperial institutions.
- (v) The production of occasional reports, monographs on special forms of education, etc.
- (vi) The conduct of educational surveys, whenever required.
- (vii) The conduct of such examinations as may be entrusted to it.

For the due performance of most of these functions, it will be necessary to collect a body of authorities who are not merely experts in educational matters but will have knowledge of the conditions in different provinces and whose names will carry weight and influence. The intention of the Board, in fact, is to link the Department of Education more closely with the various official and non-official educational authorities and institutions throughout India.

7. The composition of the Board will be largely non-official. The following constitution has been decided upon:

- (a) The Educational Commissioner with the Government of India as Chairman.
- (ii) An expert member from the United Kingdom (whenever required).
- (iii) Two Vice-Chancellors of universities in India, one of whom will be a whole-time officer.
- (iv) Two Principals of privately-managed colleges.
- (v) Four Directors of Public Instruction.
- (vi) Four non-officials who, though not immediately engaged in education, are interested in the subject.

With the exception of (i), who is appointed by the Governor General in Council and will be the *ex-officio* Chairman of the Board, the appointment of the other members will be made by the Member-in-charge of Education with the approval of the Governor General. In addition to the above, Departments dealing with technical education in any of its branches will be invited to send representatives to take part in the deliberations regarding any technical matter that may be included in the agenda of a meeting. It is clearly necessary that the chairmanship of the Board should be held by a permanent official with the Government of India. The Educational Commissioner will also be able to conduct correspondence with members of the Board on questions which have been referred to the Board but cannot conveniently be postponed to the next meeting.

8. The tenure of office of the members of the Board will be, in the case of the two Vice-Chancellors, two years, and in that of Nos. (iv), (v) and (vi) three years. But, in order that the whole Board may not change simultaneously, half the first members under each category (iii) to (vi) will retire after two years by ballot or some other arrangement.

9. Meetings of the Board will be held quarterly—the first being held in February next at Delhi—and agenda of each meeting, as approved by the Member-in-charge of Education, will be circulated sufficiently in advance of the date thereof to enable members to come prepared with their opinions. It will be necessary and desirable to conduct some of the business of the Board by correspondence.

SELECTION OF CANDIDATES FOR KING'S COMMISSIONS.

75. **M. K. Reddi Garu** : Will the Government be pleased to lay a statement on the table to show :

(a) Since the year 1918 how many candidates have been selected to the King's Commission ?

(b) Of these how many have been from Madras ?

(c) Is it a fact that a number of applications were sent by aspiring candidates to the Private Secretary to His Excellency the Governor of Madras : if so, how many such applications have been received and how many of them from the Brahmin community and how many from the non-Brahmin communities including Muhammadans ?

(d) Did the Local Government recommend any candidates to the Central Government : if so, why none of them were selected ?

Sir Godfrey Fell : The statement asked for is laid down on the table. The statement is based on the assumption that the Honourable Member's question refers to the admission of Indian cadets to the Royal Military College, Sandhurst.

(a) 29 Indian cadets have been admitted to the Royal Military College, Sandhurst, since 1918.

(b) None.

(c) Since 1918, 141 such applications have been made : of these applicants, 33 were Brahmans and 108 non-Brahmans, including Muhammadans.

(d) Yes. In 1920 and 1921, altogether three candidates were recommended by the Local Government, but all three failed to qualify for admission to the Royal Military College, Sandhurst.

ADMISSION OF INDIANS INTO THE MILITARY ASSISTANT SURGEON CLASS.

76. **M. K. Reddi Garu** : (a) Will the Government be pleased to state if it is a fact that Indians are not admitted into Military Assistant Surgeon classes ; if so, on what grounds ?

(b) Will the Government consider the advisability of throwing it open to the Indians also ?

Sir Godfrey Fell : (a) The answer to the first part of the question is in the affirmative. As regards the second part, a reference is invited to the reply given to Question No. 555 asked on the 22nd September, 1921, by Rai G. C. Nag Bahadur. As the duties of Military Assistant Surgeons are wholly confined to the medical care of British troops and their families, it is not considered advisable to throw open the service in question to Indians, who might find difficulty in maintaining discipline in hospitals and elsewhere when the Military Assistant Surgeon is placed in command of British private soldiers.

(b) The reply is in the negative.

ELIGIBILITY FOR I. C. S. EXAMINATION TO BE HELD IN INDIA.

77. **Lala Girdharilal Agarwala** : (a) Are the M. As. of the Punjab and the Allahabad Universities eligible to compete at the next

competitive examination for the I. C. S. to be held in India in 1922, under the present rules ?

(b) Is it a fact that while M. As. of some of the Indian Universities are qualified to appear at the next I. C. S. examination to be held in India in 1922, the M. As. of other Indian Universities are age-barred ? If so, of what Universities ?

(c) Are the Government aware that for several years, the Allahabad University and the United Provinces Government did not allow any candidate to appear at the Matriculation, Entrance, or School Leaving Examination, who was below the age of 16 years on the date of the examination, which are held in March or April, and therefore M. As. of the Allahabad University who took their degree of M. A. in 1921 would be age-barred for competition at the next I. C. S. examination to be held in India in 1922 ?

(d) Do the Government propose to allow those M. As. of the Allahabad University to appear at the said examination, who shall not have completed the age of 23 years on the 1st of March, 1922, instead of the 1st of August, 1922, as provided for in the rules ?

(e) If it is not within the powers of the Government of India to alter the rules or make any exceptions, are the Government prepared to take immediate necessary action to meet the situation ?

The Honourable Sir William Vincent: (a), (b), (c), (d) and (e). The Honourable Member appears to be under some misapprehension. The qualification for the Indian Civil Service examination to be held in India this year is not the M. A. degree but the B. A. or B.Sc. degree. The fact therefore that up to the year 1920 the minimum age for the Matriculation or Entrance examination of the Allahabad University has been 16 years, does not appear to impose any special disability on the students of that University; nor does there appear to the Government to be any reason why the age limit should be extended in the case of persons who have taken the M. A. degree of that University.

The rules are statutory rules made by the Secretary of State in Council and cannot be varied by the Government of India.

DISMISSAL OF BABU TARAPADA MUKERJI.

78. **M. K. Reddi Garu:** (a) Will the Government be pleased to state:

(i) if it is a fact that Babu Tarapada Mukerji of the Postal Department of Calcutta has been recently dismissed ?

(ii) if so, for what reasons ?

(b) Will the Government be pleased to lay all the papers connected with his dismissal on the table ?

(c) Is it a fact that this action of the Government has created a great discontent among the Post Office and the R. M. S. employees ?

Colonel Sir S. D'A. Crookshank: (a) and (b). The facts of the case have already been explained to the Honourable Member in my reply to his Unstarred Question No. 71 and the papers connected with the dismissal of Babu Tarapada Mukerji have been laid on the table.

(c) Representations have been received by Government from certain Postal Associations.

STATISTICS OF CATTLE IN DIFFERENT PROVINCES OF INDIA.

79. **Rai Bahadur Luchhmi Prashad Sinha** : Will the Government be pleased to give statistics of the cattle in the different provinces of India and their ratio to the population ?

Mr. J. Hullah : A statement giving the required information is laid on the table.

Statement showing the number of bovine cattle in the different provinces of India and their ratio to the population.

Province.	Number of bovine cattle according to the cattle census of 1919-20.	Population according to the census of 1921.	Number of cattle per head of population.
Bengal	24,725,369	46,695,536	·53
Madras	22,294,328	42,318,985	·53
Bombay Presidency	8,183,792	16,012,342	·51
Bombay (Sind)	1,778,884	3,279,377	·54
Bombay (including Sind but excluding Aden)	9,962,616	19,291,719	·52
Agra	20,323,540	33,209,145	·61
Oudh	9,440,224	12,166,642	·77
United Provinces of Agra and Oudh	29,763,764	45,375,787	·66
Bihar and Orissa	20,179,990	34,002,189	·59
Punjab	14,392,799	20,685,024	·69
Burma	5,792,724	13,212,192	·44
Central Provinces	9,554,256	10,831,263	·88
Berar	2,072,195	3,075,316	·67
Assam	5,472,342	7,606,230	·72
North-West Frontier Province (Districts and administered territories).	1,131,881	2,251,340	·50
Ajmer-Merwara	293,324	495,271	·59
Delhi	135,530	488,188	·28
Coorg	141,778	163,838	·88
Manpur Pargana	5,855	4,565	1·28
British Baluchistan (Districts and administered territories).	134,209	420,648	·32

SPECIAL RAILWAY RATES FOR TRANSPORT OF CATTLE AND FODDER.

80. **Rai Bahadur Luchhmi Prashad Sinha**: Will the Government be pleased to state whether it is the intention of the Government to approach the Railway authorities for special rates for the transport of cattle, dry and milch, and of fodders?

Colonel W. D. Waghorn: Government are satisfied that the rates levied on Indian Railways for the carriage of cattle and fodder are reasonable and, in the circumstances, they do not propose to ask them to quote special rates. Neither fodder nor cattle are liable to surtax.

2. The transport of cattle in times of famine at cheap rates has been tried in the past but was found to be of little use. Fodder is always carried at concession rates in times of famine.

LOW LEVEL PLATFORM AT KIUL JUNCTION.

81. **Rai Bahadur Luchhmi Prashad Sinha**: (a) Are the Government aware of the low level of platform at such an important East Indian Railway Station as the Kiul Junction?

(b) Are the Government also aware that the passengers, specially ladies and children, are greatly inconvenienced?

(c) If so, will the Government take steps to remove this grievance at the earliest possible opportunity?

Colonel W. D. Waghorn: (a) Yes. The existing platforms at Kiul Junction, East Indian Railway, are 1'—2" above rail level.

(b) and (c). The attention of the Agent has been drawn to the matter. But in the opinion of the Government of India there are many other matters which have a prior claim on the funds available.

CONSTRUCTION OF A RAILWAY LINE FROM MONGHYR PURABSERAI TO BARRIAR-
PUR, ETC.

82. **Rai Bahadur Luchhmi Prashad Sinha**: (a) Is it a fact that there was a proposal for the construction of a railway line from Monghyr Purabserai, East Indian Railway Station, to Barriarpur, thence to Kharagpur and Jamui, a Sub-Division in the Monghyr District?

(b) If so, will the Government be pleased to lay on the table the papers in connection with it?

Colonel W. D. Waghorn: (a) The reply is in the affirmative.

(b) Government do not consider that any useful purpose will be served by laying the papers on the table. A reconnaissance survey of the line, carried out in 1914-15, indicated that there was no inducement to construct a line from Barriarpur to Jamooee, but that a line from Barriarpur to Gaighat might prove remunerative. In the present financial situation there is no hope of constructing the proposed line in the near future.

CONSTRUCTION OF A RAILWAY LINE FROM KHAGARIA TO SAMASTIPUR, AND
THE GRIEVANCES OF THE LOCAL PEOPLE.

83. **Rai Bahadur Luchhmi Prashad Sinha**: (a) Are the Government aware that a railway line has been constructed by the Bengal and North-

Western Railway from Khagaria to Samastipur without the provision of sufficient number of waterways, thereby causing stupendous hardship and misery to the people of that part of the country?

(b) Is it a fact that even those few culverts provided for on the line are closed up by the Railway authorities during the rainy season and floods, thereby causing the whole cultivated area to go under water and exposing life and property to the ravages of a flooded area?

(c) Are the Government aware of the rumoured intention of the people of that part to institute a damage suit against the Bengal and North-Western Railway Company on account of their disappointment in the matter despite numerous petitions, telegrams and memorials to the authorities to provide sufficient number of waterways?

(d) If so, will the Government be pleased to state what steps they propose to take in the matter with a view to remove the grievance?

Colonel W. D. Waghorn: (a), (c) and (d). The Government are aware that complaints have been made on the subject for some years past, especially in regard to the Khagaria-Roserah section of the line. The question of the waterway on this part of the line was considered by the Local Government in 1913, and the drainage crossings provided were then approved. The question was again considered in 1915, and the Local Government then decided that there was no evidence that the floods of that year were due to the existence of the railway embankment, but in 1918, as an additional precaution the Railway Board sanctioned the construction of two bridges—one of 6 span and the other of 10 spans—at an estimated cost of nearly Rs. 50,000. The Government have no information regarding the proposed suit, and do not at present propose to take any action.

(b) Government are aware that certain culverts are closed by the railway authorities during floods; these culverts, however, were never intended to be flooded openings, but to deal only with impounded water from local rainfall and, even if kept running full the whole time, would make no appreciable difference in a flood.

7 UP AND 8 DOWN MAIL TRAINS ON THE BENGAL AND NORTH-WESTERN RAILWAY AND THE MAHESHKHUNT STATION.

84. **Rai Bahadur Luchhmi Prashad Sinha:** (a) Is the Government aware that the 7 Up and 8 Down Mail trains on the Bengal and North-Western Railway running to and from Katihar have discontinued stopping at Maheshkhunt, an important trade centre and station containing many public offices, and consequently great inconvenience is caused to the public and officials alike, and repeated representations from those concerned so far seems to have had no effect?

(b) If the answer is in the affirmative, do Government propose issuing instructions to the authorities concerned to stop the said trains at Maheshkhunt station?

Colonel W. D. Waghorn: (a) In this connection the Honourable Member is referred to item (c) of Question No. 94 asked by Babu Baidyanath Prasad Sinha in the Legislative Assembly on 29th September, 1921, regarding the alleged slow running of trains and unnecessary stoppages at roadside stations on the Bengal and North-Western Railway.

To meet the desire therein expressed, the Railway Administration introduced a new time table on and from the 15th October, 1921, which allows for one fast passenger train to run through the minor stations on each section of the line where there are more than three daily trains carrying passengers.

7 Up and 8 Down trains connect with the Eastern Bengal Railway fast passenger trains and are considered the most suitable to run as fast passenger trains over the Barauni-Katihar section.

(b) Maheshkhunt is one of the many small stations from which complaints have been received on this account. All the complaints are being collected and considered by the Railway Administration with a view to meeting, as far as possible, the conflicting interests of the travelling public concerned.

In the circumstances Government do not propose to issue instructions to the railway authorities concerned.

NUMBERS, CASUALTIES AND COST IN THE LAST MILITARY OPERATIONS AGAINST THE FRONTIER TRIBES.

85. **Rai Bahadur Luchhmi Prashad Sinha :** (a) Will the Government be pleased to lay on the table a statement showing the total number of Indians, Anglo-Indians and Europeans, combatants and non-combatants, employed during the last military operations against the Frontier tribes and number of Indians and other people killed, disabled and discharged ?

(b) Will the Government be pleased to indicate the total amount of expenditure incurred in the said operations ?

Sir Godfrey Fell : (a) and (b). A statement giving the information asked for by the Honourable Member is laid on the table. The statement has been based on the assumption that by 'the last military operations against the Frontier tribes' the Honourable Member is referring to the Waziristan operations. The cost of these operations for the year 1920-21, including the Wana column, amounts so far as is known at present to Rs. 13,09,36,000. The accounts for that year have not yet been finally closed.

Statement showing (i) the number of troops, employed in Waziristan during 1921 and (ii) the number of casualties incurred by the Waziristan Field Force up to date.

(i) The average number of British and Indian troops employed in Waziristan during 1921 are as follows :—

British	2,500
Indian	42,000

No separate figures are available for Anglo-Indians, who are included with British troops.

(ii) The approximate number of casualties incurred by the Waziristan Field Force up to date, is as follows :—

	British.	
	Officers.	Other ranks.
Killed	41	10
Wounded	68	28
Died of wounds	6	1
Died of disease	21	46
Accidentally killed	4	1
Total	140	86

	<i>Indian.</i>		
	Officers.	Other ranks.	Followers.
Killed	19	742	21
Wounded	15	2,318	12
Died of wounds	3	60	...
Died of disease	2	518	38
Missing . . . . .	...	148	...
Accidentally killed . . . . .	...	10	...
Accidentally wounded . . . . .	...	13	...
Total	39	3,809	71

It is not understood what the Honourable Member means by the number "discharged".

INDIANS AND PERMANENT POSTS IN THE INDIAN MEDICAL SERVICE.

86. **M. K. Reddi Garu:** Will the Government be pleased to lay on the table a statement showing :

- (a) the number of Indians who have been recruited permanently into the I. M. S. from among the temporary I. M. S. officers;
- (b) the number from each province;
- (c) the number of Parsees, Punjabees, Muhammadans, Bengalees and others so selected;
- (d) the number who have received Military distinctions;
- (e) the total number of Indians who were taken into the I. M. S. during the war?

Sir Godfrey Fell: The statement is laid on the table.

—————

Statement showing the number of Indian temporary commissioned officers who have been granted permanent commissions, etc.

- (a) 85. In addition, 12 Indian officers have recently been recommended to the Secretary of State for permanent commissions.
- (b) and (c). The Government of India have no information on the subject, as no inquiry is made at the time of recruitment as to the province or class to which a candidate belongs.
- (d) 10 officers have been granted military distinctions.
- (e) 1,004.

MEDICAL MEN FROM MADRAS IN THE INDIAN MEDICAL SERVICE.

87. **M. K. Reddi Garu:** Will the Government be pleased to state the number of medical men who were taken into the I. M. S. from Madras and the number confirmed from among them?

Sir Godfrey Fell: Government have no information on the subject. I would refer the Honourable Member to the reply given to parts (b) and (c) of his Question No. 86.

SELECTION BOARD FOR THE INDIAN MEDICAL SERVICE.

88. **M. K. Reddi Garu:** (a) Will the Government be pleased to state the personnel of the Selection Board for the I. M. S. and the general principles

which guide the Board in recommending candidates for permanent commission?

(b) Will the Government be pleased to state whether it is a fact that besides other qualifications, the colour of the candidate, the educational qualifications of the wife in the case of married applicants and their fitness to move in European society, are also taken into consideration and candidates are questioned about them?

Sir Godfrey Fell: (a) I would invite the attention of the Honourable Member to part (d) of the reply given on the 5th March last to Question No. 369.

The guiding principle of the Selection Board is to choose candidates who, judged by their personal and professional qualifications, are likely to prove of the best value to the State.

(b) The answer is in the negative.

REGISTRATION OF OFFICERS IN THE INDIAN MEDICAL SERVICE UNDER THE GENERAL MEDICAL COUNCIL.

89. **M. K. Reddi Garu:** Will the Government be pleased to state if it is a fact that officers made permanent in the I. M. S. are compulsorily required to register themselves under the General Medical Council? If so, will the Government be pleased to state the reasons for such a procedure?

Sir Godfrey Fell: The answer to the first part of the question is in the affirmative. As regards the second part, the procedure is in accordance with the regulations that have been laid down by the Secretary of State on the subject and follows the practice in force in England. In that country no medical man may hold any office under the Crown, unless he has been registered by the General Medical Council.

PREVENTION OF EXPORT OF SPECIAL BREEDS OF CATTLE.

90. **M. K. Reddi Garu:** With reference to the undertaking given last year by the Honourable Member for Agriculture that he will stop the export of some of the special breeds of cattle from India, will the Government be pleased to state if this has been given effect to; if so, what are the kinds of breeds that are at present prevented from export?

Mr. J. Hullah: The Honourable Member is referred to the reply given by me to-day to Question No. 59 put by Lala Girdharilal Agarwala.

PREVENTION OF THE EXPORT OF OIL CAKES AND OTHER MANURES.

91. **M. K. Reddi Garu:** Will the Government be pleased to state if they have any intention to stop the export of oil cakes and other manures from India in the near future?

Mr. J. Hullah: Government can give at the present time no indication of the policy they are likely to pursue in the matter which is now under their consideration.

PRICES OF VARIOUS KINDS OF MANURES.

92. **M. K. Reddi Garu:** Will the Government be pleased to lay on the table a comparative statement of the prices of various kinds of manures for the last four years?

Mr. J. Hullah: A statement is placed on the table showing the wholesale prices of different descriptions of manures in Calcutta in the beginning of December of the years 1918 to 1921.

Wholesale prices of different descriptions of manures in Calcutta in the beginning of December of the years 1918 to 1921.

Description of manures.	Rate per:	1918.			1919.			1920.			1921.		
		Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
1. Castor oil cake	Ton . . .	165	7	9	170	2	3	146	5	1	132	11	4
		to			to			to			to		
		108	14	3	176	15	1				136	1	9
2. Mustard or Rape seed cake.	„ . . .	85	1	1	98	10	11	91	14	0	105	7	9
		to			to			to			to		
		91	14	0	108	14	3				108	14	3
3. Linseed cake . . .	„ . . .	64	10	5	122	8	0	149	11	7	163	5	4
		to			to			to			to		
		68	0	11	136	1	9						
4. Groundnut oil cake.	„ . . .	Not available.			98	10	11	105	7	9	119	1	7
					to			to			to		
					102	1	4						
5. Bonemeal, steamed .	„ . . .	69	0	0	130	0	0	105	0	0	130	0	0
		to			to			to			to		
		70	0	0				110	0	0	160	0	0
Bonemeal unsteamed	„ . . .	63	0	0	115	0	0	105	0	0	130	0	0
		to			to			to			to		
					120	0	0				135	0	0
6. Bonedust . . .	„ . . .	60	0	0	95	0	0	95	0	0	115	0	0
		to			to			to			to		
					100	0	0	100	0	0	120	0	0
7. Nitrate of soda	„ . . .	Not available.			300	0	0	295	0	0	330	0	0
					to			to			to		
					320	0	0	300	0	0	335	0	0
8. Fish Guano . . .	„ . . .	Do.			150	0	0	185	0	0	160	0	0
					to			to			to		
					160	0	0	190	0	0	165	0	0
9. (Imported) Basic slag.	Basic „ . . .	Do.			120	0	0	120	0	0	160	0	0
					to			to			to		
					180	0	0	180	0	0			
10. (Imported) Single Superphosphate.	Single „ . . .	Do.			165	0	0	190	0	0	160	0	0
					to			to			to		
					170	0	0				170	0	0
11. (Imported) Double Superphosphate.	Double „ . . .	Do.			340	0	0	330	0	0	330	0	0
					to			to			to		
					350	0	0				340	0	0
12. (Imported) Nitrate of Potash.	Nitrate „ . . .	Do.			255	0	0	330	0	0	235	0	0
					to			to			to		
					265	0	0	335	0	0	290	0	0

EXPORT OF SANDAL WOOD OIL FROM INDIA.

93. **M. K. Reddi Garu** : Will the Government be pleased to state :

- (i) the quantity of sandal wood oil exported from India ;
- (ii) to what countries they are exported and in what proportions ?

The Honourable Mr. C. A. Innes : The information is contained in the following publications which are issued by the Department of Statistics :

- (1) Annual statement of the Sea-borne Trade of British India with the British Empire and Foreign countries.
- (2) Monthly Accounts relating to the Sea-borne Trade and Navigation of British India.

The annual and monthly volumes will be found in the Library.

PAY OF INDIAN AND EUROPEAN OFFICERS OF THE INDIAN MEDICAL SERVICE.

94. **M. K. Reddi Garu** : (a) Will the Government be pleased to state what is the pay of the Indian and European officers of the Indian Medical Service who have been recruited since 1st December, 1919 ?

(b) Whether the Government have come to any conclusion if any oversea allowances are to be granted to the Indian members of the Indian Medical Service ?

(c) If no decision has so far been arrived at, do the Government propose to consider the desirability of restricting the overseas allowances to non-Indians for the present, in view of the need for retrenchment of expenditure ?

Sir Godfrey Fell : (a) I will furnish the Honourable Member with statements showing the rates of pay drawn by permanent officers of the Indian Medical Service employed on military and civil duties.

(b) Yes. An overseas allowance is admissible to Indian officers of the Indian Medical Service appointed after the 1st December, 1918, when they serve beyond the limits of India as defined in Army Regulations, India.

(c) This part of the question does not now arise.

OVERSEAS ALLOWANCES FOR IMPERIAL SERVICES OTHER THAN THE I. M. S.

95. **M. K. Reddi Garu** : Will the Government be pleased to state :

- (i) whether overseas allowances are granted to Imperial Services (other than the I.M.S.), and if so, the amount granted to each service, and
- (ii) whether the amount is granted to the Indian members also, whether they are recruited in England or in India ?

The Honourable Sir William Vincent : (i) The Honourable Member's attention is drawn to Appendix A to the Resolution of the Government of India, Finance Department, No. 1559-E. A. of the 16th August, 1921, in which the scales of overseas pay sanctioned for the various Imperial Services are stated.

(ii) Overseas pay, being granted in consideration of the fact that an officer is serving in a country other than that of domicile, is in its very nature not admissible to Indians serving in India. As a special concession, however, it has been granted to Indians who were serving in the Imperial Services at the time when this form of pay was introduced, and will be granted to all Indians recruited in the United Kingdom for the Indian Civil Service during the five years following its introduction.

STAFF EMPLOYED IN PUBLIC SERVICES IN MADRAS DIRECTLY UNDER THE GOVERNMENT OF INDIA.

96. **M. K. Reddi Garu:** (a) Will the Government be pleased to lay on the table a statement showing the number of (1) European officers, (2) the Brahmin officers, (3) the non-Brahmins, in all the departments of Public Services directly under the control of this Government in the Madras Presidency?

(b) If this is not possible at present, will the Government be pleased to lay on the table this statement at the next session at Simla?

The Honourable Sir William Vincent: The information asked for can, I believe, be obtained from the published lists of the services in question, to which I would invite the attention of the Honourable Member.

EXAMINERS OF THE POSTAL INSPECTORS EXAMINATIONS.

97. **M. K. Reddi Garu:** (a) Will the Government be pleased to lay on the table the names of the examiners of the Postal Inspectors examinations from the year 1917 to the last examination and the communities to which they belong?

(b) Is it a fact that a brother of the Deputy Accountant General (Posts and Telegraphs) has been recently recruited to the department; if so, what are his qualifications?

(c) Has the attention of the Government been drawn to the fact that none of the non-Brahmin candidates were made to pass this year?

(d) In view of this dissatisfaction that prevails, will the Government be pleased to order the revaluation of the papers of all the candidates by an impartial committee?

Colonel Sir S. D'A. Crookshank: The information called for by the Honourable Member is being collected and will be supplied when available. It would however be convenient if the Honourable Member would state which Deputy Accountant General is referred to.

CREATION OF NEW APPOINTMENTS IN THE ACCOUNTANT-GENERAL'S OFFICE, MADRAS.

98. **M. K. Reddi Garu:** (a) Will the Government be pleased to state how many new appointments have been created since the last financial year in the Accountant-General's office?

(b) Of those filled up, how many were given to the Brahmin community?

(c) Is there any truth in the statement that most of those that got these jobs were the relations of the then Accountant-General, Mr. Aiyar?

The Honourable Sir Malcolm Hailey : On the presumption that the Honourable Member is referring to the office of the Accountant-General, Madras, the following is the reply to his question :

- (a) Since 1st April, 1921, 49 new permanent appointments have been created. In addition 55 appointments, which, prior to the date above mentioned were temporary, have been placed on a permanent basis.
- (b) Of these 104 appointments, 73 have been filled by members of the Brahmin community.
- (c) Mr. Woollam, a European officer, has held the appointment of Accountant-General, Madras, since October, 1920. Mr. R. Srinivasa Aiyar, who, it is presumed, is the officer referred to, officiated as Accountant-General in Madras for some six weeks only in May and June, 1919, after which he served in Burma and Bombay. He has been on leave since October, 1920.

DESPATCH TO THE SECRETARY OF STATE ON THE ASSEMBLY'S RESOLUTION
RE: CURTAILMENT OF THE TEN YEARS' LIMIT RE: FURTHER ADVANCE
IN THE GRANT OF SELF-GOVERNMENT.

99. Beohar Raghubir Sinha : (a) Has the attention of the Government been drawn to the reply given by Mr. Montagu in the House of Commons that the Resolution of the Assembly recommending the curtailment of the ten years' limit touching the further advance in the grant of Self-Government, with the Government of India's opinion thereon, has not yet been communicated to him ?

(b) Will the Government be pleased to state the cause of delay and when they will be able to forward the same with their opinion ?

(c) Will the Government lay on the table any correspondence that may have passed on the subject with the Secretary of State and place before the Assembly their opinion on the subject when they are able to send up the same ?

The Honourable Sir William Vincent : (a) Yes.

(b) and (c). It will be remembered that the resolution was discussed in the Assembly on the 23rd and 29th September, 1921. A copy of the debates and of the resolution adopted by the Assembly was forwarded to the Secretary of State on the 13th October, 1921. No reply has as yet been received. Government are at present unable to say whether if a reply is received it will be laid on the table.

CHARGES AGAINST MESSRS K. AND A. BLEWITT.

100. Haji Wajihuddin : With reference to my question No. 117 and the Government reply to it at the last Simla session, will the Government be pleased to state :

(1) whether it is a fact :

(a) that Mr. K. Blewitt was found guilty of an offence with regard to a respectable Muhammadan lady and was let off with a nominal fine ?

(b) that Mr. A. Blewitt, Assistant Station Master, Kalka, E. I. Railway, was summoned by the S. D. Magistrate of Puar (Ambala) in connection with an offence, and that notwithstanding his neglect to attend the Court, he was let off by merely tendering an apology ?

(2) If it is true, what action has been taken by the Railway authority in this connection ?

(3) If none, does the Railway propose to take any now ?

Colonel W. D. Waghorn : (1) (a) The Government of India have nothing to add to the Press Communiqué issued on the subject on the 8th October last.

(b) As the Honourable Member was previously informed, the Government understand that the Assistant Station Master was fined but that on retrial the sentence was quashed.

(2) and (3). The Government of India have no information.

ALLEGATIONS AGAINST SOME GUARDS AND TICKET COLLECTORS OF AMBALA-KALKA RAILWAY.

101. **Haji Wajihuddin :** Will the Government be pleased to state :

(a) if it is a fact that some cases were started by the police in which some Guards and Ticket Collectors of Ambala-Kalka Railway were accused of stealing some shoes out of a certain parcel and the luggage of the Honourable Raja Moti Chand, C.I.E., Member of the Council of State ?

(b) If it is right, what were the results of these cases ?

(c) If the accused were convicted, will the Railway Company re-employ them ?

Colonel W. D. Waghorn : (a) In October last two Guards of Ambala and a Ticket Collector of Kalka were arrested by the Police and tried for thefts from luggage and parcels loaded in brake vans.

(b) One of the Guards was sentenced to 12 months' rigorous imprisonment under section 381, Indian Penal Code, and an additional one month under section 411, Indian Penal Code and the Ticket Collector to two months' rigorous imprisonment under section 381, Indian Penal Code, and an additional one month under section 411, Indian Penal Code. Sentences in both cases to run concurrently. The other Guard was acquitted.

(c) The two Guards and the Ticket Collector have been dismissed and the Railway Company has no intention of re-employing them.

EMPLOYMENT OF WOMEN CLERKS IN POST OFFICES.

102. **Rao Bahadur C. S. Subrahmanayam :** (a) Will the Government be pleased to state the reasons for employing women clerks in Post Offices ?

(b) Is it a fact that the scale of pay sanctioned for women clerks is higher than that sanctioned for men ?

(c) What is the total number of women employees in Post Offices ?

(d) How many of them come under the class of Anglo-Indians and Native Christians and how many are Hindus, Mussalmans and Parsees ?

Colonel Sir S. D'A. Crookshank : (a) Women clerks are found to be useful in dealing with the European population, and their employment in towns where there is a large European or Anglo-Indian population (such as Simla), in cantonments and in similar places. Their employment has proved to be a success from an administrative point of view.

(b) Yes, in the lower grades.

(c) The total number of women clerks employed in Post Offices—135.

(d) They belong to the following classes :

Anglo-Indians	93
Indian Christians	33
Hindus	4
Mussalmans	Nil.
Parsees	Nil.
Europeans	2
Jews	1
Burmese	2

RECRUITMENT OF PROBATIONARY SUPERINTENDENTS OF POST OFFICES.

103. **Rao Bahadur C. S. Subrahmanayam :** (a) Have the Government issued orders that recruitment of Probationary Superintendents of Post Offices should be effected by the help of selection committees ?

(b) How many were appointed as Probationary Superintendents since the order was issued ?

(c) How many such appointments were made under the advice of selection committees ?

(d) How and when are such committees formed ?

(e) How are likely applicants to know that the post of a Probationary Superintendent has fallen vacant ?

(f) If not, will the Government take steps to ensure that the existence of vacancies is widely advertised before it is filled up in order to enable the best men available to apply in time ?

Colonel Sir S. D'A. Crookshank : (a) No orders have been issued on the subject.

The matter is under consideration.

(b), (c), (d), (e) and (f). These do not arise.

APPOINTMENTS IN THE GRADE OF POSTMASTER GENERAL IN INDIA
AND BURMA.

104. **Rao Bahadur C. S. Subrahmanayam**: (a) What is the total number of appointments in the grade of Postmaster General in the whole of India and Burma?

(b) How many of such appointments are held by officers of the Indian Civil Service?

(c) And how many by officers promoted from the Post and Telegraph Department? How many are Indians and Anglo-Indians?

(d) How many Indians have held permanent appointments as Postmaster General till now?

Colonel Sir S. D'A. Crookshank: (a) 10.

(b) 5.

(c) 5. None of the present permanent incumbents are Indians. One Indian is officiating.

(d) 2.

NUMBER OF APPOINTMENTS IN POST MASTER'S CADRE.

105. **Rao Bahadur C. S. Subrahmanayam**: (a) What is the total number of appointments in Post Master's cadre which carry a pay of Rs. 500 and above?

(b) How many such appointments are held at present by Indians and how many by Anglo-Indians?

Colonel Sir S. D'A. Crookshank: (a) 26 appointments in the higher grades commencing from the grade of Rs. 450—20—550.

(b) 5 by Indians and 21 by Anglo-Indians and Europeans.

PRESIDENCY POST MASTERS.

106. **Rao Bahadur C. S. Subrahmanayam**: (a) How many Presidency Post Masters are there?

(b) Are Presidency Post Masters promoted to the rank of Postmasters General?

(c) Among the Presidency Post Masters how many are Indians and how many are Anglo-Indians?

Colonel Sir S. D'A. Crookshank: (a) 3.

(b) They are eligible for such promotion.

(c) None of the present incumbents are Indians.

Indians become eligible for the post by seniority.

SUPERINTENDENTS OF POST OFFICES IN NILGIRIS AND OTHER DIVISIONS.

107. **Rao Bahadur C. S. Subrahmanayam:** (a) Is it a fact that only European and Anglo-Indian Superintendents of Post Offices are posted to divisions like Nilgiris, the Mysore East and the Mysore West Divisions?

(b) If not, will the Government state the number of Indian Superintendents who held office permanently in those divisions during the last 20 years with the period for which each has been in each of such divisions?

Colonel Sir S. D'A. Crookshank: (a) No. There is no such discrimination as is implied in the question.

(b) None. No Indian has ever applied for any of these Divisions and the Nilgiris Division, with Headquarters at Ootacamund, is not popular with Indians.

INDIAN AND NON-INDIAN OFFICERS IN THE MILITARY DEPARTMENT ENTRUSTED WITH THE DUTIES OF ROYAL AIR FORCE, ETC.

108. **Lala Girdharilal Agarwala:** (a) Will the Government be pleased to lay on the table a statement showing the number of officers in the Military Department entrusted with the duties of (1) Royal Air Force, (2) Fighting units with machine guns, (3) Army Headquarters, (4) Headquarters of Commands, (5) Brigades, (6) Military Transport Department, (7) Veterinary Department, (8) Ordnance and Clothing Department, (9) other departments, and how many in each case are Indians?

(b) What are the comparative salaries of Indian and non-Indian officers in each department of the Military performing the same duties?

Sir Godfrey Fell: (a) In replying, on the 20th September last, to an almost identical question asked by the Honourable Member, I pointed out the difficulty in answering that question, owing to the vague and unusual classification of the units of the Indian Army which the Honourable Member had adopted. The same classification has been adopted in the present question, and there is the same difficulty in supplying the information asked for. If the Honourable Member will refer to page 7 of the Estimates of expenditure on military services for the year 1921-22, he will find figures of the number of British officers employed with—(1) Fighting units; (2) Army Headquarters, Headquarters of Commands, Brigades, etc., (3) Animal Transport; (4) Mechanical Transport; (5) Supplies; (6) Medical; (7) Veterinary; (8) Ordnance and Clothing; (9) Remounts; (10) Military Training and Education; (11) Royal Air Force; and (12) Miscellaneous. The total number of Indian officers with King's Commissions is at present 101. Of these, 93 are employed with fighting units, one is Aide-de-Camp to the General Officer Commanding, Peshawar District, one is on special duty in Persia, and 6 are employed with Departments. In addition, there are, approximately, 4,598 Indian officers with Viceroy's Commissions, almost all of whom are employed with fighting units.

(b) Indian officers holding the King's Commission are paid at present at the same rates as British officers of similar ranks.

SUPPLY OF ARTICLES FOR THE PUBLIC SERVICE.

109. **Mr. Manmohandas Ramji** : (a) Will the Government be pleased to state whether they have submitted to the Secretary of State for India for his sanction the rules for the supply of articles for the public service?

(b) If the answer is in the affirmative, will the Government be pleased to state as to why the rules were not placed before the Legislative Assembly for the expression of its opinion on the same?

(c) If the reply be in the negative, will the Government be further pleased to state whether they now propose to place the rules before the Assembly for their opinion before submitting them to the Secretary of State for his sanction?

Mr. A. C. Chatterjee : (a) The rules are still under consideration and have not yet been submitted to the Secretary of State for India.

(b) Does not arise.

(c) It is not the practice to place before the Legislature the draft rules on an administrative subject. Honourable Members will, however, have an early opportunity of expressing their opinion on the general policy in the matter of the purchase of stores for Government Departments.

ADDITIONAL EXPENDITURE DUE TO THE INAUGURATION OF REFORMED GOVERNMENT.

110. **Beohar Raghbir Sinha** : Will the Government be pleased to state the total increase of expenditure due to the inaugurations and working of the reformed Government?

The Honourable Sir William Vincent : The Honourable Member is referred to the statement printed on pages 39-41 of Volume I (No. 3) of the Council of State Debates. Further figures are being collected so as to bring the information up to date, which will be communicated to the Honourable Member in due course.

BELIEF AMONG THE MASSES IN PLAGUE-INFECTED LOCALITIES.

111. **Beohar Raghbir Sinha** : Are the Government aware that the masses in certain plague-infected localities generally believe that these epidemics are brought about by Government itself to reduce the Indian population in number and that the enemies of Government are making capital out of this foolish yet dangerous belief, to sap the very foundations of Indian loyalty?

Mr. H. Sharp : No such rumours as those mentioned by the Honourable Member have recently been brought to the notice of the Government of India.

RETURN TO INDIA OF MR. SUDHINDRA BOSE.

112. **Beohar Raghbir Sinha** : Is it a fact that Mr. Sudhindra Bose, a lecturer in the Iowa University, America, is not allowed to return to India? If so, why?

The Honourable Sir William Vincent : (1) Yes.

This gentleman is now a naturalised citizen of the United States having applied to renounce his British Indian nationality a few weeks after the outbreak of War. He was refused a visa for the journey to India some time ago at the instance of the Secretary of State, and in view of the information available about him, the Government of India are not prepared to re-open the question. He has not applied to the Government of India for facilities to return to India.

SUPPRESSION OF THE INDIAN NATIONAL CONGRESS.

113. Beohar Raghubir Sinha : Is it the intention of the Government to suppress the Indian National Congress? If so, do the Government realise the consequences of such a policy?

The Honourable Sir William Vincent : 'No.'

RECRUITMENT TO THE IMPERIAL FOREST SERVICE.

114. Sardar Gulab Singh : Will the Government be pleased to lay on the table the following facts :

- (a) Is there going to be any recruitment in the Imperial Forest Service this year? If so, what percentage of Indians will be recruited?
- (b) Is it a fact that last year the selection was made at different places, though in the rules and regulations it was written that it will be made at Dehra Dun. If so, will the Government please explain why this extraordinary procedure was adopted?
- (c) Is it a fact that among the selected candidates there were cases who did not pass the qualifying test; and there are cases who passed the qualifying test, were medically fit, and were rejected. If so, is the Government going to give some consideration to those candidates in this year's selection?

Mr. J. Hullah : (a) Yes.

Of the total required for India 40 per cent. are to be recruited in India. Of the number required for Burma 25 per cent. are to be recruited in Burma.

(b) Owing to the fact that the regulations failed to attract applications from a sufficient number of suitable candidates, the date for the submission of applications was extended twice and, as time did not permit of candidates responding to the latest call appearing before the Central Selection Board, nomination in their cases was left to Local Governments. The object was to obtain the number of Indian probationers required.

(c) No standard was prescribed for the qualifying test, consequently it cannot be said of any candidate undergoing this test that he either passed or failed in it. If by 'pass' and 'passed' is meant 'appeared for' the answer is that certain candidates who did so and who passed the medical examination were considered unfit for appointment by the Selection Board.

Candidates qualified under the regulations for the current year will obviously be allowed to apply but it is not the intention of the Government to give special consideration to any candidate.

ADDRESS OF WELCOME TO HIS ROYAL HIGHNESS THE PRINCE OF WALES.

The Honourable Sir William Vincent (Home Member) : Sir, the Government of India have received a communication from the Chief Secretary to His Royal Highness the Prince of Wales, which, with your permission, I should like to read.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Sir, before the House commences its daily business, I beg to mention that I gave notice on the 22nd of December with regard to an adjournment of the House to discuss the present political situation of the country.

Mr. President : We will come to them. These notices will be in order in a moment or two.

The Honourable Sir William Vincent : Sir, as I was saying just now, I have received a letter from the Chief Secretary to His Royal Highness the Prince of Wales, which I propose, with your permission, to read to this House. The letter runs as follows :

‘ I have the honour to acknowledge Mr. Tonkinson’s letter No. 138-Public, dated the 8th November, 1921, forwarding a copy of the Government of India Despatch with enclosures to the Secretary of State for India, dated the 29th September, relating to the Resolutions adopted by the two Chambers of the Indian Legislature regarding the presentation of an Address of Welcome to His Royal Highness the Prince of Wales. The papers have been laid before His Royal Highness the Prince of Wales, who commands me to express his appreciation of the spirit which has animated the Indian Legislature in this matter, and I am to inform you that His Royal Highness will gladly accept the proposed Address.’ (Loud Cheers.)

STATEMENT OF GOVERNMENT BUSINESS.

The Honourable Sir William Vincent (Home Member) : For the convenience of the Assembly, Sir, I should like to make a statement as to the probable business in the immediate future :

Motions will be made to-day recommending that the reports of the Joint Committees appointed to consider and report upon the Indian Electricity (Amendment) Bill and the Indian Factories (Amendment) Bill be taken into consideration. It is hoped that sufficient progress may be made to enable these Bills to be passed by the Assembly during the present month.

If the report of the Joint Committee on the Indian Income-tax Bill can be presented by the 16th of January, Government hope that the consideration of the Report may be taken up on Monday, the 23rd of January.

Government propose that the Code of Civil Procedure (Amendment) Bill relating to fraudulent suits should be referred to a Select Committee on the 18th of January.

Select Committees have already been appointed on the Indian Emigration Bill and the Indian Limitation Act (Amendment) Bill, and it is hoped that the Select Committees will be able to present their reports on the 18th and 23rd January, respectively.

Lastly, a Bill to incorporate a University at Delhi will probably be introduced about the 18th of January.

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**RESOLUTION RE: THE ABANDONMENT OF THE POLICY OF
RÉPRESSION.**

The Honourable Sir William Vincent (Home Member) : To-morrow, various motions for the amendment of the Standing Orders will be placed before the Assembly by different Members, and, further, there will be a debate upon a Resolution to be moved by Munshi Iswar Saran, of which, I think all Honourable Members have had notice.

Several Honourable Members : No.

An Honourable Member : Only hearsay.

If any Honourable Member seeks to have the debate postponed on that account, then, we shall have to consider the point. I am, however, surprised to hear Mr. Seshagiri Ayyar say that he has not received notice of the motion, because he has put in an amendment to the Resolution.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-official) : May I offer a word of explanation, Sir? In the letter which I wrote to the Legislative Secretary, I said that I had not received notice of the Resolution, but that I had heard orally from Mr. Iswar Saran what the language is likely to be, and on that statement I sent in my amendment. I have not yet received notice.

The Honourable Sir William Vincent : It was impossible to circulate notices to all Honourable Members, and if any inconvenience has been caused, we are quite prepared to consider the question of postponing the debate. But though official notices could not be sent out, we advertised the fact widely in the press. It has been in the Indian News Agency telegrams and, I think, in all the newspapers, that this Resolution would be taken up on the 11th.

I do not in any way seek to inconvenience Members in this matter. And, if there is any feeling that any other course should be taken or that the discussion should be postponed, we are quite prepared to consider the question.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : I think myself every Member knows the wording of the Resolution. It is a very urgent Resolution and no inconvenience will be caused by taking it up to-morrow.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Reuter's report is not gospel truth. There should be atleast twodays' notice before a certain Resolution is taken up, and without having that, certainly this House will not agree to proceed with the Resolution at such a short notice. I am within the four corners of my right to move for an adjournment of the

[Mr. K. Ahmed.]

House to have a discussion on the present political situation. I am entitled to do that under the rules.

Mr. President : I will take that point in a moment.

CONGRATULATIONS ON HONOURS.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Before the Assembly proceeds with the usual business of the day, it is my gratifying privilege to perform a very agreeable duty and that is to convey to you, Sir, the warmest felicitations of the Assembly and its congratulations on the high honour which His Majesty the King-Emperor has been pleased to bestow on you. (Cheers.) To my mind, it is not an ordinary, routine, conventional honour bestowed upon you as merely the President of the Assembly, but it is also an honor to us. No one has worked harder than Sir Alexander Muddiman in making the reforms possible, none has worked harder than you in making them a success since they came. Your experienced tact and firmness have set the pace to the Assembly, and even from unwilling quarters I think the proceedings of the Assembly have extolled appreciation. You have set the pace, and it has been your privilege to do so, also to the Provincial Councils which have noticeably benefitted by it and we wish you God-speed in the arduous labours you had in Burma of late.

You have wished us a happy New Year. We fully reciprocate your good wishes and hope that it will not only be a happy but also a fruitful New Year, and that we shall see another important stage, under your capable leadership, in the progress of the reforms. It will be gratifying to you, Sir, to know that in England your work is as well appreciated as here, and not the least gratifying feature of the record of this Assembly will be that you have so well presided over its early deliberations. (Loud cheers.)

(At this stage Mr. K. Ahmed rose.)

Mr. President : Order, order. I will come to that in one moment:

Gentlemen of the Assembly, I appreciate very warmly indeed the congratulations conveyed to me in the words of Sir Deva Prasad Sarvadhikary. The honour conferred on your President is one which, I think, we all recognise as the signal mark of the appreciation by His Majesty the King-Emperor of the auspicious beginning made by the Legislative Assembly in the new Indian constitution. As you know, it is the custom that when a ship in the Royal Navy or a regiment of the Army has performed a feat in an action at sea or in the field, some signal distinction such as the Victoria Cross is conferred upon it, and officers and men alike partake of the honour. In such a case, the regiment meets, or the crew of the ship assembles on the lower deck, to decide who shall wear the coveted decoration on behalf of his comrades.

The exact procedure has not perhaps been followed in this case; but I assure you, that though I am the bearer of the honour, my colleagues in this Chamber are all partakers in it (Hear, hear.) It has thus a significance beyond any meagre personal merit. May I repeat, while I express my deep personal appreciation of the manner in which this vote of congratulation has been moved by Sir Deva Prasad Sarvadhikary, and while I am moved by the words which he has used of me, that this Assembly, and the world outside, knows that this token of appreciation by His Majesty the

King-Emperor is a possession which belongs of right to all in this Chamber who have borne a share in laying the foundations of Indian Self-Government.

I thank you, gentlemen. (Cheers.)

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : If Munshi Iswar Saran's Resolution relates to the general situation of the country, I should like to withdraw the notice of adjournment which I gave on the same subject, because there will be a fuller discussion on a motion like that, than on a motion for adjournment.

Mr. President : I should not like to pass from the pleasant interlude brought into our business by my colleague on my left here without conveying my personal congratulations, and I think the congratulations of the Chamber to the Honourable Sir Malcolm Hailey, the Finance Member, on the mark of appreciation which His Majesty the King-Emperor has conferred upon him for his public services to the Indian peoples and to the British Empire.

The Honourable Sir Malcolm Hailey (Finance Member) : I am very grateful to you, Sir, for conveying on behalf of the House its felicitations to me on the honour which I have received at the hands of the Sovereign. An honour conferred by the Sovereign, the fount of all honour, must always be received with gratitude, respectful gratitude, by the recipient and if he can feel in addition that that honour is appreciated by those among whom he has worked for the most responsible period of his official life and to whose interests he has endeavoured to give his whole-hearted devotion, then, Sir, the honour is redoubled.

Sir, I thank you.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Before we commence the business of the day, I
12 noon. should like to convey the congratulations of this House to the Honourable Mian Sir Muhammad Shafi (Cheers) on the honour which has been conferred upon him by His Majesty the King-Emperor. He is not a Member of this House, but he is a very familiar figure amongst us. We take great interest in his Department, and he has frequently been amongst us and has evinced his sympathy for any motion that has been brought before this House for the advancement of education, and, to the best of his ability, tried to promote the interests and meet the aspirations of the educated community in India. We have always appreciated the spirit in which he has taken part in the debates in this House and the sympathetic response which he has always extended to public opinion as voiced by us. On behalf of the House I, therefore, convey our hearty congratulations to the Honourable the Education Member. (Cheers.)

The Honourable Mian Sir Muhammad Shafi (Education Member) : Sir, I am deeply grateful to my friend, Mr. Chaudhuri, for the kind congratulations which he has conveyed to me on behalf of my friends of this House. Not being a regular Member of this House, the position occupied by my colleague on my right (Sir Malcolm Hailey) and myself is entirely different. But I can assure all my Honourable friends of this House that I take as keen an interest in the success of the proceedings of this House as I do in the Council of State

[Sir Muhammad Shafi.]
to which I have the honour to belong, and, in consequence, I appreciate the message of congratulation which has been conveyed to me.

PANEL OF CHAIRMEN.

Mr. President: Under Rule 3, I appoint :

3. Dr. H. S. Gour

4. Mir Asad Ali Khan Bahadur

to complete the Panel of Chairmen to which Mr. Seshagiri Ayyar and Mr. McCarthy were appointed in the Simla Session.

COMMITTEE TO INQUIRE INTO THE FUNCTIONS OF THE DEPUTY PRESIDENT.

Mr. President: The Legislative Assembly is aware that the position of the Deputy President requires examination. In Simla, I made a statement of the general principles governing the functions of this officer and I now appoint a small Committee, over which I shall preside, to report to me upon the manner in which the duties of the Deputy President may be enlarged. The Committee will consist of

The Honourable Dr. Tej Bahadur Sapru,

Sir Sivaswamy Aiyer,

Dr. H. S. Gour,

the Deputy President, and myself.

The report of the Committee will be laid upon the table in due course and, though it will be primarily drawn up for the guidance of the President and the Deputy President, the Legislative Assembly will be duly consulted regarding any action which may be necessary to give formal effect to its recommendations.

RULING ON STANDING ORDER No. 38.

Mr. President: I have a statement to make regarding Standing Order No. 38. A question has arisen since the adjournment of the Legislative Assembly, regarding the interpretation of Standing Order No. 38, which authorises a Member in charge of a Bill, when that Bill has been introduced, to make one of three motions in regard to it. The first two motions, namely, that it be taken into consideration or that it should be referred to a Select Committee, raise no controversy. It is the third motion 'that the Bill be circulated for the purpose of eliciting opinion' on which I desire to review and amend a ruling given in Simla.

It seemed to me at that time, that where, under Standing Order No. 38, any one of these three motions was passed, the Legislative Assembly should be held committed to the principle of the Bill, but, as the result of representations made to me from various quarters, I have come to the conclusion that this interpretation of the Standing Order may lead to serious inconvenience.

A Bill is circulated for opinion in order to provide the Assembly with material for a judgment upon the principle involved. I therefore propose to recall the ruling of 20th September, 1921, recorded in the Official Report of the Legislative Assembly Debates, Tuesday the 20th September, 1921, Volume II, pages 588, 589 and 592. After due consideration, I am of opinion, that the Assembly in passing the motion referred to should not be committed to the principle of the Bill to which it refers, and that, therefore, the motion that a Bill be circulated for the purpose of eliciting opinion stands in a different category from the other two motions prescribed by Standing Order 38. It follows, therefore, that it will be undesirable to maintain the ruling then made. It will be for the proposed Select Committee on the Standing Orders to judge whether the statement I have now made should be embodied in a formal amendment of Standing Order No. 38.

NOTICE OF MOTION UNDER RULE 11.

Mr. President: I have received notices from four or five Members of their desire to move the adjournment of the business of this House in order to discuss a matter of urgent public importance. The notices have been cast in various ways, but they all refer in more or less general terms to the political situation in the country.

Now, in the first place, that question, namely, the political situation in India, is raised in a series of Resolutions of which notice has been given by different Members of this House, and I must take it for granted, that these Resolutions will before long come up for discussion. Therefore, the notice which I have received of the desire of Honourable Members to move the adjournment of the House must be read as an attempt to anticipate the debate which would otherwise arise on those Resolutions. On that ground, therefore, I am bound under the Rules and Standing Orders to rule that that notice is out of order. I should add that a case of this kind, which is of a general character, is not sufficiently definite—in the sense in which the word 'definite' is used in the Standing Order—to justify the interruption of business and, therefore, on that ground also the motion cannot be accepted. A matter to be 'definite', 'urgent', and 'of public importance', in the sense in which these terms are used in the Standing Order, must have arisen suddenly in the manner of an emergency. Now the political situation to which these notices refer has arisen over a series of weeks, indeed one might say, over a series of months; and it would make no material difference to the discussion whether it were taken to-day, to-morrow, next week or even next month. At all events, it is not of sufficient urgency to demand the interruption of the ordinary business of the Assembly in order that a debate may take place to-day. On all these grounds, therefore, the notices given are not in order. I hope the House will not misunderstand me when I say, that the matter is not urgent. Upon the political urgency of the matter the Chair has not pronounced, but in respect of the technical use of the word 'urgent' in the rule, there is no doubt whatever in my mind that these motions do not satisfy that requirement.

MOTION FOR ADJOURNMENT.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions : Non-Muham-
madan Rural) : I understand that there is a general feeling in the House that

[Mr. J. Chaudhuri.]

the House should be allowed an opportunity to discuss the policy of Government with regard to the present political situation. Sir William Vincent said just now that permission has been given to Munshi Iswar Saran to move his Resolution to-morrow. I am one of those who heard of the Resolution for the first time last evening from Munshi Iswar Saran at Raisina, and not knowing the exact terms of the Resolution we have not had the opportunity of sending appropriate amendments. I have, however, submitted an amendment by anticipation. I had not seen the Resolution before I came here this morning. I think it will satisfy the House if a suitable opportunity is given at an early date next week to discuss Mr. Iswar Saran's Resolution. Mr. Iswar Saran having given notice of the Resolution in very general terms, I think that amounts to a motion for adjournment of the House, and if that has been accepted by the Government, I do not see any necessity of bringing forward any motion for adjournment now. I should like Sir William Vincent to give us a suitable day next week, as many Members are not present here to-day who would certainly like to take part in the discussion. (Cries of 'To-morrow'.)

That being so, no useful purpose will be served by bringing forward any motion for the adjournment of the House to-day.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir, I shall be the last person to accept the view of my friend, Mr. Chaudhuri, because, Sir, if the wording of the Resolution, which we are not aware of, is such that we will be shut up from discussing the matter at great length,—that is, the matter with regard to the present state of political situation in India—there will be some objection; objection will be raised with regard to that. So it is better for the Honourable Home Member, Sir, to enlighten us with regard to the wording of that Resolution. And, secondly, Sir, there is a strong suspicion in the mind of the public as well as of Honourable Members here present, as to how is it and why is it that Munshi Iswar Saran's Resolution was accepted by the official Member in charge, in the absence of or without the knowledge of the public, and outside the ordinary course. Sir, that being the ground, the matter fixes itself on the circumstance of the Honourable Member's movement in this Honourable House. And it raises the suspicion that there is some mutual arrangement between the Government of India and my friend, Mr. Iswar Saran, who has been allowed to move the Resolution in question.

Maulvi Abul Kasem (Dacca Division: Muhammadan Rural): Sir, we are here to understand the debate. So far as I am concerned, it may be defective education or something more, but my Honourable friend's arguments are unintelligible to us. The Honourable Member, Sir, may either speak in vernacular or in English, but he must speak in a language which is intelligible.

Mr. K. Ahmed: Sir, that is rather usurping the function of the President.

Mr. President: Order, order. The Chair is quite able to take care of itself. The Honourable Member will kindly put his point of order as precisely as possible. What point does he wish to discuss?

Mr. K. Ahmed: The point is that under these circumstances, as the

matter stands, with regard to the Resolution which we are asked, should be moved to-morrow; there is a strong suspicion in the mind of the people, and I daresay without knowing it, Sir, without an acquaintance with the wording of the Resolution, we cannot accept the view of Mr. Chaudhuri.

Munshi Iswarj Saran (Cities of the United Provinces Non-Muhamadan Urban): Sir, I rise to offer a personal explanation. It was about 10 days ago that I sent this Resolution to the Secretary of the Legislative Assembly. I did not write or speak about it to any Member of the Government of India. In fact I did not write even to any personal friend about it. About three or four days ago, I received a telegram, I believe, from Sir William Vincent, saying that the Government of India was willing to allow the discussion of my Resolution on the 11th of this month, and inquiring whether I would agree to its discussion on that date. I at once wired back to Sir William Vincent that I was agreeable, and it was for the first time to-day since the date on which I sent my Resolution that I met Sir William Vincent in this Chamber. Sir, I shall say only one word more. If I am misunderstood, if it is imagined, to quote the words of the Honourable Member over there, that this Resolution is the result of a friendly arrangement, then I shall content myself by merely saying that I treat the insinuation with the contempt that it deserves. Sir, my record of work in this Council, and may I add, my record of public life extending over a period of about a quarter of a century, is a sufficient answer to such insinuations either of the gentleman over there or of anybody else. As long as I am here, I have got to do my duty regardless of the frowns of officials or the misunderstandings of people like the Honourable Member who has just spoken.

The Honourable Sir William Vincent (Home Member): Sir, I should like now to read to this Assembly, the terms of the Resolution which it is proposed to discuss to-morrow, because there is some uncertainty about its terms. It runs:

"That this Assembly recommends to the Governor General in Council the immediate abandonment of the policy of repression inaugurated in the country."

Now, if the Assembly thinks that a Resolution of this kind was proposed in collusion with Government, all I can say is, that I shall be very much surprised. The actual position was this. I received information from various Members of their intention to move the adjournment of the House. We had also received notices of various Resolutions on what is called the repressive policy of Government. I was aware, on my interpretation of the rule and on an examination of the notices of Resolutions, that a motion for adjournment would be out of order. I was anxious to give the Assembly,—indeed I think the Assembly will want it—an opportunity of debating this question at the earliest opportunity. I therefore took up a Resolution which in terms was directly hostile to the action taken by Government and of a very comprehensive nature, and I put it down for the earliest date possible. If I am in any way to blame for taking that course, I regret it. All I can say is, that there was no question of any collusion, and what I did was for the convenience of this Honourable Assembly.

I may say, there is another Resolution of Mr. Rangachariar which is down, I think, in the list for the 12th, dealing with a different aspect of the same question, and it was not therefore necessary to consider that Resolution for the 11th. I am, however, entirely in the hands of this Assembly in the matter. I

[Sir William Vincent.]

have taken what I believe to be an honest and open course, in order to afford the House, which might have been debarred from securing a date to discuss this matter,—an opportunity of doing so at the earliest opportunity. If there are any complaints regarding my action, I can only express my regret for having gone out of my way to meet what I believed was a general wish.

Lieut.-Col. H. A. J. Gidney (Nominated Anglo-Indian): Sir, as one of the Members of this House who submitted an application for an adjournment of the House to discuss this question, I gladly accept your interpretation and would urge that the Honourable the President's views on the motion for adjournment be equally applied to the Resolution under discussion. I do think that Members of this House should be given an adequate time to consider such an important matter, and it was only in yesterday's *Pioneer* that I saw that the Resolution would be put up. To put it up in such a way, I consider, is distinctly contrary to Standing Orders, for it does not give Members an ample opportunity for considering the subject. I therefore put it for the consideration of the Honourable Home Member and this Honourable House that the subject be postponed for a few days at least so as to give to Members desirous of talking on the subject a better and fuller opportunity of considering their views and placing them before the House.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I would oppose the proposal for an adjournment of this most important question. It is an urgent question: indeed we consider it so urgent that we think we should interrupt the business of the Assembly; the country is going wild over the state of affairs; and it will not do for us, the representatives of the people, to sit quiet without deciding this most important point. I am glad that Mr. Iswar Saran has given notice of this Resolution and I am thankful to Government for having placed it at as early a date as possible, because, I, knowing Mr. Iswar Saran as I do and having had a consultation with him in Calcutta in regard to this very matter, I knew he would not give notice of any Resolution which would not be acceptable to us. I am glad to know that the Resolution of which he has given notice speaks worthily of Mr. Iswar Saran. I therefore think, Sir, that it would be futile to move any motion for adjournment of it, and I urge that this motion may be taken up to-morrow without fail, and, if possible, Sir, that it should be given precedence over other business posted for to-morrow.

Mr. Jamnadas Dwarkadas (Bombay City: Non-Muhammadan Urban): Sir, I am not called upon at this stage to give my views with regard to the Resolution that is tabled in the name of my friend, Mr. Iswar Saran; but without discussing the merits of the Resolution I endorse the view expressed by my Honourable friend, Mr. Rangachariar, that the subject is of such vital importance that it would be a pity if the House did not discuss it at as early a moment as possible. I was one of those who gave notice of a motion for adjournment and I gladly accept in place of that motion the motion that has been placed for discussion by Mr. Iswar Saran. I repeat Sir, that I do not commit myself to any view for the present. I accept that motion, only because it provides sufficient scope for the House to discuss the matter thoroughly to-morrow. I hope Sir, that the Honourable the Home Member will make it possible for us to discuss this matter to-morrow as early as possible.

Mr. Harchandrai Vishindas (Sind: Non-Muhammadan Rural): I rise, Sir, to draw the attention of the Assembly to one particular aspect of this question, and that is this: this is not the first time that a misunderstanding has arisen with some Members as to the action of Government when the Government has actually obliged the House by going out of their way to allot an official day for non-official business. On a previous occasion, a similar misunderstanding arose. On this particular occasion, so far from accusing Sir William Vincent of any collusion or sinister motive, I think we ought to be thankful to him that he has selected the earliest day for the Assembly to express their views on a subject which is foremost in the hearts of all of us. Therefore, Sir, I want to bring it to the notice of the Assembly that Mr. Kabeer-ud-Din Ahmed's remarks are not only out of place but they are actually against the interests of the House. In future, I think, there will be no such misunderstanding, because if the Government go out of their way and allot an official day for non-official business (and that business being in the nature of an attack upon the Government) then the result of such opposition as Mr. Kabeer-ud-Din Ahmed has made to-day will be that Government will not do such a thing in future. That is one aspect of the question before the House.

As regards the adjournment of this question, I do not agree with Colonel Gidney that this is a subject which should be adjourned. We actually had a meeting—a non-official meeting—at which Lieutenant-Colonel Gidney was also present, when we had an informal discussion on this very subject. I therefore do not think that the subject will be sprung as a surprise on any Member of this House. Of course I know that Mr. Kabeer-ud-Din Ahmed has only arrived at 10 O'clock to-day and he is therefore ignorant of that meeting. I therefore strongly protest . . .

Mr. President: I have allowed a discussion to go on for the last quarter of an hour which is entirely out of order, in order to arrive at the sense of the House on this question. But I should like the House now to come to a decision on the matter. There is actually no motion before the House. If I gather the sense of the House aright, Members want a discussion at the earliest possible moment. I imagine that the Home Member will take the discussion as put down for to-morrow unless there is very strong dissent from that course. Therefore, unless that dissent is shown now, the arrangement stands.

Mr. W. M. Hussanally (Sind: Muhammadan Rural): I rise to support the proposal made by my Honourable friend, Colonel Gidney. The only reason why I want an adjournment is, that the House now is not full up and a very large number of Members who are absent would like to join in a debate of this important character. I know nothing of the private conference which was held yesterday. I was not invited to that conclave and I do not know what decision my friends in that conference have arrived at. I was never called to that meeting and did not attend.

Mr. Harchandrai Vishindas: I spoke to you about it.

Mr. W. M. Hussanally: You merely informed me that you wanted to hold a meeting; I was not asked to attend. Therefore, I think, Sir, that an important matter like this should not be rushed through as we know nothing about the Resolution except what the Home Member has

[Mr. W. M. Hassanally.]

just now read to us. We should like to have a little time for consideration of the subject and also to give our friends who are absent an opportunity of arriving and taking part in the debate. There is nothing lost by an adjournment for about a week, of an important matter like this.

Mr. President : Unless some Honourable Member feels strongly enough to move a motion, I must bring this discussion to an end now.

Bhai Man Singh (East Punjab : Sikh) : I move, Sir :

'That the discussion of Munshi Iswar Saran's Resolution should not take place to-morrow'.

In the first place, the Honourable Sir William Vincent has only just now read out the Resolution to us. I quite appreciate the fact that the subject is a very important one and requires immediate attention; but if it could have been postponed for a month since the inauguration of Government's present policy, it could very well be put off for a few days or a week more. There is no reason to say that the subject is of importance and that it must be decided to-morrow if not to-day. If the subject is an important one, it is also one which requires the fullest consideration. All the Members have a right to have due notice of the Resolution at least some time before to enable them to read it, to consider it, to think over the actual words of the Resolution and see if they want to send in any amendment to it or not. It is not the point that we know the subject or that we know that repression is there; what we wish to consider is in what words we are to oppose or to support this policy. We have only just now heard it and, of course, there is absolutely no time to go thoroughly into it. My Honourable friend, Mr. Harchandrai Vishindas, said that we had a meeting yesterday. I was present in that meeting. If I mistake not, there were not more than a dozen Members . . .

Mr. President : Order, order. I cannot allow references to private meetings. It is obvious that Members who are present at such meetings will probably differ as to what had occurred and these differences have no place in our debates.

Bhai Man Singh : My Honourable friend had said, Sir, that at this meeting, this Resolution was considered; therefore, I referred to that meeting. Further, Sir, we also see that the attendance to-day is very poor. It is not a subject of such importance that we cannot afford to wait for two or three or four days until we get a fuller House. Therefore, Sir, I would request the Honourable Members that we should postpone the discussion of the Resolution till, say, the 15th or 17th of this month.

Mr. K. Ahmed : To cut short the debate, Sir, as it was I who raised the question, I will now explain . . .

Mr. President : Order, order.

Maulvi Abul Kasem : I understand that Mr. Seshagiri Ayyar has given notice of an amendment to the Resolution moved by my Honourable friend, Munshi Iswar Saran. We have had no notice of that amendment. If that amendment is to be taken up for discussion to-morrow, then, I think, in fairness to us, we ought to have notice of that amendment. If that amendment is not to be considered to-morrow,

then I think, time ought to be allowed for that amendment to come up for consideration and discussion. The question is an important one, and every one of us is anxious to hear the debate, and many of us to take part in it, but, at the same time, in order to get the definite and mature judgment of the House, I think the House ought to have sufficient time to consider the Resolution and its wording. As I read the Resolution, it is very wide and exhaustive; at the same time, an opportunity should be given to all Members to know the nature of any amendments of which notice may be given, so that the whole question may be considered in all its aspects and discussed when the time for discussion comes. As the Honourable Member, Bhai Man Singh, has said, as these things have been going on for several weeks, the sky will not come down if we do not discuss it to-morrow morning. We may discuss it any day this week or in the earlier part of next week, whichever we choose. I hope and trust, however, that as an official date was given, if another date is selected, it will also be an official day and that non-official Members will not be inconvenienced by taking one of their days for the discussion of this matter.

The Honourable Sir William Vincent (Home Member) : We have gone as far as we could to meet the Members of the Assembly in giving an official day to-morrow for this debate, but I cannot guarantee that the state of the public business will permit of our doing that again. I am quite ready to do what I can to meet Honourable Members, but I cannot give any such undertaking. We squeezed this motion in with great difficulty to the exclusion of official business to-morrow. Speaking for the Government, we are indifferent whether this debate comes on to-morrow or whether it comes on later. All I wanted to do was to give the House an opportunity of debating it as soon as possible.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : May I inquire whether it would be permissible to send in notices of amendments now. We do not know what Mr. Seshagiri Ayyar's amendment is. I am prepared to move an amendment myself.

The Honourable Sir William Vincent : I should raise no objection. I have only just received Mr. Seshagiri Ayyar's amendment myself, but I suppose copies of it will be sent out to Members to-day.

Mr. President : Before putting the question, I should like to point out to the House that the course of this discussion has placed the Chair in a somewhat difficult position.

I can accept a Resolution and put it down within the period of notice, that is to say, before the necessary days have expired, if I get the consent of the Government; but, in this case, the position is reversed. The Government, on behalf of non-official Members, approached me to allow the Resolution to be moved within the period of notice, that is to say, to suspend that particular Standing Order; and I was moved to do so largely on the ground that there were so many notices handed in asking for a discussion of this question at an early date and that, in view of the agreement between the non-official Members and official Members in this House, I should therefore allow this motion to be moved. As a matter of fact, the notice does not expire until the 14th of January, but I have no more opinion on the subject as to which is the proper date to take it than Government has. I am prepared to take the discussion to-morrow or to take it within the period of notice, if it is convenient to the Honourable the Home Member, but it seemed to me when I was approached

[Mr. President.]

by Government on this subject and informed that it was the desire of so many Members that the debate should take place at the earliest possible moment, that it was essential for me to meet that desire if I could.

I therefore put the question :

'That the proposed debate on the Resolution standing in the name of Munshi Iswar Saran be not taken to-morrow, but be taken on a date to be agreed upon by the Home Member and the non-official Members of this House.'

The Assembly then divided :

Mr. President : Before I announce the result of this division, I want to know whether any objection is raised to the procedure under which it was taken.

Mr. Jamnadas Dwarkadas : I think, Sir, there has been a good deal of confusion with regard to the voting. People who wanted to vote for the postponement, I saw them going on this side, others I saw going on the other side ; and whatever may be the decision, I hope, Sir, you will rule that the division be taken again.

Mr. President : The Honourable Member says that he observed that ; if there is any Honourable Member who actually did that, will he rise in his place and say that he was a victim of that misunderstanding ? If so, I am prepared to take the division again.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : I went on one side, Sir, first, and then I went to the other side and so, I think, there was no mistake in the end.

Mr. President : What did the Honourable Member wish to vote for ?

Lala Girdharilal Agarwala : For the postponement.

Mr. B. A. Spence (Bombay : European) : I voted on the other side first of all and then I was told it was wrong and then I went and voted 'No'—not for postponement ; you have just now told me that I voted 'Aye' ; I ask for another division.

Mr. President : I am satisfied that there was a misunderstanding which was due to a slip of the tongue on my part in calling 'Ayes to the right and Noes to the left'. I put the question again :

'That the debate upon the Resolution standing in the name of Munshi Iswar Saran be postponed from the 11th January to a date subsequently to be fixed.'

The Honourable Sir William Vincent : May I draw your attention, Sir, to the fact that there are a number of strangers in the body of the House, in the side galleries, during the division. I saw a lady in the corridor and one or two other people who certainly are not Members of this House. I wish to know whether this is in order.

Mr. President : The entry of persons into the Chamber itself or any part of it, except that to which admission is made by tickets, *viz.*, the galleries above, is forbidden. Those who, not being Members of the House, are admitted to the lower galleries and corridors are the messengers and others engaged in the business of the House and certain officers of Government whose presence is required for the assistance of Members of the Executive Council and Secretaries engaged in the business of the Chamber. The presence of any other person is forbidden.

Mr. A. C. Chatterjee (Industries Secretary) : I may state, Sir, that the lady who was in the corridor is an officer of Government who is here to assist me during the proceedings later on.

Mr. President : Then her presence here is perfectly in order provided she has the authority of a Member of the Government who is present, but not in other cases. I am grateful to the Honourable the Home Member for drawing my attention to it, because in a Chamber so constructed considerable laxity of practice is apt to arise and must be severely controlled.

Mr. A. C. Chatterjee : I may add, Sir, that the two other gentlemen who were there are there to help me in connection with the business before the House to-day.

Mr. President : I may add for information that when a division is taken, all persons, including persons to whom a courtesy right of access is allowed, must vacate the corridors and passages so that there may be no interference of any kind with the liberty of Members voting during a division.

The Assembly then divided as follows :

AYES—40.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Abdul Rahim Khan, Mr.
Abul Kasem, Maulvi.
Agarwala, Lala G. L.
Ahmed, Mr. K.
Ahmed Baksh Khan, Mr.
Akram Hussain, Prince A. M. M.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Chaudhuri, Mr. J.
Das, Pandit R. K.
Faiyaz Khan, Mr. M.
Faridoonji, Mr. R.
Gidney, Lieutenant-Colonel H. A. J.
Ginwala, Mr. P. P.
Habibullah, Mr. Muhammad.
Hajeebhoy, Mr. Mahomed.

Hussanally, Mr. W. M.
Ibrahim Ali Khan, Lieutenant Nawab M.
Ikramullah Khan, Raja M. M.
Jatkar, Mr. B. H. R.
Man Singh, Bhai.
McCarthy, Mr. F.
Misra, Mr. P. L.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Neogy, Mr. K. C.
Reddi, Mr. M. K.
Renouf, Mr. W. C.
Samarth, Mr. N. M.
Sarfaraz Hussain Khan, Mr.
Sarvadhikary, Sir Deva Prasad.
Singh, Babu B. P.
Sinha, Babu Adit Prasad.
Sircar, Mr. N. C.
Sohan Lal, Bakshi.
Zahiruddin Ahmed, Mr.

NOES—28.

Ayyar, Mr. T. V. Seshagiri.
Bradley-Birt, Mr. F. B.
Bryant, Mr. J. F.
Chatterjee, Mr. A. C.
Cotelingam, Mr. J. P.
Crookshank, Sir Sydney.
Dentith, Mr. A. W.
Gajjan Singh, Sardar Bahadur.
Gulab Singh, Sardar.
Hullah, Mr. J.
Jamnadas Dwarkadas, Mr.
Kabraji, Mr. J. K. N.
Manmohandas Ramji, Mr.
Muhammad Hussain, Mr. T.

Muhammad Ismail, Mr. S.
Percival, Mr. P. E.
Pyari Lal, Mr.
Rangachariar, Mr. T.
Rao, Mr. C. Krishnaswami.
Sharp, Mr. H.
Singh, Rana U. B.
Spence, Mr. R. A.
Subrahmanayam, Mr. C. S.
Thackersey, Sir Vithaldas D.
Vishindas, Mr. H.
Wajid Hussain, Chaudhri.
Wajihuddin, Haji.
Yamin Khan, Mr. M.

The motion was adopted.

THE INDIAN ELECTRICITY (AMENDMENT) BILL.

Mr. A. C. Chatterjee (Industries Secretary) : Sir, I beg to move :

'That the Report of the Joint Committee on the Bill further to amend the Indian Electricity Act, 1910, be taken into consideration'

[Mr. A. C. Chatterjee.]

The House will recall that this Bill was introduced in the House last March and was referred by it to a Joint Select Committee of the two Houses. The Select Committee met in September last and devoted much care and thought to the provisions of the Bill and has suggested a certain number of changes which we hope will secure the smooth working of the revised Act when it is finally placed on the Statute Book. I should like to take this opportunity on behalf of the Government, and I hope I may be permitted on behalf of the Assembly also, to thank the Members of the Select Committee for the labour that they bestowed on the Bill. They were most of them business men and it meant a serious call on their time in devoting the time that they did to the Bill. The report of the Select Committee was presented to the House in September last, and I now move that the Report be taken into consideration.

The motion was adopted.

Clauses 1 to 4 were put and carried.

Clauses 5 to 10, as amended by the Joint Select Committee, were then put and carried.

Clause 11 was put and carried.

Clause 12, as amended by the Joint Select Committee, was then put and carried.

Clauses 13 to 16 were then put and carried.

Clauses 17, 18 and 19 were put and carried.

Clauses 20, 21 and 22 were put and carried.

Mr. A. C. Chatterjee : Sir, I move :

‘ That in clause 23 of the Bill, as amended by the Joint Committee :

(1) sub-clauses (a), (b) and (c) be re-lettered respectively (b), (c) and (d) and before sub-clause (b), as re-lettered, the following be inserted, namely :

‘ (a) after the word ‘ where ’ where it first occurs, the words ‘ after distributing mains, have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced, shall be inserted.’

(2) the word ‘ and ’ at the end of sub-clause (c), as re-lettered, shall be omitted and re-inserted at the end of sub-clause (d) as re-lettered ; and

(3) the following sub-clause shall be added, namely :

‘ (e) in the fourth proviso :

(i) for the words ‘ in the event of any requisition being made for a supply of energy from any distributing main of which ’ the words ‘ if any requisition is made for a supply of energy and ’ shall be substituted ; and

(ii) for the word ‘ it ’ in clause (a) the words ‘ the nearest distributing main ’ shall be substituted.’

Sir, we are indebted to Sir Vithaldas Thackersey for pointing out to us an oversight which also escaped the attention of the Select Committee when it first drafted its report. Clause 23 of the Bill which amends clause VI of the Schedule to the Act, as it stands at present, might involve the serving of a requisition for the supply of energy directly after the granting of a license and before any works had been or could have been laid down. Nevertheless the licensee would have been bound by law to comply with the requisition.

It will be observed that under clause IV of the same Schedule the licensee is given 3 years in which to lay down what are generally known as compulsory works. Similarly, clause V of the Schedule only operates after 2½ years from the commencement of the license. Part (1) of the amendment will make it clear that until works have been laid down and supply actually begun, a requisition for supply will not be binding.

The second and third paragraphs of the amendment are merely consequential and I hope, that the amendment will be passed unanimously by the Assembly.

Sir Vithaldas D. Thackersey (Bombay Millowners' Association : Indian Commerce) : Mr. President, I wrote a minute of dissent to the Report of the Select Committee pointing out the inconsistencies that arose owing to certain modifications in clauses 5 and 6, and, in order to meet my objection, Government propose to amend those clauses by the amendments which are now before the House. I am satisfied that these amendments meet the case and hope they will be accepted.

Sub-clause (1) of the amendment was put and carried.

Sub-clause (2) of the amendment was put and carried.

Sub-clause (3) of the amendment was put and carried.

Clause 23, as amended, was put and carried.

Clause 24 was put and carried.

Mr. A. C. Chatterjee : Sir, I beg to move :

'That in clause 25 of the Bill after the words 'the said Act' the following words shall be inserted, namely :

'(a) after the word 'where' the words 'after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced' shall be inserted; and (b).'

The reasons for this amendment are the same as were mentioned by me in dealing with the amendment standing in my name relating to clause 23 of the Bill.

The motion was adopted.

Clause 25, as amended, was put and carried.

Clauses 26, 27, 28 and 29 were put and carried.

Mr. A. C. Chatterjee : Sir, I beg to move :

'That the Bill, as amended, be passed.'

The motion was adopted.

THE INDIAN FACTORIES (AMENDMENT) BILL.

Mr A. C. Chatterjee (Industries Secretary) : Sir, I beg to move :

'That the Report of the Joint Committee on the Bill further to amend the Indian Factories Act, 1911, be taken into consideration.'

This Bill was also introduced into this House in March last and was referred by it to a Joint Select Committee of the two Houses. That Committee sat for several days in September last and devoted a considerable amount of time to a very careful examination of the provisions of the Bill. The Committee was composed of all shades of opinion and consequently it was impossible to

[Mr. A. C. Chatterjee.]

obtain a unanimous report from it, but, on the whole, in regard to the main provisions of the Bill, there was considerable unanimity. The Committee has made certain changes in the Bill as it was originally introduced, and, on the whole, we think those changes are desirable. The Report of the Select Committee was presented to the House in September last and I now move that it be taken into consideration.

Sir Vithaldas D. Thackersey (Bombay Millowners' Association : Indian Commerce) : Mr. President, the Members must have noticed that two of my colleagues with myself appended a minute of dissent to the Report of the Select Committee on two or three sections and in order that our position on the points may be clear, I should like to address the House a few words on the general question.

It is a matter of congratulation to the Government of India that they have legislated on the lines of the Washington Convention even before some of the other Governments have moved in the matter, and more particularly the British and the Japanese Governments. It must also be a source of satisfaction to the Government of India that the Indian Industrialists have not only accepted the limitation of the hours of work of adult workmen, but they have also supported the proposals. Even before the Washington Convention, the textile mills had reduced their hours of work from 12 to 10 a day, while most of the other kinds of factories ordinarily work less than ten hours a day and many of them work not more than eight hours. While the principle of sixty hours a week is accepted, it must be remembered that occasions often arise when exceptions shall have to be made to this rule. These exceptions, after full inquiry by the Factory Commission in 1908 were included in the Act. All these sections have been removed in the proposed Bill and provision has been made in the Bill to define the exceptions by rules made by the Local Governments. I do hope that a full inquiry will be made by the Local Governments in framing the rules so that no inconvenience or loss should occur to the industries.

Government have taken this opportunity of revising some of the other provisions in the existing Act. They have raised the minimum age of child labour from nine to twelve which is a very desirable improvement indeed if only we provide facilities for their education. But the objectionable feature introduced in the Bill is to raise the age of half-timers from fourteen to fifteen. I hardly think Government realised the serious consequences of this change. In the first place, it is going beyond the Washington Convention or the law now in force in England, Japan and other civilised countries, where, after the age of fourteen, the boy is allowed to work up to the maximum of ten hours. In fact, under the English Law, the boy, if he possess certain educational tests, can work the same hours as young persons from the age of thirteen and the reason is quite clear. It is at the age of fifteen that a boy is taken as an apprentice or helper in the workshop and the restriction of half-time working would be most harmful on such boys. The effect would be the workshop managers who never employ half-time workers will cease to employ these young boys and thus the boys will miss not only the opportunity of earning for his own living, but also of getting the training in the workshop at least for a year. He will never be satisfied with half pay and he will perhaps go for work in other classes of manual labour where in all probability he will have to work harder for his living without getting the training. For the

boys employed in textile mills, those who have got experience know that the class of work which these boys generally do there can hardly be called hard labour. Such boys are usually employed on ring frames where all that they have to do is to piece up the thread when it breaks and to remove the yarn when the bobbins are full. It is difficult to say that Government is doing a service to these boys by these proposals.

As regards the girl of fifteen, the effect of the proposed legislation would be much more harmful. As this House knows, the Indian girl attains age much earlier than in other countries and I leave this House to judge whether it is better for a girl of fifteen to be working with her mother and mother-in-law in departments such as reeling and winding where the work is easiest and the atmosphere very healthy, or, to be away from the presence of her guardian and working as day labourer in the sun or building work or such other coolie work. It must be remembered, that a girl of fifteen, often married, will never be satisfied with half pay when she can earn full wages elsewhere. Even assuming that her guardians would prevent her from working away from them on other classes of work, would it be advisable to keep these young women with the boys of fifteen in the waiting rooms of the factory or at home unattended by their guardians? Any one who has worked in the Factory will insist that the best thing for her is to be working with her mother.

How would these young boys and young women feel when they are informed by the manager, that although persons of their age in England and other civilized countries can work ten hours a day, their Indian Sircar *ma-bap* has ordained that they shall only earn half the wages, and if they cannot live upon that, they must become the ordinary coolie on the road. I hardly think, that they would thank the Sircar *ma-bap* for their great anxiety for their welfare.

It should not be forgotten that this innovation has been introduced without consulting a single labourer of that class. It will not do to say that they do not know their interests. Persons of that age know their interests as much as any other person. Even in the United Kingdom, the wishes of the labour are first consulted. It will be news to this House that because of the opposition of certain sections of the British labour, that the British Government have not yet been able to accept the terms of the Washington Convention. My Honourable friend, Mr. Chatterjee, has just returned from England and when I asked him why it was that even the British Government have not yet accepted the terms of the Washington Convention, he replied that it was because the Railway workmen were opposed to the limitation to their hours of work under the Washington Convention. They did not want to be deprived of the wages that they are earning by working overtime. Whatever may be the reason, the fact remains that the British Government have to accede to the objections of the workmen, while we are now attempting to deprive the young boys and girls of their living and the opportunity of their training by this proposal.

I, therefore, would propose when the Bill is taken, clause by clause, to retain the provision of the existing Act limiting the age of half-workers to fourteen. The other amendments, of which I have given notice, relate to the definition of the word 'Factory' in order that playgrounds, school-rooms, etc., should not form part of a factory and follow the English definition.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, I rise at this stage to suggest to the Honourable Mover that this matter be put off till the day after to-morrow, for this reason : Mr. Joshi who is representing the interests of the labourers has been unavoidably obliged to be absent from the meeting to-day. I believe he has telegraphed to Mr. Chatterjee that he will be here to-morrow and, therefore, if this matter is taken up the day after to-morrow, he will be in a position to put forward his view of the matter, which, I do not think, can be quite as well put by anybody else. Mr. Joshi has been devoting his whole time to the consideration of this question and any Bill passed without his assistance would be regarded as inadequate. I, therefore, suggest to the Honourable Mover that this matter be adjourned till the day after to-morrow.

The Honourable Mr. C. A. Innes (Commerce and Industries Member) : I must point out, Sir, that if Mr. Joshi is not here to-day, it is Mr. Joshi's own fault. The Select Committee's Report was circulated three months ago and though it is true Mr. Joshi went on public duty to the Geneva Conference, all the other people who went to Geneva have now returned, and I understand that the reason why Mr. Joshi did not return till later was that he indulged in private travel on the continent. At the same time, I recognise of course that Mr. Joshi's advice on a Bill of this kind is of great value. But the House must remember that Mr. Joshi was a Member of the Select Committee and had the fullest possible opportunity of giving his advice there. We have no desire at all to press this Bill unduly quickly through the House, but I cannot at this moment give a definite answer to Mr. Seshagiri Ayyar's request for, in a matter of this kind, I must consult the Leader of the House. With your permission, if I may make the suggestion, I should suggest that the adjournment be taken now and that I may be permitted to give a reply to Mr. Seshagiri Ayyar after the adjournment.

Sir Vithaldas D. Thackersey : Sir, I have not the slightest objection whether the debate is adjourned to to-morrow or the day after. Owing to the notice I received of this business coming up to-day, I made my own arrangements in such a way that I must leave Delhi on the 12th. I have no intention of hurrying up this matter. The further discussion may be taken up on the 11th or the 12th or later on in the month, but I hope that the adjournment will not be in such a way that the whole arrangement one makes after getting notice is upset.

Mr. President : The Honourable Mr. Innes has undertaken to consult the Leader of the House in the matter of the proposal for adjournment made by Mr. T. V. Seshagiri Ayyar. I propose, therefore, now to take the adjournment for an hour, at the end of which the Honourable Mr. Innes will probably be in a position to give the House the information it desires.

This Assembly now stands adjourned till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock. Mr. President was in the Chair.

The Honourable Mr. C. A. Innes : I fear, Sir, that I must oppose Mr. Seshagiri Ayyar's request for a postponement of this debate.

I find that Mr. Joshi cannot be here till the 12th and that on the 12th Sir Vithaldas Thackersey has to go away for a considerable period. That being so, it is a question whether we are to sacrifice the convenience of Sir Vithaldas Thackersey or the convenience of Mr. Joshi, and seeing that Sir Vithaldas is here and has given notice of several amendments, I do not think that it would be fair in the circumstances if the House acceded to Mr. Seshagiri Ayyar's request. In the circumstances, I hope, that he will withdraw it.

Mr. T. V. Seshagiri Ayyar: I withdraw it.

The motion :

'That the Report of the Joint Committee on the Bill further to amend the Indian Factories Act, 1911, be taken into consideration,'

was adopted.

The motion that clause (1) do stand part of the Bill was adopted.

Sir Vithaldas D. Thackersey: I beg to move :

'That sub-clause (a) of clause 2 of the Bill be deleted.'

It provides that for the word 'fourteen' the word 'fifteen' be substituted in the original Act.'

Section 2 of the original Act runs thus :

'Child' means a person who is under the age of fourteen years,'

and the proposal in the Bill is that 'child' should mean a person who is under the age of fifteen. That is the difference. I have already explained to this House how it would be a hardship on the boys of fifteen and the girls of fifteen if this new clause was passed. I have said that we as mill-owners are not much affected by this change. We do not mind what the House decides. I am putting this solely in the interests of boys of fifteen. I assure you, I have authentic information that if these boys of fifteen are not allowed to work full-time, the workshops would not have them. They can only join workshops at sixteen and for a year they will have to seek other manual labour. I do not know whether in the present industrial development we are right in insisting that these boys of fifteen should be prevented from joining workshops, when all English boys are allowed to join.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : I support Sir Vithaldas Thackersey's amendment. It would be in the interests of the labourers as well as of the capitalists, and it was for this reason that I had already made clear my intention in the beginning as to the proposal. We have to compete with foreign trade and unless we can put our whole strength into the mills it would not be possible for us to compete. Moreover, if there is a labourer who has got a son of, say, fifteen, and if that son gets only half the wage, it means that the family gets only one and a half times. On the other hand, if the boy is allowed to work full-time, the family can double it, and, in this way, they will be richer and happier. On these grounds, I submit, that the amendment is a sound one.

Mr. T. V. Seshagiri Ayyar: I am unable to support the motion made by Sir Vithaldas D. Thackersey. What we have to consider is whether it

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would be in the interests of the boys. It is not a question as to what they desire. The question is as to whether the Government and the mill-owners should not see that these boys do not suffer in after-life by being compelled to work for the full period during their early years. That is the real question we have to consider. The Honourable Member from Allahabad just now referred to the fact that the trade being in its infancy in this country it is likely to suffer if these boys are not allowed to work. That is a fallacious argument. I think we have in this country enough of manual labour and I do not think that the interests of trade are likely to suffer by these boys being regarded as minors. Even as against their own wishes it should be the duty of this House to see that these boys are properly protected. I take it that that is the attitude assumed by Government and I think it is a correct attitude. As far as possible we must see that these boys are not sacrificed to the interests of capitalists. I therefore oppose the motion of Sir Vithaldas Thackersey.

Rao Bahadur C. S. Subrahmanayam (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): It is all very well to say that the object is to protect these boys from being employed in factories, but the question is, what is it that these boys do before they enter the factories. Do they come from communities or from families which can well feed and support these boys at home and allow them to grow healthy and strong. That is not so. They generally belong to poor families and if a boy does not do any work he is not properly fed. So, if you prevent a boy from entering a factory before he is 15, you first deprive the family of a regular means of livelihood. If the boy is to be allowed in some kind of labour till that period, he will be employed in some irregular work and, therefore, the question of raising the age to 15 will not be a safeguard. Let us stick to 14 and leave it there.

Mr. Jannadas Dwarkadas (Bombay City: Non-Muhammadan Urban): I rise, Sir, to oppose the amendment that has been brought forward by my Honourable friend, Sir Vithaldas Thackersey. I appreciate the solicitude that Sir Vithaldas Thackersey, in spite of being a mill-owner, shows for the labourer, but, Sir, even though the labourer demanded that his son should be admitted before the age of 15 as a full-time worker in the factory, I venture to submit, that it is the clear duty of the State to legislate that he shall not do so. Sir, this House is probably aware that so far as Indian labour is concerned, there has been a complaint from all quarters from men who have gone into the question very thoroughly that the life of the Indian labourer is very short. The climatic conditions in India are unfavourable to life in the factory, and if boys are allowed to work inside the factory just at a time when they should grow and are allowed to make themselves machines for producing money for their parents, then, I do not think, there is any wonder that the life period of the Indian labourer should always remain short. I do not think, the boy who certainly should be given an opportunity to grow into a well-built man in the future, should be made a victim either of the ignorance of his parents or of the interests of the capitalists. The clear duty of the State here is to intervene and say, however much the ignorant parent may demand, for the purpose of earning money for himself, that his boy shall be a full-time worker, however much the mill-owner, either because of his solicitude for the ignorant labourer or from the point of view of self-interest demands that the boy should be allowed to work as a full-time

worker, the clear duty of the State, it seems to me, Sir, is to say that the boy shall not be a full-time worker. In admitting boys of this age as full-time workers we are checking their growth. We are preventing them from having the opportunity of living the life outside the factory which shall make it possible for them to breathe the healthy air. We are stunting the growth of the future labourer of this country. I do not think, it is in the interest of the country, that this state of affairs should be allowed to continue. At the same time, the argument that he is prevented from earning a livelihood does not hold water. He is allowed to remain a half-time worker and if my friends, the mill-owners, are solicitous about not depriving the boy of the means of livelihood, they can surely increase the wages in spite of the fact that the boy remains a half-time worker. I should much rather see the solicitude translated into action in this way. Make the boy a half-time worker, increase his wages and, in the hours in which he is free, give him facilities for out-door life and for education which will fit him to be a better citizen. That seems to me to be the proper course for the mill-owners to take. That seems to be the proper translation into action of the solicitude that they have been good enough to show about the well-being of the labouring classes. I submit, Sir, that the Committee has gone thoroughly into this question and they have come by a large majority to the conclusion, that it is not in the interest of the labourer that the boy under 15 should be allowed to work as a full-time worker. I submit, therefore, that the House will throw out the amendment of Sir Vithaldas Thackersey.

Mr. A. C. Chatterjee: I wish to take this opportunity of thanking Sir Vithaldas Thackersey for the general welcome that he has given to the provisions of the Bill. We had some difficulty in both Houses in getting the Convention relating to the minimum age of employment of children passed, but at that time the good sense, the feeling that both Houses have for the interests of the workers and specially of juvenile workers, prevailed and the Resolutions that were placed before this House in February last were passed. The employers have accepted that position, and there has been no serious opposition to the question of raising the minimum age of employment. In the Select Committee, as well as here, opposition has been displayed to the proposal of the Government that the maximum age for half-timers should be raised at the same time. My task has been considerably lightened by my friends, Mr. Seshagiri Ayyar and Mr. Jannadas Dwarkadas, in stating the arguments in favour of the proposal that has been made by Government. I should like to correct one or two statements that were made by Sir Vithaldas Thackersey in his first speech. He said that in England even now a child of 13 is allowed to work if he passes some educational qualifications. That is not true. Under the latest Statute, that of 1920, a child under 14 is absolutely prohibited from undertaking any employment of any kind. There has been some confusion in the minds of Members here regarding the English law.

The definition of a child in England applies to cases where employment is prohibited. The definition of a child in our law applies to cases where work for half-time is allowed. There is no real analogy between the two. I entirely challenge Sir Vithaldas Thackersey's statement that we are going beyond the English law in this matter. The English law even now is and has always been far in advance of Indian law so far as the protection of children goes. As Mr. Jannadas has already pointed out, the main object

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of the Government in framing this proposal was a humanitarian one, and also it was designed to increase the efficiency of Indian labour. It is quite untrue to say, that the labouring classes will not accept this proposal. As a matter of fact only quite recently a meeting of the Trade Union Congress was held at Jharia. I was not in the country at the time, but I have seen an account of the proceedings, and I have seen, at least so far as I can remember, that no protest was made at that Congress or at any meeting of labourers. I know that a very large number of meetings of labourers have been held all over India during the last 12 months since this proposal was adumbrated, and I have seen no opposition to this proposal of Government. On the other hand, I have seen many instances of complete approval of this proposal. Also, Sir, I should like to say that if we always waited for the consent of the labourers or of the capitalists to the protection of women and children, social reform in these directions would never be adopted in any country. I should like to make it clear, that under the existing law, up to the age of 14, a certificate of physical fitness is required before a child is allowed to be employed. As soon as he attains the age of 14, a certificate of physical fitness is no longer required, whereas a boy of 14 or a girl of 14 would, under our proposals, be at once liable to be employed for 11 hours every day. As Mr. Jamnadas has pointed out, we in India suffer from the inefficiency of labour. He has mentioned the short life of the Indian labourer. As a matter of fact, if you go to the mills and factories in India, you will very seldom see anyone above the age of 15 employed. If you go to any factories in any other country of the world, you will see a man up to the age of 60 or 70 employed in these factories. The whole design of this proposal is to secure that these boys will have a shorter period of work during the day and will therefore grow to be healthy labourers, and probably their longevity as workers will be increased, and thereby the capitalists will really benefit instead of suffering. Sir Vithaldas Thackersey has said that we are going beyond the English law. He was a Member of the Factories Commission of 1908, and that Commission, following the English law on the subject, proposed a young persons' class. We have at present no young persons' class in India. In England, there are certain special rules regarding young persons between the ages of 14 and 18. I believe, in Select Committee, at least so far as my recollection goes, a suggestion was made to the Members who represented the employers that we might have a young persons' class. That suggestion was not accepted by the Members representing the employers. Because we have no young persons' class, it therefore behoves us all the more to protect the child just at that age when he or she is growing into a man or a woman. Sir Vithaldas has mentioned the case of girls. He thinks it would be a great hardship for girls of 14 not to be allowed to work full-time. I join issue with him. (A cry of '15'.) We are allowing girls of 15 to work full-time. It is only a question of whether we are to allow a girl of 14 or 15 to work full-time. I entirely join issue with him. As a patriotic Indian, I think it is our duty to see that girls grow sufficiently strong in order to become healthy and capable mothers. We shall not secure that unless we prevent their being worked for 11 hours a day or 10 hours a day just at that age. In England, there exists a young persons' class; it is true that they can work under the law up to a maximum of 55 or 60 hours a week, but Sir Vithaldas is aware that by arrangement between the employers and employes in every

trade in England, and in practice all over Europe, the maximum hours of employment of any man does not exceed more than 48 hours a week and in England it does not exceed more than 44 hours. That is in the case of adults. Children or rather young persons as a rule work much smaller hours, and there are many other restrictions on the employment of young persons,—restrictions relating to simultaneous meal times, restrictions relating to overtime, restrictions relating to dangerous and unhealthy industries. We wanted to make our law fairly simple in order that both employers and the factory inspectors might be able to administer it properly. Therefore, the Government in 1911, when the present Factories Act was passed, deliberately came to the conclusion that a young persons' class was undesirable in this country; and I do not think that employers would thank Sir Vithaldas Thackersey if he now suggests a young persons' class in this country. The employers would suffer just as much as anybody else if a young persons' class was introduced, because the Indian system of shifts would have to be altered, and it would be one system of shifts for children on half-time, another system of shifts for young persons, a third system of shifts for grown-up persons. I do not think, Sir Vithaldas would welcome the proposal for a young persons' class. If we do not have a young persons' class, I think personally that it is essential that the age should be raised from 14 to 15. However, we are in the hands of the Assembly. The Government have made their proposals: it is now for this House to say whether they will protect the interests of these young children, or whether they will leave the age as it is at present at 14.

I may mention one other point, Sir, before I sit down. Sir Vithaldas has referred to a private conversation that he had with me yesterday 3 P.M. as to the reasons why the Washington Conventions regarding hours had not been ratified in England. I gave him my own opinion. That is certainly not an authorised version of the British Government, and I should like that to be made quite clear.

I hope that the House will come to a careful decision in this matter.

Mr. President: The question is:

'That sub-clause (a) of clause 2 of the Bill be deleted'

Sir Vithaldas D. Thackersey: I want to reply to certain points raised in the debate and, I think

Mr. President: The Mover of an amendment has no right of reply.

Sir Vithaldas D. Thackersey: The original proposition

Mr. President: Order, order. The Honourable Member has already had an opportunity of making two speeches virtually on the same subject and has made full use of his opportunity.

The original question was:

'That clause 2, as amended by the Joint Committee, stands part of the Bill.'

Since which an amendment has been moved:

'That sub-clause (a) of clause 2 be deleted.'

The question is:

'That that amendment be made.'

The motion was negatived.

Sir Vithaldas D. Thackersey : Mr. President, I beg to move :

'That at the end of sub-clause (b) of clause 2 of the Bill the following be inserted as clause (c) in the proposed definition of 'Factory,' namely :

(c) Where a place situate within the premises or precincts forming a factory is used solely for some purpose other than the manufacturing process carried on in the factory, that place shall not be deemed to form part of the factory for the purposes of this Act, but shall, if otherwise it would be a factory, be deemed to be a separate factory and be regulated accordingly.'

Mr. President, my reason for putting this amendment is this : in the old Act there was no limit to hours of work for adults. It was only in textile factories that the maximum hours of work was fixed. Now we are introducing the limit of hours of work to 60 hours a week in all factories, and, therefore, it is absolutely necessary in urgent cases to provide for working outside recognized working hours for instance, in jute mills and in some cotton mills it is necessary to empty wagons at once as soon as they arrive or else demurrage is levied ; and sometimes we have to make deliveries on Sundays of bales of cloth or yarn. On other occasions coal is received on Sundays and clerks and gatemen have to attend. For this reason it is absolutely necessary that we should define what the precincts of the factory is. We have not the slightest objection to limiting hours of work to 60 hours a week in the factory ; but if we have a class of work outside the working of the factory which comes into the same category of work which is not limited in other warehouses, we should not be prevented from meeting the convenience of merchants in the delivery of goods, when it arrives outside normal hours. I therefore think it is absolutely necessary that the definition should make this point clear. At the same time it is quite clear that if the other portion is virtually like a factory that portion becomes a separate factory.

Mr. A. C. Chatterjee : Sir, I regret very much that I should have to oppose this proposal also, although I have very great sympathy with Sir Vithaldas' difficulties. But he has given out the real reason for which he wants this amendment to go through. The object is to exempt certain classes of persons who work in a factory from liability to the provisions of the law. I do not think Government can very well support Sir Vithaldas in this proposal. He no doubt has copied the wording of his proposal from section 149 (4) of the English Act. But, in England, every workshop, every factory, no matter what class of work is carried on, no matter what number of persons is there employed, no matter whether power is used or not, becomes a factory. This separate portion of the factory under the Indian Law will have to come under the special provisions of our definition of a factory in order to become a factory ; in our law we are proposing that at least 20 persons should be employed and power should be used in order that a place may be classed as a factory. So that, if power is not used in the portion that will be cut off, it won't come under the definition of a factory. Therefore if Sir Vithaldas' amendment is carried, a large number of people employed within factory precincts who ought to be under the ordinary law under the factory law—and who would not have then to work for more than 60 hours a week and would get many other privileges, would not have any of these privileges. I am afraid, for these reasons, I must oppose this amendment.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 2, 3, 4, 5, 6, 7, 8 and 9 were added to the Bill.

Sir Vithaldas D. Thackersey : Mr. President, I beg to move :

'That in clause 10 of the Bill the following proviso be added to the new section 19-A, proposed to be inserted in the Indian Factories Act, 1911, namely :

'Provided that yards, playgrounds and places open to the public view, school rooms, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this enactment.'

These words also are taken from the English Act. Section 19-A, as introduced by clause 10, provides that :

'Where in the opinion of the Inspector the presence in any factory or any part thereof of children, who, by reason of their age, cannot, under the provisions of this Act, be lawfully employed therein, involves danger to, or injury to the health of, such children, he may serve on the manager of such factory an order in writing prohibiting the admission of such children to the factory or part thereof.'

Now, as we have passed the previous section, 'factory' means the compound also and it will include the school room, the yards, playgrounds. I think if you wish the mill-owners to provide some facilities for children's playgrounds or schools, this definition is absolutely necessary. Otherwise, they shall have to do away with all these facilities which the mill-owners are willing to give to the children.

Mr. A. C. Chatterjee : I regret very much that I have again to oppose this amendment. This clause of the Bill, the new section, 19-A, was framed by Government in deference to the views expressed by the Factory Inspectors employed all over India. They informed us that the largest number of accidents in the mill precincts in which children were concerned arose from tram and rail sidings running inside the factory precincts. No attempt was made to protect these tram and rail sidings, and children ran all over the place and very often met with accidents. As I say, the clause was designed to prevent such accidents. The wording of the clause is very clear. It is only when the Inspector is satisfied that there will be danger or injury to the health of the children that he will pass an order. Surely Sir Vithaldas does not think that the Inspector will pass arbitrary orders. Apart from that, an Inspector's order, which is merely an executive order, is open to appeal under section 50 of the Act. By clause 30 of the amended Bill we have provided that this order will be open to appeal to the Local Government. I hope this explanation will satisfy Sir Vithaldas. If an Inspector passes an arbitrary order, the order will be open to appeal and I hope Sir Vithaldas will not say that the Local Government will also pass arbitrary orders in cases where really no danger is involved to little children.

The motion was negatived.

Clauses 10, 11, 12, 13, 14, 15, 16 and 17 were added to the Bill.

Mr. A. C. Chatterjee : Sir, I beg to move :

'That in clause 18 of the Bill as amended by the Joint Committee for sub-section (3) of the proposed new section 30 the following shall be substituted, namely :

'(3) In such circumstances and subject to such conditions as may be prescribed, nothing in section 21 of section 22 shall apply to work on urgent repairs.'

[Mr. A. C. Chatterjee.]

It has been brought to our notice, Sir, that the wording of sub-section (3), as amended by the Joint Committee, is liable to be misunderstood. We understood that the object of the Joint Committee was to allow a special privilege in the case of urgent repairs that might be necessary anywhere, but, as a matter of fact, the words used have been 'urgent repairs executed in any factory.' It has been brought to our notice that this will prevent urgent repairs being executed, say to a ship which has just come into port, or to a railway engine, or anything of that sort, and so we thought that a little re-drafting was desirable. At the same time we thought that it would be better, if we were extending the privilege to work of urgent repairs everywhere, that we should allow the Local Governments to give this privilege subject to such conditions as they may prescribe. We also found that if we made this slight addition, it might enable the Government of India and the Indian Legislature to ratify, when the time comes for ratification, the Convention passed at the recent International Labour Conference held in Geneva with regard to the weekly day of rest. The Government of India have not yet received a copy of that draft Convention in a formal manner, and the question has not yet been fully considered, but we thought that if this slight alteration, which I think will meet Sir Vithaldas Thackersey's desire, were made, it might be possible to ratify the Convention if the Legislature and the Government of India thought fit to do so on general merits. We also think this amendment is desirable on its own merits, irrespective of any consideration of the Convention passed at Geneva.

I therefore beg to propose that this amendment be made in the Bill.

Sir Vithaldas D. Thackersey : Sir, there is a further amendment which I wish to make to this section. I accept the words introduced by my Honourable friend, Mr. Chatterjee. I propose :

'That for the words 'in section 21 or section 22' the words 'in section 21, 22, 27 or 28' be substituted.'

As was explained by my Honourable friend, this section is provided for repairs of an urgent character and it may be necessary to relax the restrictions imposed by sections 27 and 28 in respect of the limitation of work to 11 hours per day. It may happen that at the end of the day or the middle of the day urgent repairs may be called for and we may have to employ a man a couple of hours longer in order to complete the repairs. Therefore I propose that sections 27 and 28 be added to sections 21 and 22.

Mr. President : Does the Honourable Member move that as an addition to Mr. Chatterjee's amendment ?

Sir Vithaldas D. Thackersey : Yes, Sir.

Mr. President : The question is :

'That the words '27 or 28' be inserted after the word '22' in the amendment, standing on the paper.'

Mr. A. C. Chatterjee : I will accept that amendment to my amendment.

The motion was adopted.

Mr. President : The question is :

'That in clause 18 of the Bill, as amended by the Joint Committee, for sub-section (3) of the proposed new section 30 the following be substituted, namely :

'(3) In such circumstances and subject to such conditions as may be prescribed nothing in sections 21, 22, 27 or 28 shall apply to work on urgent repairs.'

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Clauses 19 and 20 were added to the Bill.

Mr. A. C. Chatterjee : Sir, I beg to move :

'That to clause 21 of the Bill, as amended by the Joint Committee, the following be added, namely :

'(c) after clause (d) of sub-section (1) the following shall be inserted, namely :

'(e) the weekly holidays fixed under section 22.'

This was really, Sir, an oversight on the part of the Government. When the Select Committee altered section 13 of the Bill and went back to the old provision of the existing Act regarding the weekly rest day we ought to have made this further consequential change, because it is desirable—and I understand it is also the practice in all factories—to post up the days which are going to be observed as rest days. But, I am sorry, Sir, that I forgot to suggest this at the moment and so I am proposing this amendment. This will also enable us to comply with all the provisions of the Draft Convention passed at Geneva regarding the weekly rest day. As I have already said, the Government of India have not really considered those Conventions but if we make this alteration, to which I do not think anybody will take exception, it will comply with all the technical requirements of that draft Convention ; and as I have said already, this proposal is desirable on its own merits and I believe it only embodies in law the actual practice observed in all factories.

Sir Vithaldas D. Thackersey : Sir, I have no objection to accept the amendment proposed, but I want to make one or two points clear. It is our practice to put up a notice board in the office or at the gate of the weekly holidays. At the same time, this holiday is liable to change. We may have to change that day and we give some times a day's notice or two days' notice to the Inspector that we are changing the day to such and such date. Will this amendment prevent us from following the present practice ? It will be very hard on us when we have once fixed a day not to be able to change it afterwards.

Mr. A. C. Chatterjee : I do not think, Sir, that under the Act as it stands at present—section 36 of the Act—what Sir Vithaldas wants will be contrary to the law ; but, Sir, I cannot say what the Courts will determine later on. I think my Honourable friend, the Law Member, will be able to give better advice. Personally I think there will be no objection at all, so far as I can judge the law.

Sir Vithaldas D. Thackersey : As Members of this House we must surely know the result of any particular amendment we may pass in law. We the mill-owners are quite willing that a notice be put up in the office or at the gate telling the hands what the holidays will be. At the same time, under the existing Act, we have the power and the facility, in case of accident when the mill may have to be closed on some other day, or in case the Lands desire

[Sir Vithaldas D. Thackersey.]

to fix some other day, or in the case of Muhammadan holidays when we do not know ahead on what day it will fall on—at present we can and do change the notice and inform the Inspector of the change. The whole object of this is that the Inspector should know when we are closing so that he may inspect the place. That is absolutely observed under the present practice. If we are now going to be bound down to any dates we may fix beforehand, I would oppose this amendment. The Honourable Member in charge of the Bill says, he is not sure of the result of this amendment. I do not think any Member of this House will accept the position that we do not know what the result of any particular amendment might be in law.

Mr. A. C. Chatterjee : I do not think, Sir, that Sir Vithaldas' apprehensions are at all well founded. I do not think, there will be any objection to his making any alterations in the dates fixed for holidays. The section, as it stands, does not prescribe that these notices must be posted up a month or a year beforehand. The object is, that some notice should be posted up. That is all that the section says.

Mr. President : The question is :

'That to clause 21 of the Bill, as amended by the Joint Committee, the following be added, namely :

'(c) after clause (d) of sub-section (1) the following shall be inserted, namely :

'(e) the weekly holidays fixed under section 22 "

The motion was adopted.

Mr. President : The question is :

'That clause 21, as amended, stand part of the Bill.'

The motion was adopted.

Clauses 22, 23, 24, 25, 26 and 27 were added to the Bill.

Sir Vithaldas D. Thackersey : Mr. President, I have given notice of two amendments. If the first is passed, it will not be necessary to move the second. If the first is not passed, it will be necessary to move the second. The first amendment is 'that clause 28 be deleted'. Now, clause 28 of this Bill runs as follows :

'For section 46 of the said Act, the following section shall be substituted, namely :

'46. If a child over the age of six years is found in any factory or within the precincts thereof, he shall, until the contrary is proved, be deemed to be employed in the factory.'

The burden is thrown on the Managers to prove that the child was not working in the factory. While there was not the slightest objection to accepting that burden, so long as the factory meant the factory proper, we are now bringing within our proposal schools, playgrounds, etc. We do not know what the result of this new clause will be. The original section 46 was quite clear on this point when the burden was thrown on us, it ran thus :

'If a child over the age of 6 years is found inside any room or part of a factory in which room or part children are employed and in which any manufacturing process or work incidental to any manufacturing process is being carried on, he shall, until the contrary is proved, be deemed to be employed in the factory.'

That was quite all right and we were prepared to take that responsibility. Now it is said that the Inspectors have represented to Government that children run away into the yards, etc., and they were not able to prove that they were working. I don't say that it never happens. It may happen sometimes. But it is a ridiculous proposition that a boy found in a school room, or in the yard should be deemed to be employed in the factory. Such a boy may bring food for his father, and everybody knows that these men sometimes have no food before they begin work, their children bring them food afterwards. We can only comply with this section, the Inspector shuts his eyes to the law. Do you wish that the law should be broken every day? It has been said that the Inspector ought to be reasonable. They are more often reasonable than not. But we have seen cases when the Inspector has not been reasonable. To ask this Assembly to frame a law which will every day be broken, which is broken to-day and will be broken to-morrow is a position that we ought not to accept. Therefore I move that the original section 46 be retained.

Mr. Jamnadas Dwarkadas : Sir, I oppose the amendment moved by Sir Vithaldas Thackersey. If I understand it aright, his amendment aims at the deletion of the clause as proposed by the Joint Committee and to keep the clause as it was originally under the Act of 1911.

That is the amendment, I take it. Sir, this question was thoroughly discussed by the Select Committee and the Select Committee by a large majority came to the conclusion, that it was necessary to alter the clause and as a result of the discussion the clause, as it stands now in the amended Bill, was proposed. Sir, the Select Committee, the majority of the Select Committee at any rate, thought that the clause as it stood in the original Act provided a loop-hole, and a temptation, and in most cases it was the experience of the factory Inspectors that mill owners employed boys who were over the age of 6 and when the Inspector went into the precincts of the factory the boy was sent out into the yard or play-ground or whatever the case may be. The reason why the Committee thought it proper to alter the clause was, that they did not want to provide any loop-hole for the mill-owner; nor did they want to provide any temptation for the parents of those children, to use their children as money-making machines at the cost of the health and growth of those poor children. Sir Vithaldas points out that it will entail a hardship on the labourers in the factory because in Indian factories boys over the age of 6 take food for their parents; well, Sir, I have no hesitation in saying that if the necessity for the boys taking food for their parents is likely to be exploited by the mill-owners or by their parents in some cases to use those boys as workers in the factory, I would rather that those boys over the age of 6 who ought to be either in their homes or in the schools should not carry food for their parents. However, the duty of the Legislature, I think, is clear on the point. Everything that tends to the exploitation of boys over the age of 6 for the purposes either of the mill-owners or their greedy parents should be avoided by the Government, should be discouraged by the Government, and it was with this intention that the Committee provided that this clause should be substituted in place of the original clause which provided a loop-hole for the mill-owners and a temptation for the parents at the cost, as I said, of the health and growth of these poor innocent children. I hope, therefore, the House will reject the amendment.

Mr. T. V. Seshagiri Ayyar: Sir, I think a word of explanation is necessary in regard to this extraordinary provision. Of course it is to a certain extent going against the ordinary principle of law that a person who has been accused shall not be asked to prove that he is not guilty. This was a matter which was very seriously discussed, and I with hesitation consented, but not for the reasons which have been given by Mr. Jamnadas Dwarkadas. I agreed to this on this ground: it was mentioned to me that it was almost impossible for the Inspector to adduce *prima facie* evidence whether a boy is employed in a factory or not; whereas it would be easy for the mill-owner by producing books to show that the boy was not employed; it was the easiest possible thing to do and, therefore, I with some hesitation agreed to this provision being made because I thought it was a question of the burden of proof after all, and the burden of proof must be on the person who can easily prove it, and in this particular case it could very easily be proved by the mill-owner producing his books and showing that the name of the boy was not on it.

It is for that reason that I agreed that this clause should be inserted, and I hope that that reason would appeal to the House.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, I am very glad that Mr. Seshagiri Ayyar has given some explanation as to why what he properly calls this extraordinary provision has been incorporated. Looking at the report of the Select Committee and the Minutes of Dissent I could not get any light. I am not convinced that what Mr. Seshagiri Ayyar or Mr. Jamnadas Dwarkadas has said would answer the requirements of the case. I hope no one will take me to be a friend of mill-owners wanting to oppose advance labour legislation; and of course within reasonable bounds, I am all the other way. At the same time, Sir, I feel that unless facilities like those which Sir Vithaldas Thackersey's amendment proposes are provided, labour will be really at a disadvantage, and the growth of child life in which we are all so rightly interested, will suffer. Mr. Jamnadas speaks of their being at home. He might have added about their being at school. But he knows as well as I and many Indian Members here do, that the average labourer has no 'home' to speak of in the proper sense of the term. The father and mother will be both away, and the children generally be left to themselves. I quite sympathise with Mr. Jamnadas that if the parents cannot otherwise arrange for their food being brought to their factories, they well deserve to do without it. But that is not all. I have seen in some mills, I know that infants in arms are brought by the mothers and are left in charge of children older than six years of age as there is no other place to leave them in. I have also seen in schools provided by the mills children who are not and cannot be employed in the mills taking part in the lessons in those schools. Sometimes the schools are outside the factory limits. There of course the question does not arise, but all factories have not equal accommodation and the schools are oftener than not within the factory limits. In those cases there will be a very great hardship, and the father or mother who had to work and nobody with whom to leave these children would be at a real disadvantage on the question of burdens of proof. Mr. Seshagiri Ayyar has suggested that the production of the books by the mill-owner that the children are not employed would be ample answer. Well, an employer who is unscrupulous enough to exploit child labour can well falsify the books and child labour may be employed without its being shown on the books. Therefore, you

can never provide against abuse. You have got to take things as they are. The normal Indian labour life is not ideal. I do not know what the ideal elsewhere is, but we do know that very great hardships would occur if it is not allowed for children to be brought in or sent to mill schools or allowed in the playgrounds or yards. We have not heard any facts adduced in support of the change. Of course we have the opinion of the Members of the Select Committee and I am sure we attach proper importance to it, but very convincing facts have to be adduced before a change is necessary in ten years with regard to this particular section of the enactment which has not so far failed to answer its purpose.

With regard to clause 10. of the Bill in connection with which Sir Vithaldas moved an amendment, Mr. Chatterjee pointed out that the Inspector would have to pass an order which would be open to appeal. There the safeguard is reasonable, but here there is or can be no such safeguard. On the other hand, the un-British method of imposing the proof of burden on the employer is resorted to and the way on which it is suggested that one should discharge that burden is open to abuse as much as the employment of infant labour. If a loop-hole or temptation is too great for the employer in one direction, it will be too great also in the other direction. It seems, therefore, that we shall loose nothing by letting the sections stand as it is till at least more convincing facts are forthcoming.

Mr. R. A. Spence (Bombay : European) : Mr. President, I desire to support the amendment moved by my Honourable friend, Sir Vithaldas Thackersey. I have listened with interest to the speech which has just been given by Sir Deva Prasad Sarvadhikary who has put to the Assembly the reasons which I had for supporting the amendment. If Honourable Members will turn to the minutes of dissent, they will see that four Members who were on that Committee, all of whom have a very good knowledge of factory conditions, are all in favour of the retention of the old clause and are against the present clause. Honourable Members will also see that Sir Alexander Murray, Sir Vithaldas Thackersey, Sir Maneckji Dadabhoy and Mr. Lalubhoj Samaldas all specially go against the clause.

Mr. Jamnadas Dwarkadas says 'naturally', but those four gentlemen do know something about the conditions which affect the working people, and I maintain with Sir Deva Prasad that the inclusion of this clause will certainly do more harm than good to the labourers. We all know that children go to the factories with their parents. We all know that sometimes the children are left in or near the factories and the necessity there is that they should be properly looked after, and they are more often than not by elder children, and we all know, also, in a great number of cases that the yards of factories are better places for the children to be in than their own homes. I would ask my Honourable friend, Mr. Jamnadas Dwarkadas, who comes from Bombay, how, during the strikes in Bombay two years ago when cholera spread all over the place, it was that the disease spread so rapidly. It was because of the strikes, because the people were not able to work in their factories which were sanitary. It was because they were in their own homes where there were no sanitary conditions that cholera spread. I think Mr. Jamnadas Dwarkadas is probably aware, on this particular point in regard to the amendment before the House, that the Bombay Government agrees with the views expressed by Sir Vithaldas Thackersey, and I would ask the House to accept the amendment proposed by Sir Vithaldas.

Mr. President: I would suggest to the Honourable Member that it would be more convenient if he moved the amendment to clause 28. He will have an opportunity of voting against clause 28 itself when I put the clause at the end of the debate. Standing Order 33 precludes a Member from moving a merely negative motion of this character. I therefore think it would be more convenient if he would move the amendment which he proposes to add.

Sir Vithaldas D. Thackersey: Then, Sir, my amendment would take this form

Mr. President: I put from the Chair the question, that the clause do stand part of the Bill, but I think it would be more convenient if the Honourable Member would move the amendment standing in his name and after that he would still be free to vote against the clause.

Mr. Jamnadas Dwarkadas: There is one difficulty in adopting your course, Sir. In bringing forward my arguments on the amendment moved by Sir Vithaldas Thackersey, I restricted myself to the amendment for deletion of clause 28 and the substitution of the clause as it stood in the original Act. If the clause had been moved as you, Sir, now suggest, I should have certainly taken up arguments which Sir Vithaldas Thackersey was likely to advance. I therefore hope that the amendment for deletion will be dealt with first and then the new amendment taken afterwards.

Mr. President: If the new amendment is taken first and got out of the way, we can get back to the main question. I omitted to point out to the House that Standing Order 33, sub-section (2) says :

‘That an amendment may not be moved which has merely the effect of a negative vote.’

It is therefore unnecessary to put from the Chair the motion that the clause be deleted.

Mr. Jamnadas Dwarkadas: May I, Sir, then ask if we shall be given another opportunity of speaking if the new amendment is moved?

Mr. President: In so far as the new amendment raises a substantially different point, it seems to me a more restricted version of the same point.

Sir Vithaldas D. Thackersey: Mr. President, I beg to move :

‘That to clause 28 of the Bill the following proviso be added, namely.’

‘Provided that yards, playgrounds and places open to the public view, school rooms, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this enactment.’

I explained in my speech the object of the first amendment. The second amendment was necessary because in case the House thinks that we should not give greater latitude we are restricting it only to those children not found in these places.

As has been pointed by previous speakers with a knowledge of law, it would be very dangerous to presume the Manager to be guilty and throw the burden of proof on him. My amendment provides that such a responsibility should not be thrown on him. The House will agree that before putting such a great responsibility on the Managers which is against the common law of the country, greater precautions are necessary than proposed in other

sections. As we know, every day children come to factories and they will continue to come. What we want to see is that the law should not be broken but that we should protect the children in a proper way. The Bombay Government themselves approve of the original section.

Mr. President : The original question was :

'That clause 28 stand part of the Bill'.

Since which an amendment has been moved :

'That in clause 28 of the Bill the following proviso be added, namely :

'Provided that yards, playgrounds and places open to the public view, school rooms, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this enactment'.

Mr. A. C. Chatterjee : Sir, speakers who have preceded me have already given the House the genesis of this proposal. It was pointed out to Government by factory Inspectors that the existing provision of the law was practically ineffective. Where a mill-owner or a factory owner or a Manager was contravening the law, then, as soon as the factory Inspector approached the gate of his factory, he sent word and all the children who were working in the work room were sent to the yard or the compound and the factory Inspector found it absolutely impossible to prove that that child or children were actually working and were not merely playing about the grounds of the factory. If you are going to protect the children, it is necessary that the burden of proof should be placed on the person in whose premises the children are found. I do not think Sir Vithaldas is right when he says that the law would be broken every day. As a matter of fact, the factory Inspector would have to satisfy himself that the children were really working in the factory before he initiated the prosecution. If he does not initiate the prosecution after satisfying himself that the children were in the grounds merely for the purpose of playing or because they were carrying food to their parents, I do not think there would be any breach of the law. It is only a question of evidence and not of a breach of the law, so far as I understand the provision. The Government do not go as far as Mr. Jamnadas. We do not object to children carrying food to their parents when the parents are working in factories. Sir Deva Prasad has mentioned the case of infants in arms. Infants in arms are already provided for in the Bill.

Sir Deva Prasad Sarvadhikary : I was referring to children who were there to be looked after by the older children.

Mr. A. C. Chatterjee : Well, the infants in arms can be looked after by the older children just as well outside the factory as inside. I do not see any necessity for infants in arms being taken inside a factory to be looked after. They will be in close proximity to very dangerous machinery there. They would be much better off at home even if they lived in the most insanitary chauls in which they appear to live in the advanced Presidency of Bombay.

The real safeguard is, that the Government assumes that the Act will be administered in a reasonable manner by Factory Inspectors. In England the common informer may initiate a prosecution under the Factories and Workshops Act. In India, we have a special provision under the Act that no complaint is to be instituted or is to be taken cognisance of by a Court except with the previous sanction of the Inspector. The Inspector is subordinate to the

[Mr. A. C. Chatterjee.]

Local Government. We assume that the Inspector will act in a reasonable manner. No Inspector would really be able to carry on his duties if he acts in a dishonest manner and sets all the employers against him and initiates prosecutions when there is no real and reasonable ground for a prosecution. That is the real safeguard in these provisions. I have given the reasons which impelled the Government to frame these provisions and it is now for the House to decide whether they will protect the children by having a special provision or leave the provision as it stands at present. We would much rather stick to the existing provision under the Act than have the amendment which has been proposed by Sir Vithaldas Thackersey.

Mr. B. A. Spence: Mr. President, might we have for the information of the House the knowledge from Mr. Chatterjee as to whether this amendment proposed by the Honourable Sir Vithaldas Thackersey is not the same as the law in England, and if it is, why the Government of India should object to this amendment?

Mr. A. C. Chatterjee: Sir, I have already explained that in England the common informer may prosecute. In India only the factory Inspector can prosecute. The cases are quite different.

Sir Deva Prasad Sarvadhikary: Sir, I am afraid Mr. Chatterjee has not on this occasion spoken in his usually convincing manner. It is no answer to the argument that this amendment is copied exactly from the English enactment, and if anything it supports and does not weaken Sir Vithaldas' position what he said with regard to the common informer is not very helpful in a country where the informer is common and may often find the Inspector wrong. Let us not forget that in England, we have the great safeguard, the great assistance, of having schools to which these children not may but must go. Furthermore, if the factory Manager is enterprising enough to be able to get early information and send out the children to the yard, what is there to prevent him from sending them out to the street?

Mr. A. C. Chatterjee: It is easier perhaps to send them to the yard. The factory Inspector will be at the gate. He will see the children going out.

Sir Deva Prasad Sarvadhikary: If there is only one gate to the factory, then the factory is not worth the name. They are mostly a sort of rabbit warren like the Secretariat buildings here where the children can troop out on the approach of the factory Inspector to the back alley as well as to the play ground. But that is not the whole question. In a country where we have absolutely no arrangement for the schooling of children, where the labourer's 'home' exists only in imagination and is a scandal and I have not heard that challenged by Mr. Chatterjee or by Mr. Jamnadas Dwarkadas who may be following me and telling the Assembly that the housing arrangement of the labourer is much better than I am depicting to myself, the question so strongly urged by Mr. Chatterjee did not arise. But even in England, where all the facilities that civilisation has been able to think of in the way of looking after children and labourer has been provided, conditions are anything but perfect and are everyday leading to enormous troubles. Let us not forget, Sir, that the joint family life is breaking up in India. The labourers like—I won't say his betters, but like—other people suffer from

this disability, that either the father or the mother by themselves constitute the family, and there is hardly any other member who can look after the children. Then, with regard to the infant in arms, a variety of things has to be done than merely looking after them at home. The mother may have to travel more than once a day a mile or a couple of miles to go and look after the infant in more sense than one and that is not good for her health or for efficiency. But if the infant is close by and in charge of other older children who themselves will be kept out of mischief, I think a great deal of the assurance will be provided for the mother or the father as the case may be and they and the children will live under happier circumstances. You must deal with facts and circumstances as you find them and which cannot be changed merely for the asking. After all, there is such a thing as killing even labour by kindness and you can deal with no question in a detached, isolated and ideal way when it is part of a big organic whole.

In view of some of these considerations it strikes me that even if the Resolution for deletion of the proposed section is not agreed to, the second amendment with all the safeguards ought to be accepted by this Assembly.

The Honourable Mr. C. A. Innes: I think, if I may venture to say so, Sir Deva Prasad Sarvadhikary has tried to lead the House off on a side issue. He has advanced against the amendment proposed by the Joint Committee the argument that if the amendment is carried children will not be able to enter into the factory in order to carry food to their fathers or mothers in the factory. (*Sir Deva Prasad Sarvadhikary:* That is not all that I have urged.) His object is, as I understand it, to protect the interests of the children. Now, the whole object of this section is precisely that. We are out in this section to safeguard the children of India. We have just raised the age from 9 to 12 and our object is to prevent children under the age of 12 from being improperly employed in factories. That is the point which the House has got to keep in mind. We have got this section 46 in the existing Act. The Act has been in force for many years and it has been proved to us by experience that the section does not carry out the object for which it was intended. Our experience as gained by the factory Inspectors, and mind you, our factory Inspectors are responsible men,—the experience gained by our factory Inspectors throughout India is that the section is insufficient as it stands. 'All managers who go in for the infringement of the children's regulations have spies stationed at convenient distances to warn off the children..... The news of the Inspector's arrival is the signal for uncertified children to dash into the compound so that the Inspector finds small boys standing about the compound.'

That is the thing we want to put down. We admit that the remedy is a drastic one, but we think we are right in proposing it. We recognise that there is a great deal to be said for Sir Vithaldas Thackersey and also for Sir Deva Prasad Sarvadhikary, and we are quite prepared to leave the decision to the House. All we think is that though we admit the dangers not that I admit that the dangers are very great, it is the right course to adopt, still it is a matter for the House to decide. All I would say is that if the House wishes to make any change it would be very much better not to accept this particular amendment but to let the existing section in the Act stand.

Mr. Jannadas Dwarkadas: Sir, I entirely agree with my Honourable friend, Mr. Innes, that the remedy suggested for the evil is drastic in character,

[Mr. Jamnadas Dwarkadas.]

but when there are two evils presented, I should choose the lesser of the two evils and I should rather risk the drastic character of the remedy than leave the poor children of India at the mercy of either, the mill-owner or of their greedy parents. Sir Vithaldas Thackersey has pointed out, that if the clause, as suggested by the Joint Committee, were agreed to by the House, then the people of India would no longer complain that the mill-owners did not provide schools and playgrounds for the children of the employees. I want to ask Sir Vithaldas if he can tell me of any mills in Bombay which provide school rooms and playgrounds within the limits of the factory. (Sir Vithaldas Thackersey: I am sorry I have no right of reply, otherwise I would have given a reply.) At any rate, to my knowledge, there are very few mills where playgrounds and school rooms are provided within the limits of the factories. But, apart from that, if my Honourable friend, Mr. Joshi, had been here, perhaps he would have said, in reply to Sir Vithaldas' argument, that we can no longer agree to the mill-owners providing schools and playgrounds within the limits of the factory, in the first place because we do not want the children to grow in the unhealthy atmosphere of the factory.

Rather than contributing to their growth, it contributes to their decay.

4 P.M.

At the same time, we also think that the day is past when the mill-owner can continue to have his hold over the children of his employees by, if I may venture to say so, these kinds of bribes offered to the children of the employee. There are two ways of making people slaves. You may either kick them and when the child has reached the stage when kicking is no longer tolerated, you pat it on the back and make it a slave. The provision of school rooms and playgrounds within the limits of the factory is a thing which is objected to on that ground in principle. The provision of school rooms and playgrounds is the duty of the State and the State can do it by compelling the mill-owners to provide money for it. I should therefore recommend that this House should not encourage the practice of mill-owners making perpetual slaves of their would-be labourers. There is one more point that I should like to put before this House. Mr. Innes has clearly pointed out that the object of this clause is to protect the children of India. The clause, as it existed in the original Act, has proved absolutely ineffective. In favour of that we have the experience of the factory Inspectors who have told us repeatedly that the object of the Act is not carried out.

Sir Vithaldas D. Thackersey: What about the Bombay Government?

Mr. Jamnadas Dwarkadas: I know that the Bombay Government adduces the argument that the clause should remain as provided in the original Act. I beg leave to differ from the opinion of the Bombay Government on this question. I am just answering the arguments brought forward by my Honourable friends, Sir Vithaldas D. Thackersey and Sir Deva Prasad Sarvadhikary. The argument adduced that in Bombay the housing arrangements are not good and therefore at present the clause should not be substituted does not hold much water. If the housing arrangements are not good, let the housing arrangements be made much better than they are. The housing arrangements for the labourers in Bombay are a scandal and we do not want that scandal to continue for a minute longer if we can help it. The argument for continuing an Act which would encourage the continuation of the same housing arrangement is, to my mind, arguing in a way which I fail

to understand. The vicious circle will go on increasing and there will be no end to it. I think the remedy suggested by the Committee although it is drastic should be adopted by the House so that the necessity for children remaining outside the House will awaken labourers to the need for demanding better housing arrangements and once the labourers demand them I do not think that the mill-owners or the Government can afford not to give them better houses. I submit that for the protection of the children of India and for the welfare and future well being of labour in India it is entirely necessary that the clause, as suggested by the Committee, should be substituted for the original clause.

Rai D. C. Barua Bahadur (Assam Valley : Non-Muhammadan) : Sir, I beg to submit that under no system of jurisprudence does the burden of proof rest on the accused person except in very exceptional circumstances. Now here, although provision has been made for the protection of children by prohibiting the employment of children under a certain age and by regulating their employment in particular ways, no sort of system can do that fully, and perfection cannot be contemplated by the introduction of the proposed provision under review. So it is not desirable in any circumstances that this clause should be retained. Then, Sir, some remark has been made to find certain rooms for the school or waiting room or refreshment room for the children, but it will be a very difficult affair to find such rooms in factories where the area occupied is a very large one, such as tea factories and indigo factories. So when all the facts are taken into consideration and there are rules enough within the provisions of this proposed Bill for the inclusion of tea factories and indigo factories, provision should be made so that those factories or those concerns may not be put to any serious difficulty by the introduction, I mean by the inclusion of those factories in the provisions of this Act. So taking all these circumstances into consideration, I think the proposed clause should be deleted, and that the old law should continue as before.

Mr. President : The question is :

‘That to clause 28 of the Bill the following proviso be added, namely :

‘Provided that yards, playgrounds and places open to the public view, school rooms, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this enactment.’

Sir Vithaldas D. Thackersey : I should like to make one explanation. If the Honourable Member in charge of the Bill will agree to retain the present section 46, I have no wish to press for the second amendment, and shall be perfectly satisfied if the old clause 46 is retained and the new clause is omitted.

Mr. A. C. Chatterjee : I regret, Sir, I cannot give any such undertaking.

Mr. President : The original question was :

‘That clause 28 be added to the Bill.’

Since which an amendment has been moved :

'That to clause 23 the following proviso be added, namely.'

'Provided that yards, playgrounds and places open to the public view, school rooms, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this enactment.'

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—27.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Agarwala, Lala G. L.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Chaudhuri, Mr. J.
Dass, Pandit R. K.
Gulab Singh, Sardar.
Habibullah, Mr. Muhammad.
Man Singh, Bhai.
Misra, Mr. P. L.
Muhammad Ismail, Mr. S.

Nag, Mr. G. C.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Reddi, Mr. M. K.
Renouf, Mr. W. C.
Sarvadhikary, Sir Deva Prasad.
Singh, Babu B. P.
Sohan Lal, Bakshi.
Spence, Mr. R. A.
Subrahmanyam, Mr. C. S.
Thackersey, Sir Vithaldas D.
Vishindas, Mr. H.
Zahir-ud-din Ahmed, Mr.

NOES—14.

Akram Hussain, Prince A. M. M.
Ayyar, Mr. T. V. Seshagiri.
Bradley-Birt, Mr. F. B.
Chatterjee, Mr. A. C.
Dentith, Mr. A. W.
Hailey, the Honourable Sir Malcolm.
Innes, the Honourable Mr. C. A.

Iswar Saran, Munshi.
Jamnadas Dwarkadas, Mr.
Kabraji, Mr. J. K. N.
Mukherjee, Mr. J. N.
Rangachariar, Mr. T.
Sapru, the Honourable Dr. T. B.
Wajid Hussain, Chandhri.

The motion was adopted.

Mr. President : The question is that clause 28, as amended, do stand part of the Bill.

The Honourable Mr. C. A. Innes : Sir, I think that it would meet both the employers and certainly Government if the clause, as now amended, were suppressed and if the original section of the Act, section 46 of the Factory Act of 1911, were allowed to stand. I think that Sir Vithaldas will support me in saying that that will be more satisfactory both to employers and to the Government; and if there is no objection and if Sir Vithaldas is willing to agree, I wish to press that solution for the consideration of the House.

Sir Vithaldas D. Thackersey : Mr. President, I expressed my view in the very beginning that if Government gave an undertaking to retain the original section 46, I would not press my second amendment.

Mr. President : The question is :

'That the clause, as amended, do stand part of the Bill.'

The motion was negatived.

Sir Vithaldas D. Thackersey : I understood that Mr. Innes' suggestion to retain the original section 46 is accepted.

Mr. President : The effect of the decision of the House to-day is to remove the clause from this Bill and therefore to leave the clause of the original Act where it stands.

The question is :

'That clause 29 of the Bill, as amended by the Joint Committee, do stand part of the Bill.'

The motion was adopted.

Mr. President : The question is :

'That clauses 30, 31 and 32 of the Bill, as amended by the Joint Committee, do stand part of the Bill.'

The motion was adopted.

Mr. President : The question is :

'That clauses 33 and 34 do stand part of the Bill.'

The motion was adopted.

Mr. President : *Schedule I.*—The question is :

'That this be Schedule I of the Bill.'

The motion was adopted.

Mr. President : *Schedule II.*—The question is :

'That this be the second Schedule of the Bill.'

The motion was adopted.

Mr. President : The question is :

'That this be the preamble of the Bill.'

The motion was adopted.

Mr. A. C. Chatterjee : It may be convenient to the House, and, if there is no objection to it, I should like to move, with your permission :

That the Bill, as amended by the Joint Committee and as amended now by the House, be passed.'

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 11th January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 11th JANUARY, 1922

Vol. II—No. 14

OFFICIAL REPORT



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DELHI
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1922

Price Eight Annas

LEGISLATIVE ASSEMBLY.

Wednesday, 11th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

STATEMENTS LAID ON THE TABLE.

The Honourable Mr. C. A. Innes (Commerce and Industries Member):
Sir, I lay on the table the information promised in reply* to a question by
Mr. J. Chaudhuri, on the 30th September, 1921, regarding the exodus of
coolies from the tea gardens in Assam.

(a) Most of these questions might more usefully have been put in the Assam Legislative Council, and the Government of India are not able fully to answer them. But I give below as much information as possible.

The Government of India of course were kept in close touch with the facts of the exodus from the Surma and Chargola Valleys, and were kept by the Local Governments concerned constantly informed as to the progress of events. When Sir Thomas Holland visited Calcutta in June last, the Government of India asked the Local Governments concerned to send representatives to meet him in order that co-ordinated action might be taken in arranging for the repatriation of labourers who had left Assam. The Honourable Sir William Vincent visited Assam in order to discuss with the Local Government the political situation arising out of the exodus. The reports of both Sir Thomas Holland and the Home Member were in the nature of notes on the file and cannot be published.

(b) The Honourable Member is apparently not aware of the true facts. Section 153 of the Assam Labour and Emigration Act empowers the Local Government in certain circumstances to cancel labour contracts executed under the Act. But the provisions of the Act relating to the execution of labour contracts were withdrawn from the 1st July, 1915.

(c) The Honourable Member is referred to the Press Communiqué issued by the Government of Assam in which the question is fully discussed.

(d) As has already been stated, the provisions of the Act relating to the execution of labour contracts were withdrawn from July 1915.

(e) The Honourable Member is referred to paragraph 4 of the Press Communiqué of the Government of Assam.

(f) Yes.

(g) No such provision exists in the law nor is any amendment of the law on these lines contemplated.

(h) Yes, for the reasons explained in paragraph 7 of their Press Communiqué.

(i) The cost of repatriating the Mahajarins of the North-West Frontier Province was met from Provincial funds and amounted to Rs. 77,379.

(j) The question assumes that the labourers are not able to obtain a living wage, and the Government of India do not admit that this assumption is correct. It is believed, however, that the whole question of wages of tea garden labourers is under the consideration of the Local Government.

(k) The present constitution of the Assam Labour Board is laid down in section 116-A, clauses (1) to (5) of the Assam Labour and Emigration Act as amended in 1915. The answer to the last part of the question is in the affirmative.

* *Vide Legislative Assembly Debates, Volume II, page 1296.*

[Mr. C. A. Innes.]

(l) As I have already pointed out, all the provisions of the Act relating to labour contracts have been withdrawn.

(m) The question is one for the Local Government and is already under their consideration. They will be furnished with a copy of this question and answer.

The Honourable Sir William Vincent (Home Member) : Sir, I lay on the table a statement giving the information promised in reply* to a question by Mr. K. Ahmed, on the 30th September, 1921, regarding the average salary of officers of the Indian Civil Service in 1911 and 1921.

Statement showing the average salary of officers (on duty) of the Indian Civil Service of 5, 10, 15, 20 and 25 years' service on the 1st July, 1911, and 1st July, 1921.

Years of service.	Average salary on 1-7-1911.	Average salary on 1-7-1921.	REMARKS.
25	3,002	3,116	
20	2,419	2,500	
15	1,749	2,043	
10	1,235	1,515	
5	779	935	

AMENDMENT OF STANDING ORDERS.

The Honourable Sir William Vincent (Home Member) : Sir, before we proceed to the next motion, I shall be glad to obtain from you a ruling on a point of order. You ruled with reference to Standing Order 39 that the acceptance by this Assembly of a motion for reference of a Bill to Select Committee means that the Assembly accept the principle of the Bill. A Standing Order made with the consent of the Governor General can only be altered by the Chamber. The provisions laid down in Standing Orders are that draft amendments should be referred to a Select Committee and that when the draft has been referred to a Select Committee the procedure in regard to a Bill should be followed as far as possible. Now when a Bill is referred to a Select Committee, it follows that the principle has been accepted, and I wish your ruling on the point whether a reference to a Select Committee of the amendments which will shortly be placed before the Assembly also involves the acceptance of the principle of them; because, if so, I think that Members generally and certain Government Members, or some of us at least, would like to have more time to consider them. I may say that I myself received notice of these amendments, or some of them—not my own of course—yesterday. If, however, the motion is to allow the Select Committee full liberty to consider the principles of the amendments, then the position will be materially changed.

Another point I should like to know is whether the Select Committee will have power to extend the principle of the draft amendmenst submitted to it. With reference to the particular amendments that have been put before the Assembly, I shall later draw your attention, Sir, to Standing Order 56 which

* *Vide* Legislative Assembly Debates, Volume II, page 1305.

prescribes that the actual draft amendments should be referred to a Select Committee.

Mr. President: The rule which commits the Assembly to the principle of a Bill on referring that Bill to a Select Committee does not apply to these amendments. All that the Committee is instructed to do is to examine these proposals with a view to the amendment of the Standing Orders by the Chamber itself after the Committee has reported. The Assembly is therefore not committed to the principle involved in each individual amendment but solely to the proposal that these Standing Orders shall be amended.

I am not quite sure that I appreciate the second point put by the Honourable the Home Member.

The Honourable Sir William Vincent: May I put it again, Sir? The question is whether when an amendment has been referred to the Select Committee, it is open to the Select Committee to extend the principle of the amendment—that is, to make the modification of a Standing Order more general in principle than is contemplated in the amendment as proposed.

Mr. President: Standing Orders 54 to 57 do not contemplate a roving commission to the Select Committee, but it seems to me to be inconvenient for the Select Committee to be strictly bound by the exact terms of each amendment submitted to it. Therefore, without prejudice to a final decision in the matter, which I think must rest with the Chamber itself after the Committee has reported, I should say that the Select Committee which we are about to appoint should have a reasonable discretion.

STANDING ORDERS RE : THE CONDUCT OF NON-OFFICIAL BUSINESS.

The Honourable Sir William Vincent: With your permission, Sir, I should like to move the first eight motions relating to the amendment of the Standing Orders in one single motion; these amendments really relate to the same subject and this was in fact the method adopted in giving notice of these amendments; thus, items Nos. 1 to 8 all really relate to one cognate subject and I propose, therefore, with your permission, Sir, to include them in one motion. You have already decided that a reference to Select Committee does not mean that the Assembly is bound to accept the principle of the amendment; so I need not make any detailed statement on that point. If Honourable Members will look at the amendments, they will see that they deal largely with the conduct of non-official business, and, in the first place, I want to draw the attention of the Assembly to the fact that it has now been decided that as far as possible separate dates should be allotted for the discussion of non-official Bills and separate dates for the discussion of non-official Resolutions and the rules have been amended accordingly. I believe that that will be found to be a change which will promote the progress of business and make for the convenience of non-officials. In the past when ballots were held for Bills and Resolutions together, it was found very difficult indeed to ensure a proper despatch of non-official business. Some of the amendments which I propose in Standing Orders are largely consequent on that change in the rules. If Honourable Members will turn to the Standing Orders they will see first that at present a particular precedence is prescribed for non-official Bills on non-official dates in this Assembly. We propose slightly to alter that order; the details will

[Sir William Vincent.]

of course be a matter for the Committee and I do not propose to weary the Assembly with the reasons for the various detailed changes which we have made. The general principle, however, is that the more advanced Bills should obtain precedence or priority over Bills less advanced. The only exception that we propose to that is for the presentation of the Select Committee's report on a Bill; and the reason for that is very simple, namely, that this principle is a purely formal business—no speeches are made, and it will not take up any time, whereas if it was put down at the bottom of the day, a necessary but formal item might have to be postponed and the promoter of the Bill would be prejudiced. I do not think there is anything in the amendments of the Standing Orders relating to Bills which the Assembly cannot confidently leave to the consideration of a Select Committee.

As regards Resolutions, the amendments are more comprehensive, and I want to draw particular attention to them. The Standing Orders at present prescribe that precedence should be determined absolutely by ballot. Now, the result of that is, that no matter how important a Resolution is, it often cannot secure a place on the list of business because other Members, with less important Resolutions possibly although they may be personally interested in them, have secured precedence, and the practice has been for Members to come to Government and ask them to give them an official date or on some occasions for Government to approach Members suggesting that the matter is of such public moment that it should be discussed on a particular date. That practice is inconvenient to us and it is inconvenient to Members. It imposes a very unpleasant responsibility upon Government of saying that this Resolution is of such importance that we can admit it and that one is not of sufficient importance. In fact, I remember, during the last Session of the Assembly, complaints were made on this point. What we propose, therefore, to do is to provide a method by which the Assembly itself may secure that priority shall be given to any particular Resolution which has already been admitted upon a date set apart for the disposal of non-official business. The consequence of this will be that non-official business will not be put down on official dates, and we shall be relieved of attacks, such as were made on me yesterday and such as indeed were made on another Member of this Assembly—attacks which, if I may say so, coming from the quarter that they did, I think my Honourable friend, Mr. Iswar Saran, treated a little too seriously. After all, we know what to expect from certain quarters and it is a mistake to take attacks of that character as having any weight at all. Returning to the question of Resolutions, we propose that ballots for Resolutions should be held at least 15 days before the day with reference to which the ballot is held, that is, the day on which the discussion will take place. Further, it is proposed, that within three days of the ballot, Members should be allowed to give notice of a motion to secure priority for a particular Resolution, that is, they are allowed to take their chance first in the ballot, and if they do not succeed in it and the Resolution is one of great importance, they may give notice of this motion . . .

Mr. President: Does the Honourable Member mean within three days of the date on which the Resolution will have to be debated?

The Honourable Sir William Vincent: No, Sir. I shall explain that later. It is proposed that you should have discretion to admit or reject all such motions. This motion will be taken in the Assembly not less than ten days before the date with reference to which the ballot is held, that is, the date

before the discussion, so that Government may have a reasonable notice of any important Resolution. Before the motion is put, 25 Members of the Assembly must support it and that number, as Members are aware, is the same as the number now required by Standing Order 23. Once priority has been given to any Resolution, no more notices of such motions may be put to the Assembly, because otherwise if you allow a number of such notices, you practically do away with the value of the ballot altogether. That in substance is what our proposal is in regard to Resolutions.

The next point is an amendment proposing that not more than five Resolutions, other than Resolutions which have obtained precedence under Standing Order 7 B (2) or are outstanding from a previous day should be set down in the list of business; and it is on this motion that I particularly ask the consideration of Members of this Assembly. I want to appeal to them for some sympathy with Members of the Government. We are often faced at present with a large number of Resolutions in the list, 19 and 20 sometimes. We do not know how far in the list we have got to go. Sometimes Members are not here, sometimes they withdraw Resolutions and the result is that we are called upon, and I am called upon particularly in the Home Department, because I have to meet a great many difficult Resolutions, to prepare 8 and 10 Resolutions for one day; I hope the Assembly will agree with me that that really is unfair to me and that I cannot do justice to the Assembly or to the Government case if I am called upon to prepare myself on such a number of subjects. We seldom get through more than three or four Resolutions in one day, and I have therefore tentatively suggested that not more than five Resolutions should be put down, exclusive of those which I have mentioned, for one day, and I hope that the Assembly will at any rate allow that proposal to be referred to Select Committee where it will be explained in greater detail.

The only other suggestion which I need refer to in connection with this motion is the proposal to amend Standing Order 9. At present this deals with official as well as non-official business. It is unnecessary to provide in this Standing Order for official business as the precedence of Government business is determined by the Governor General in Council under Standing Order 7, sub-order (1), and under present Standing Order 9, as regards non-official business, it is now provided that any non-official business which has not been begun is included in the list of business for the next day of the Session available for non-official business. Now this means that during the course of the Session we get ever lengthening lists of business which can never be completed. I am sure that Members must have seen many such lists. We therefore propose that this Standing Order should be so amended as to provide that such non-official business which has not been begun shall not be included in the list of business for any subsequent day unless it is entitled to priority on that day under the provisions of the Standing Order, that is, unless it is ballotted for and has been given special priority on the subsequent day. The remainder of the amendments included in this particular motion are, I think, consequential to the proposals that I have made. I now move, Sir, for leave to amend the Standing Orders in the following manner. I do not know if you wish me to read these one by one or whether they can be taken as read:

1. For Standing Order 7 the following Standing Orders shall be substituted, namely:

'7. On days allotted for the transaction of Government business the Secretary shall arrange that business in such order as the Governor General in Council may direct.

Arrangement of Government business.

[Sir William Vincent.]

7-A. (1) The relative precedence of notices of Bills given by non-official Members shall be determined by ballot, not less than fifteen days before the day with reference to which the ballot is held, in accordance with the procedure set out in Schedule I :

Precedence of non-official Bills.

Provided that the President may from time to time make such variations in the said procedure as he may consider necessary or convenient.

(2) On a day allotted for the disposal of non-official Bills, Bills which have already been introduced by non-official Members of either Chamber shall have priority over all other business provided that any notice required by the rules or Standing Orders have been given, and such Bills shall have relative precedence in the following order, namely :

- (a) Bills introduced in the Assembly in respect of which the next stage is the presentation of the Report of a Joint or Select Committee ;
- (b) Bills passed by the Council in respect of which the originating Chamber was the Assembly ;
- (c) Bills introduced and passed in the Council ;
- (d) Bills introduced in the Assembly in respect of which a motion has been carried that the Bill be taken into consideration ;
- (e) Bills introduced in the Assembly in respect of which the Report of a Joint or Select Committee has been presented ;
- (f) Bills which have been circulated for the purpose of eliciting opinion ; and
- (g) Other Bills.

(3) The relative precedence of Bills falling under the same clause of sub-order (2) shall be determined by ballot, to be held at such time and in such manner as the President may direct :

Provided that Bills falling under clause (g) which remain over from the preceding Session shall, subject to the provisions of sub-order (2) of Standing Order 4, have priority over other such Bills in the order of the date of their introduction.

7-B. (1) The relative precedence of notices of Resolutions given by non-official Members shall be determined by ballot, not less than fifteen days before the day with reference to which the ballot is held, in accordance with the procedure set out in Schedule I :

Precedence of Resolutions.

Provided that the President may from time to time make such variations in the said procedure as he may consider necessary or convenient.

(2) (a) Notwithstanding the result of any ballot held under sub-order (1), any Member may, within three days thereof, give notice of a motion that any Resolution (the terms of which shall be set out in the notice) which has been admitted by the President shall have precedence on the day with reference to which the ballot was held. The President may, in his discretion, admit or reject any such motion.

(b) The President shall fix a date for the disposal of any motion or motions admitted under clause (a), which date shall not be less than ten days before the date with reference to which the ballot was held.

(c) On the day so fixed the President shall, before allowing any motion to be made, ascertain whether the Member in question has the leave of the Assembly to make the same. If more motions than one have been admitted, the President shall determine the order in which they shall be submitted for the leave of the Assembly.

(d) When the proposed motion is reached, the President shall read it and ask whether the Member has the leave of the Assembly. If objection is taken, the President shall request those Members who are in favour of leave being granted to rise in their places, and, if not less than twenty-five Members rise accordingly, the President shall intimate that the Member has the leave of the Assembly and shall call upon the Member in question to make his motion. If less than twenty-five Members rise, the President shall inform the Member that he has not the leave of the Assembly.

(e) No debate shall be allowed on any motion made under this sub-order except by special permission of the President.

(f) The President may, in his discretion, refuse precedence to any Resolution, in Respect of which a motion under the sub-order has been carried, but, if he does not do so, then :

(i) the Resolution in question shall, if notice has been given as required by the Standing Orders and if the Resolution is not disallowed under rule 22, have precedence over all other Resolutions which have obtained priority at the ballot, and

(ii) no further motion under this Standing Order shall be submitted for the leave of the Assembly on that day.'

2. To Standing Order 8, the following clause shall be added, namely :

'(4) Not more than five Resolutions (other than Resolutions which have obtained precedence under sub-order (2) of Standing Order 7-B or are outstanding from a previous day) shall be set down in the list of business for any day allotted for the disposal of non-official Resolutions.'

3. For Standing Order 9, the following Standing Order shall be substituted, namely :

'9. Non-official business set down for any day and not disposed of on that day shall not be set down for any subsequent day unless it is entitled to priority on that day under the provisions of the Standing Orders:
Business outstanding at end of day.

Provided that notwithstanding anything contained in Standing Orders 7-A and 7-B, any such business which has been commenced shall, on the next day allotted to business of that class, have precedence over all other business set down for that day.'

4. For clause I of Schedule I the following shall be substituted, namely :

'1. Not less than seventeen days before each day allotted for the disposal of non-official business, the Secretary will cause to be put up in the Assembly office a numbered list. This list will be kept open for two days and during those days and at hours when the office is open any Member who wishes to give notice, or has given notice, of a Bill or Resolution, as the case may be, may have his name entered once only against a number.'

5. In clause 2 of Schedule I for the words 'on the third day a ballot' the words 'the ballot' shall be substituted.

6. In clause 4 of Schedule I after the words 'all the numbers' the words 'or, in the case of a ballot for priority of Resolutions, five numbers' shall be inserted.

7. For clause 5 of Schedule I the following shall be substituted, namely :

'5. Priority on the list will entitle the Member to have set down, in the order of his priority for the day with reference to which the ballot is held, any Bill or Resolution as the case may be, of which he has given the notice required by the Rules or Standing Orders.'

8. Clauses 6 and 7 of the Schedule shall be omitted.

The motion was adopted.

STANDING ORDER NO. 23 RE : MOTION FOR ADJOURNMENT OF THE HOUSE.

The Honourable Sir William Vincent : I now move for leave to amend Standing Order 23. This Standing Order provides that motions for the adjournment of the House must be taken before 4 P.M. The amendment* would permit of such motions being taken at an earlier hour at which the business of the day may terminate. It is however provided that the consent of the Members of the Government concerned should be

* 9. In Standing Order 23, after the words 'at 4 P.M.' the following words shall be inserted namely :

'Or, if the President, with the consent of the Members of the Government concerned, so directs, at any earlier hour at which the business of the day may terminate'.

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necessary to such a course, and I think that is a reasonable requirement, because if a motion is made at, say half past 11, the Member for Government must have one or two hours to get his papers together and refresh his memory as to the facts. Further, the Assembly is aware that the Governor General has power to disallow a motion for adjournment of the House, and it is necessary again that reasonable time should be allowed to the Member for Government to enable him to approach the Governor General on that subject; should that course be found necessary, I am glad to say that it has never been found necessary in the past. At the same time, it is very inconvenient sometimes to close the ordinary business at 3, and then to adjourn till 4 after wasting an hour's time. I think there is no doubt whatever that this amendment will commend itself to the Assembly.

The motion was adopted.

STANDING ORDERS NOS. 31, 34, 38, 39 AND 40.

The Honourable Sir William Vincent: Sir, if it will suit the convenience of the House, I will move the remaining three amendments* together having regard to the manner in which the previous amendments have been received.

Amendment No. 10.—The proviso to section 67 of the Government of India Act provides that Standing Orders may provide for the meetings of Members of both Chambers appointed for the purpose, in order to discuss any difference of opinion which has arisen between the two Chambers. Such a provision has been made under Legislative Rule No. 40. It is clear, I think, that these meetings contemplate divergent decision having been previously reached in the two Chambers. The object of the meeting is to establish some *modus vivendi*. But Standing Order 31 really would at present prevent this, because a motion once having been rejected cannot be brought again before the Assembly in the same Session. It is accordingly proposed to amend that Standing Order so as to allow such motions as would be barred by Standing Order 31 if made as the result of a conference held under Rule 40.

Amendment No. 11 is purely formal. When we deal with Legislative Rules and Standing Orders, we should definitely refer in the case of the rules to rules and sub-rules, and in the case of the Standing Orders to orders and sub-orders. At present in Standing Order 34, the word 'sub-rule' is used in two places and the reference is merely to sub-orders. It is proposed to rectify this.

*10. To Standing Order 31 the words 'unless such motion is made as the result of a conference held under Rule 40' shall be added.

11. In Standing Order 34 for the word 'Sub-rule' in both places where it occurs, the word 'Sub-order' shall be substituted.

12. (a) In clause (b) of Sub-order (1) of Standing Order 38 the words 'Composed of such Members of the Assembly as he may name in his motion' shall be omitted.

(b) In Standing Order 40:

(a) to Sub-order (1) the words 'and it shall not be necessary to include their names in any motion for appointment of such a Committee' shall be added; and

(b) in Sub-order (2) after the words 'is made or' the words 'in the case of a motion made by way of amendment under clause (a) of Sub-order (2) of Standing Order 39' shall be inserted.

Amendment No. 12 relates to Standing Orders 38, 39 and 40 which deal with motions for the appointment of a Select Committee. It is proposed to amend Standing Orders 38 and 40 so as to provide that the Members of a Select Committee shall be nominated when the motion for reference to a Select Committee is made save in the case when this motion is moved as an amendment to another motion under Standing Order 39 (2) (a). In such cases it is thought, that though the Assembly might very well be prepared in connection with a particular Bill to accept the proposal that the Bill be referred to a Select Committee, a Member would not have had time to ascertain whether all the Members whom he wishes to select for that Committee would be willing to sit. Nor, indeed, would he have had time to consider who would be the most suitable Members for that Committee. At the same time you, Sir, have held, following the practice in the House of Commons, that before a Member can nominate anyone to serve on a Select Committee, he must ascertain whether the Member is prepared to serve on it; this amendment is designed to obviate the difficulty and I think the amendment will commend itself to the House.

The motion was adopted.

REFERENCE TO A SELECT COMMITTEE.

The Honourable Sir William Vincent: Sir, I move that the amendments which I have just proposed be referred to a Select Committee.

The motion was adopted.

PROCEDURE IN PROPOSING AMENDMENTS TO STANDING ORDERS.

Mr. F. McCarthy (Burma : European) : Sir, I beg to move for leave to amend the Legislative Assembly Standing Orders in the manner set out in to-day's List of Business. Perhaps Honourable Members would like me to read them out in detail.

The Honourable Sir William Vincent: May I inquire, Sir, whether the Honourable Member from Burma proposes to move his amendments in one batch or separately. If he proposes to do the former, one or two difficulties will arise in reference to some of them.

Mr. President: It is hardly necessary to embark on a detailed discussion of each individual amendment in view of the ruling I gave that the Assembly is not committed to the principle of each amendment. I am aware, for instance, in cases where a proposal is made to omit a Standing Order, that it has been made to enable the Select Committee to discuss certain proposals in relation to that order of which definite amendments have not been made. All the Honourable Member from Burma need do to satisfy the requirements of our procedure, is simply to move that the amendments be referred to a Select Committee. It is highly undesirable to have a Committee stage discussion on each particular amendment at the present moment.

The Honourable Sir William Vincent: I do not suggest a Committee stage discussion on each amendment, but I should like to raise one general point. I have always understood, on my reading of the Standing Orders, that a Member who wishes to put forward an amendment in this House, has to put forward a substantial amendment in order that Members of the

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Assembly may have some line as to what change exactly is proposed. Thus we should know exactly what change is proposed by the Honourable Member's amendments in the Standing Orders as they now exist and it is with reference to that point that I address the Assembly. For instance, amendments Nos. 6, 7 and 13 propose that Standing Orders Nos. 32, 34 and 70, respectively, shall be omitted. Now, on my reading of the Standing Orders of this Assembly the proper course to adopt is to put forward before the House a substantial proposal as to what amendments it is proposed to make, and not merely to ask us here now to refer to a Select Committee a proposal that the closure procedure, for instance, should be omitted without any explanation. That is the effect of one amendment and I do take exception to this procedure.

There are other details in these amendments on which, if they were moved singly, I should like to make some remarks to Members of the Assembly. But the main point I seek to make is that we are entitled here to know what amendment of the new Standing Orders the Honourable the Mover really proposes to make in regard to those Standing Orders which he at present moves merely should be omitted.

Mr. President: The Honourable the Home Member is aware that amendments are made in Bills without previous reference to the Assembly, and it seems to me eminently reasonable, that discretion should be left to the Standing Orders Committee in its report to propose certain amendments and on proposing them, to produce substantial reasons. I may say that I am more or less responsible for the proposal in regard to Standing Order No. 32, because I was unable, owing to lack of time at the moment, to suggest any form of wording which would adequately meet the position which has arisen as to whether a Member has a right of reply, especially a Member of Government, in the event of the closure being moved. It would be open to the Honourable Member from Burma to move a perfectly empty form of words in order to open the subject for discussion before a Select Committee, but I do not think the Honourable the Home Member is entitled to take objection to the form of omitting which is *merely one way* of raising the point.

The amendments proposed now commit no one to anything, not even the Mover of the amendment, because he has asked for the judgment of the Select Committee on them. Where he cannot particularise these proposals, as in the case of Standing Order 32 and the right of reply under the closure, it seems perfectly reasonable to leave it to the Committee to pronounce a judgment upon it. Otherwise he would find himself in the position, where an important question like that was raised, of having to throw open the whole procedure of the Standing Orders again and to go to the Select Committee and come back to the House for further authority which is highly undesirable.

The Honourable Sir William Vincent: Well, Sir, it is a matter entirely within your discretion. But this is what the Standing Order lays down :

'Unless the President otherwise directs, not less than ten clear days' notice of a motion for leave to amend the Standing Orders shall be given'.

I don't know what notice the Legislative Department received, but I received one day's notice only.

Mr. President: But notice is not given to the Honourable the Home Member. It is entirely in the authority of the Chair.

The Honourable Sir William Vincent: Then, I received one day's notice under the authority of the Chair. The notice ought also to be accompanied by a draft of the proposed amendment. I still submit very respectfully that Members of the Government and Members of this Assembly are entitled at least to know the line which it is proposed to take when an amendment is proposed to omit certain Standing Orders. When I proposed my amendments, I attempted to give my reasons and I submitted them entirely to the information of the House and they will now be examined by the Select Committee. But at least I indicated what amendments I was moving and the reasons for which I suggested them. Here the House is asked to agree.

Mr. President: I must point out to the Honourable Member that the House is not asked to agree to anything but the proposal to appoint a Committee to amend the Standing Orders.

The Honourable Sir William Vincent: The House, if I may say so, is asked to agree to a reference to a Select Committee on amendments to Standing Orders which include the omission of certain important Standing Orders without any explanation of the reason which led to that or of the exact line it is proposed to take or even the words it is proposed to alter.

Mr. President: Does the Honourable the Home Member object?

The Honourable Sir William Vincent: I should prefer to have the amendments taken singly, Sir.

Mr. President: I am quite prepared to do that. Will the Honourable Member move his amendments singly?

STANDING ORDER 11.

Mr. F. McCarthy: I beg to move for leave to amend Standing Order 11 in the following manner:

'That in Standing Order 11 after the word 'Secretary' the words 'and signed by the Member giving notice' shall be inserted.'

The motion was adopted.

Mr. F. McCarthy: I beg to move:

'That the amendment which I have just proposed be referred to a Select Committee.'

The motion was adopted.

STANDING ORDER 15.

Mr. F. McCarthy: I beg to move for leave to amend Standing Order 15 in the following manner:

'That in Standing Order 15 the word 'and' at the end of clause (5) shall be omitted and shall be re-inserted at the end of clause (6), and after clause (6) the following clause shall be added, namely, '(7) It shall not quote anything from a newspaper or mention the name of a newspaper.'

The motion was adopted.

Mr. F. McCarthy: I beg to move :

‘That the amendment which I have just proposed be referred to a Select Committee.’
The motion was adopted.’

STANDING ORDERS 18, 25, 31, 32, 34, 39, 54, 56, 59, 61, 70 AND 75.

Mr. F. McCarthy: I beg to move for leave to make the following amendment :

‘That Standing Order 18 shall be omitted.’

The Honourable Sir William Vincent: I should be glad to hear some reason for this amendment and some indication of the new Standing Order which it is proposed to substitute for it, Sir. ‘The notice shall be accompanied by a draft of the proposed amendment’ is what the Standing Orders prescribe. And I submit that we are entitled to know what at least the intention of the Honourable Mover in this amendment is.

Mr. President: Does the Honourable Member object ?

The Honourable Sir William Vincent: Without notice, Sir, and without some explanation as to what is intended, I do object.

Mr. President: Does the Honourable Member wish to substitute a discussion on the floor of the House to-day of the proposals made in each individual amendment for the procedure of the Select Committee ?

The Honourable Sir William Vincent: No, Sir. I have not suggested that. What I have suggested and what I do suggest is that this Assembly is entitled to know the main lines on which the amendments proceed and the reasons for it. That is the procedure which I have tried to adopt myself. If I am in error in that the House has only once to vote me down and I will sit down. But I do ask for some reason for the amendment.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): May I ask, Sir, would not the Honourable Member, who has moved this, place his reasons before the Select Committee ?

The Honourable Sir William Vincent: He would.

Mr. President: The Honourable Member is really asking the Assembly to usurp the functions of the Select Committee ?

The Honourable Sir William Vincent: Sir, I must very respectfully protest against that statement. I am not attempting to usurp anybody's functions. I am merely asking that the House should have a general statement of the reasons for this amendment and what it is proposed to do before the amendment is referred to a Select Committee. I demur very respectfully, Sir, to the suggestion that I am attempting to dictate to anyone. I have said once before that if the House considers that my attitude on this point is unreasonable I shall withdraw my objection.

Mr. F. McCarthy: Sir, it is not a question of being unreasonable. It is a mere question of convenience. Are we to spend hours in discussing elaborate details of Standing Orders or shall we refer these points, all of which are familiar to Members who have studied the working of the Orders to the Select Committee, and after which the Assembly will have ample opportunity for discussing them ? It is simply a matter of convenience.

The Honourable Sir Malcolm Hailey (Finance Member): Sir, I must say from my experience of the House, I think, that this is the first time I have seen a proposal of this kind without a single word of explanation or any reason whatever as to why it is put forward. If the Honourable Member would merely have the courtesy to tell us by way of explanation why he wants this amendment made we should be perfectly satisfied.

Mr. President: As these proposals to omit various Standing Orders were made at my suggestion and as I have already explained the position, the House will forgive me for repeating my explanation. There are various questions where no particular amendment presented itself on the first examination and it was thought that the easiest way to put the question before the Standing Orders Select Committee was to suggest the omission of the whole Standing Order. There was no intention to make that an operative motion. It is a well-known parliamentary procedure to raise a question by doing that and therefore the suggestion was made that that was the easiest way in which to do it. There are a number of suggestions relating to the procedure of question and answer on which I think the Select Committee under Standing Orders might well be asked to pronounce if it is not asked to propose specific amendments to the Standing Orders. As my Honourable friend from Burma has pointed out and as I should have thought Government would have been well aware, this House is not asked to discuss each individual to a Bill before a Bill is referred to Select Committee. The discretion for the amendment of a Bill is left to the Select Committee and though the procedure under the Standing Orders prescribes that amendments shall be placed before the House in relation to Standing Orders before they are referred to Select Committee, that part of the procedure seemed to me entirely formal.

If the Honourable Member preferred, no doubt my Honourable friend from Burma (Mr. McCarthy) could have put down a long memorandum, discussing the problems arising out of question and answer and those arising out of the right of reply under closure and so on. But if the Honourable the Home Member thinks that it is desirable to preclude the Select Committee from discussing such questions unless specific amendments are placed before the House, then, I am afraid, the Chair cannot uphold his contention.

Mr. W. M. Hussanally (Sind: Muhammadan Rural): Sir, I will only refer to one point in connection with this debate, and that is that notice for all these amendments were received only yesterday and I dare say that many of us here have not had sufficient time to consider each and every amendment that has been proposed by the Honourable the Home Member or any other gentleman here. If it is wished by the Honourable the Home Member that a Member should give detailed reasons for every amendment that he has been proposing, I think we shall require time to consider all these amendments in detail before they are brought up for discussion here. I suppose many of my Honourable friends have come prepared here only to refer all these amendments to the Select Committee for consideration. If that is not the procedure to be adopted to-day, I propose that the whole consideration of all these amendments be postponed until we have had sufficient time to consider whether we should refer all or any of these amendments to the Select Committee or not.

Mr. President: I cannot accept that proposal. It is, as I say, usurping the functions of the Select Committee. It seems to me highly

[Mr. President.]

undesirable that this Assembly should attempt to forestall the decisions or discussions of the Select Committee. It is much more desirable that this stage should be purely formal and that the Select Committee should be given discretion to take up these questions and deal with them as they appear to them.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : I propose that the question be now put.

The motion was adopted.

Mr. President : The question is :

‘ That leave be given to make the proposed amendment.’

The motion was adopted.

Mr. F. McCarthy : I beg to move :

‘ That the amendment I have proposed be referred to a Select Committee.’

The motion was adopted.

Mr. F. McCarthy : I beg to move for leave to amend the Legislative Assembly Standing Orders in the following manner and that the proposed amendments be referred to a Select Committee.

4. In Standing Order 25 :

- (a) after the word ‘ count ’ the words ‘ being demanded by a Member ’ shall be inserted ; and
- (b) the following proviso shall be added, namely :
‘ Provided that when a count has been taken, no demand for account shall be made within one hour thereof.’

5. To Standing Order 31 the following provision shall be added, namely :

‘ Provided that, unless the President otherwise directs nothing in this Standing Order shall apply in the case of a motion for the amendment of a Bill on which a decision has been given at an earlier stage of the Bill.’

6. Standing Order 32 shall be omitted.

7. Standing Order 34 shall be omitted.

8. After Standing Order 39 the following Standing Order shall be inserted, namely :

‘ 39-A. Where any motion under Standing Order 38 or 39 that a Bill be circulated for the purpose of eliciting opinion thereon is carried, the Assembly shall not be held to be committed to the principle of the Bill.’

9. In sub-order (1) of Standing Order 54 for the word ‘ ten ’ the word ‘ twenty ’ shall be substituted.

10. To Standing Order 55 the following sub-order shall be added, namely :

‘ (3) The Select Committee shall, unless the Assembly otherwise directs, have authority to propose amendments other than those of which notice has been given, and the report of the Select Committee shall contain a full explanation of all such amendments.’

11. For the proviso to Standing Order 59 the following shall be substituted, namely :

‘ Provided that no Resolution shall be admissible unless it is clearly and precisely expressed and raises a single definite issue.’

12. To sub-order (2) of Standing Order 61 the following shall be added, namely:

'Unless any other Member, authorised in writing by such Member, moves the Resolution:

Provided that the President may in his discretion allow the Resolution to be moved without the written authority of the Member in whose name the Resolution stands.'

13. Standing Order 70 shall be omitted.

14. In Standing Order 75 for the words 'Governor General' the word 'President' shall be substituted.'

The motion was adopted.

STANDING ORDERS NOS. 7, 18 AND 60.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I beg to move for leave to amend the Legislative Assembly Standing Orders. I have got various amendments.* The first amendment I suggest relates to Standing Order No. 7 and explains itself. As a matter of practice, no doubt the Secretary gives us notice, but I want that the Secretary should prepare a list of business likely to come up before the Assembly before each Session, so that we may come prepared with the subjects which are likely to come up before the Assembly. That is the object of this amendment, and I hope it will commend itself to the Assembly.

Mr. President: The question is that leave be given to amend.

*1. *Standing Order No. 7, rule 22.*

Add as clause 1 the following:

'A list of business of the Assembly, Government and non-official, likely to come up before each Session shall be prepared by the Secretary and a copy thereof shall be circulated for the information of every Member at least a fortnight before the commencement of each Session.'

and re-number present clauses 1, 2 and 3 as 2, 3 and 4.

2. *Standing Order No. 13, rule 29, Proviso, clause (1).*

Add 'other than that relating to the liberty of person or the security of property of any British subject residing within the limits of such state.'

3. *Standing order No. 13, rule 29, Proviso, clause (2).*

Add after the word 'chief' and before the word 'and' the following 'other than that relating to the liberty of person or the security of property of any British subject residing within such territory.'

4. *Standing Order 58, rule 109, clause 1, sub-clause 1.*

Add 'other than that relating to the liberty of person or the security of property of any British subject residing within the limits of such state.'

5. *Standing Order 58, rule 109, clause 1, sub-clause 2.*

Add after the word 'chief' and before the word 'and' the following:

'other than that relating to the liberty of person or the security of property of any British subject residing within such territory.'

6. *Standing Order 18, rule 36.*

Add after the words 'at the request of' and before the word 'the' the following:

'any Member who holds a written authority from such absent Member or of'

7. *Standing Order 60, rule 112, clause 2.*

Add 'unless some other Member is authorised in writing by such Member to move the Resolution or the President allows it to be moved at the request of any Member.'

The Honourable Sir William Vincent: Sir, I think that the Honourable Member means Standing Order No. 8 and not 7. I think he has misquoted the Standing Order to be amended.

Mr. President: There are certain respects in which the amendments proposed by Mr. Rangachariar cannot be admitted by the Select Committee at all, because they are *ultra vires*, that is to say, they are amendments of the Rules. But they appear here on the paper because notice has been given.

Rao Bahadur T. Rangachariar: I will explain that. As regards the 2nd, 3rd, 4th and 5th amendments standing in my name, they are more or less amendments of the Rules and not amendments of the Standing Orders. The amendment of these Rules has become necessary. They relate to the powers of this Assembly to put any question or to move any Resolution in respect of any action taken against a British subject in the Indian States. Sometimes they are deprived of their liberty; sometimes they are deprived of their properties, and we cannot get any information, because, as the rules are now interpreted, we cannot elicit information in the shape of questions with regard to these British subjects who are deprived of their liberty and property in Indian States, and we cannot move any Resolutions upon them. I think it is highly essential that this Assembly should have the right to get information about those British subjects who are so dealt with in Indian States and also should have the power to move Resolutions if necessary. I think, Sir, that it will be competent to the Select Committee to make suggestions to the Assembly to make recommendations to the Governor General in Council to amend the Rules. In that way, I think, the Select Committee will be competent to deal with the matter.

Mr. President: That is beyond the scope of the Select Committee on Standing Orders. The Statutory authority for the Rules is the Imperial Parliament, and I am afraid that what the Honourable Member is inviting the Select Committee to do is to have an academic discussion upon the amendment of the Rules. It is perfectly true that the Honourable Member will be entitled to move a Resolution recommending to the Governor General in Council an amendment of these rules, but

Rao Bahadur T. Rangachariar: I quite realise that, Sir. I only wanted to fortify myself with the opinion of the Select Committee whether the Assembly should take such a step or not. It is rather an important question and I did not want to take the responsibility of rushing the Assembly with a Resolution of that sort, and therefore I thought that it would be much better discussed in the Select Committee whether it is desirable to move such an amendment or not. In that view I do not know whether you will rule it altogether out of the powers of the Select Committee to consider whether any such recommendation should be made.

Mr. President: The Honourable Member is a very skilful lawyer and I am not. As Chairman of the Select Committee I should be bound to rule that it is outside the scope of the Select Committee to consider an amendment of the rules. Whether it would be outside the scope of the Select Committee to consider an ingenious reference made by the Honourable Member I am not sure.

Rao Bahadur T. Rangachariar: In that view I do not propose those amendments. Items 6 and 7 in my name are already anticipated by the

motion of Mr. McCarthy and I would also move them so that they may be considered by the Select Committee.

Mr. President : The question is :

'That leave be given to amend* the Legislative Assembly Standing Orders and that the proposed amendments be referred to a Select Committee.'

* 1. *Standing Order No. 7, rule 22.*

Add as clause 1 the following :

'A list of business of the Assembly, Government and non-official, likely to come up before each Session shall be prepared by the Secretary and a copy thereof shall be circulated for the information of every Member at least a fortnight before the commencement of each Session.'

and re-number present clauses 1, 2 and 3 as 2, 3 and 4.

6. *Standing Order 18, rule 36.*

Add after the words 'at the request of' and before the word 'the' the following :

'any Member who holds a written authority from such absent Member or of.'

7. *Standing Order 60, rule 112, clause 2.*

Add 'unless some other Member is authorised in writing by such Member to move the Resolution or the President allows it to be moved at the request of any Member.'

The motion was adopted :

Rai Sahib Lakshmi Narayan Lal (Bihar and Orissa : Nominated Non-Official) : I move for leave to amend the Legislative Assembly Standing Orders in the following manner.† They may be taken as read :

(At this stage the Honourable Member began to read the amendments.)

Mr. President : The Honourable Member need not read them all out unless there is anything in his proposed amendments which requires special explanation.

Rai Sahib Lakshmi Narayan Lal : In my opinion no explanation is required of any of the proposed amendments, and so I move all my amendments.

† (1) *Section 3 (3).*

In section 3 (3) the following be added after the word 'direct' :

'provided that the Assembly may make any such change in the arrangement as it thinks fit.'

(2) *Section 4 (1).*

(1) The following should be substituted for section 4 (1) :

'All pending questions and Resolutions shall be taken up, according to the rules, at the next Session.'

(2) In the proviso to section 4 (2) the following should be substituted for the words from 'unless' to 'Bill' :

'Unless any other Member of the Assembly takes up that Bill.'

(3) *Section 6.*

In section 6 the following should be substituted for the words from 'ordinarily to 4 P.M.' :

'not commence before 11 A.M. and shall not continue after 6 P.M.'

[Rai Sahib Lakshmi Narayan Lal.]

(4) *Section 7 (2).*

The following proviso be added at the end of clause (2) of section 7 :

' Provided also that the President, with the consent of the Government Member concerned, may take up any of the non-official Bills or Resolutions, without any ballot, on Government business days, after due notice.'

(5) *Section 8 (1).*

In section 8 (1) the following should be substituted for the words from 'made to Member' :

' circulated to every Member at least 48 hours before the sitting for the day '.

(6) *Section 9.*

In section 9 the words from 'but' to 'day' should be dropped.

(7) *Section 10.*

Section 10 should be dropped.

(8) *Section 12.*

(a) In section 12 (1) the following should be substituted for the words from 'make' to 'Member' :

'Circulate to each Member, at least 48 hours before the sitting for the day fixed for the purpose.'

(b) Section 12 (2) should be dropped.

(9) *Sections 17 to 20.*

Sections 17 to 20 should be dropped and substituted by the following :

' Written answers shall be circulated to the Members in respect of all questions which have not been disallowed.'

(10) *Section 21.*

In section 21 the words 'after questions and' should be dropped.

(11) *Section 23.*

In section 23 the words '4 P.M.' should be substituted by the words 'after the recess'.

(12) *Section 32 (1) and (3).*

(a) In section 32 (1) the following be added at the end after the word 'debate' :

' At least 24 hours before the sitting for the day fixed for any subject, any Member (other than the Mover) may inform the President of his intention to speak on that subject and of the time (not exceeding 10 minutes) that he requires for the purpose; the President may allow such time as he thinks fit to as many Members as practicable to speak in the order fixed by the President; intimation of this shall be given to the Members before the commencement of the proceedings for the day.'

(b) In section 32 (3) the words from 'and' to 'replied' be dropped.

(13) *Section 38 (1).*

In section 38 (1) the words from 'and' to 'made' in the proviso be dropped and substituted by the following words :

' for three days before the day on which the motion is made.'

(14) Section 41 (3).

In section 41 (3) the following should be added at the end after the word 'final' :

'The final report shall give reasons for differing from the (invited) opinions arranged and classified under the different sections to which they relate.'

(15) Section 44 (a).

In section 44 (a) the words from 'Provided' to 'consideration' dropped and substituted by the following :

'Provided that a copy of the report has been made available for the use of the Members for 7 days.'

(16) Section 62.

'Ten' should be substituted for 'fifteen' and 'twenty' for 'thirty'.

(17) Section 61 (2).

In section 61 (2) the following should be added at the end after the word 'withdrawn' 'unless some other Member takes up that Resolution'.

(18) Section 65 (2).

In section 65 (2) the words 'if time permits' should be omitted.

(19) Section 67 (2).

Section 67 (2) should be dropped and substituted by the following :

'All the amendments which have been brought forward shall be first put to the vote in the order in which they stand on the list of business ; those for which 2 days' notice has been given shall have priority over others.'

The original Resolution shall be put to the vote after all the amendments have been disposed of.

(20) Section 69.

In section 69, the words from 'it' to 'withdrawn' should be dropped and substituted by the following :

'shall be taken up, according to the rules, at the next Session.'

(21) Section 71.

In section 71 the following should be added at the end after the word 'Assembly' :

'A copy of the Budget speech and all the papers connected therewith should be circulated at least a fortnight before the dates fixed for the discussion of the grant.'

SCHEDULE I.

(22) Section (1) of the Schedule I.

In section (1) the following may be added at the end after the word 'Member' :

'and may authorize the Secretary (without specifying a number) in writing to enter his name on the list'.

(23) Section (6) of the Schedule I.

In section 6, line 7, the following should be inserted between the words 'down' and 'and' :

'unless he has already intimated to the Secretary in writing about the same'.

Mr. President : The question is :

'That leave be given to amend the Legislative Assembly Standing Orders and that the proposed amendments be referred to a Select Committee.'

The motion was adopted.

NOMINATIONS FOR SELECT COMMITTEE.

Mr. President : Nominations for this Select Committee in the form provided for under the Standing Orders will be admissible up to 4 P.M. to-morrow and election will be held on Monday. The Committee, as Members are aware, is composed of the President, the Deputy President and seven Members elected by the single transferable vote.

SUPPLEMENTARY AMENDMENTS TO STANDING ORDERS.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban) : I have submitted to the Honourable the President a letter suggesting two supplementary amendments, one with reference to the amendment of section 8 proposed by the Honourable Sir William Vincent and the other with reference to another amendment of Rai Sahib Lakshmi Narayan Lal which suggests a forty-eight hours' previous notice, and I pray that my two amendments may be put to this House. I pray that the President may be pleased to dispense with the ten days' notice provided in section 54 of the Standing Orders and the House may give me leave to introduce my two amendments. The amendments I propose are :

'(a) To Standing Order No. 8 the following words be added at the end of the 1st paragraph thereof :

'At least twenty-four hours before the commencement of the sitting for the day fixed for the transaction of such business by putting up such list on the notice board, also by forwarding a copy thereof to every Member so that it may reach in time his registered address in the town where the Session is being held.'

The amendment proposed will make the matter more specific, and my object in putting it forward is that the Select Committee may have an opportunity of considering it. The next amendment I propose is :

'That to clause 1 of Schedule I after the amendment, as proposed by the Honourable Sir William Vincent, the following words be added :

'Provided that where the commencement of the said period of seventeen days falls on a date prior to the date of commencement of a Session of the Assembly, such numbered list shall also be forwarded by post to every Member at least twenty-one days before the first date allotted for the transaction of non-official business during such Session.'

My submission to the House is that these points are well worth considering, and I hope the Honourable the President will dispense with the ten days' notice and the House will give me the necessary leave, so that these may go before the Select Committee.

Mr. President : I agree that the Honourable Member has not been able to give ten days' notice because he has not been able to consider whether he wishes to amend the proposed amendments, but I am prepared to give him an undertaking that the Committee will consider the amendments to the proposed amendments which he has suggested. I do not think it is necessary

to put them to the House. If he will accept that undertaking, I will guarantee that the Select Committee will consider the suggestions he has made.

RESOLUTION RE : POLICY OF REPRESSION.

(The President called out the name of Munshi Iswar Saran whose Resolution re the Policy of Repression was next on the President's List of Business. Munshi Iswar Saran was not present in the House.)

The Honourable Sir William Vincent (Home Member) : Mr. Iswar Saran has just come into the House.

Mr. President : I now call upon the Honourable Member to move his Resolution.

The Honourable Sir William Vincent : I think it was the wish of the House yesterday that this Resolution was to be postponed and not be moved at all to-day. That is what I understood and I see that in my copy of the List of Business this item is cut out.

Mr. President : The Resolution appears in the List of Business which has been placed on my table this morning and I must go by that. I was perfectly well aware that the House was to postpone the discussion on this Resolution, but I may point out that under Standing Order 61 if the Member who has a Resolution standing in his name is absent, the Resolution shall be deemed to have been withdrawn. I do not know whether the Honourable Member wishes his Resolution to disappear from the List of Business.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : We are not prepared to deal with the Resolution after the decision arrived at yesterday. The List of Business that is supplied to us has this item cut out altogether, so we were under the impression that this business was not coming on to-day.

Mr. President : The Honourable Member does not seem to be aware that I am dealing with a different point. The decision made yesterday was made on a motion without any relation to the List of Business. The List of Business on my table contains this item and in order to protect the rights of the Honourable Member from Allahabad I was bound to call his name, so that, if he chose, he could get up and ask that this motion be postponed. Otherwise the Resolution would disappear not only from the List of Business but out of existence.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhammadan Urban) : Sir, in view of the decision arrived at yesterday, I beg to ask for permission not to move this Resolution to-day but to have it postponed till some future date.

Mr. President : The question is that permission be granted.

Mr. Jamnadas Dwarkadas (Bombay City : Non-Muhammadan Urban) : Before this motion is put to the vote, I want to say a word or two. I wish the Honourable the Home Member would give us some idea as to the date on which this Resolution will be taken up. I am aware, Sir, that the Government

[Mr. Jamnadas Dwarkadas.]

have tried their best to meet the wishes of the Members, especially those who had sent notices for motions of adjournment; but unfortunately the House yesterday decided to postpone the debate. I wish, however, Sir, that the Government would find it convenient to mention the date now. So far as I am concerned I came specially from Calcutta, where I was engaged in the work of the Fiscal Commission, to take part in the debate on this Resolution. It is very inconvenient not to know when the debate is coming on and I must go back and join the Fiscal Commission. I think that is the state of many Members here. They want to go and join various Committees on which they are and unless the date is known to them, it is impossible for them to know when they should come.

The Honourable Sir William Vincent : Sir, I rise to a point of order. Standing Order 61 provides that the Member in whose name a Resolution stands on the list of business shall, when called on, either (1) withdraw the Resolution in which case he shall confine himself to a mere statement to that effect ; or (2) move the Resolution, in which case he shall commence his speech by a formal motion in the terms appearing on the list of business. The present motion is thus strictly speaking not in order. I do not want to press the point, however, as I understand that the Resolution was not in the list of business before Members and, therefore, the present motion is really unnecessary. But with reference to the remarks of Mr. Dwarkadas I think the Honourable Member will give me credit for having invited a debate on this subject at the earliest moment. It was not Government that avoided this debate. It was the Honourable Members of this Assembly who were anxious not to have it to-day. We were quite ready for the debate and we had nothing to conceal. As to giving another date, Honourable Members will remember that the days fixed for Government business are very limited. We have given increased facilities this Session for non-official business and there is a great deal of official work to be done. As I said, our time is limited and I cannot, without leave of His Excellency, to whom I shall take this matter personally and whose personal orders I shall obtain in this matter, make any definite statement at present, but I have no doubt that Government will do their best, having regard to the importance of the question and to the performance of Government business, to afford facilities for the debate if this is possible. I cannot however say when the debate will be taken up because it will depend upon other business.

We have given one day, which has not been accepted.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Sir,

Friday or Saturday next will be very convenient. If

12-20 P.M. His Excellency will see his way to give sanction to the Honourable Home Member, it will be suitable for us. I am sure, the Honourable Home Member will get that sanction. And this can be done in a few minutes if my Honourable friend will kindly go out of the Assembly Chamber for a little while and bring a suitable message from His Excellency the Viceroy that we may deal with the subject, Sir, either on Friday or Saturday. On both days, Sir, I think we have nothing to do, and that will be a convenient date, which will suit both the Honourable Home Member and all of us.

The Honourable Sir William Vincent : Sir, I always understood there was one clear religious duty for Muhammadans on Friday and I am surprised to hear that Mr. K. Ahmed has nothing to do on that date. I am not, in any case in that fortunate position nor are the other Members of Government. Everyone knows next Friday is a day prescribed for the Executive Council. As I have said, I will consult my colleagues and His Excellency, but I can give no kind of undertaking that we shall find a day for this debate. Nor can the Members of this Assembly, I think, legitimately ask me to do it. I was willing to give an early opportunity for the debate to-day, but for various reasons Honourable Members were not prepared to take up the challenge.

(Mr. K. Ahmed rose to speak.)

Mr. President : Order, order.

The Honourable Sir William Vincent : In the circumstances I really cannot be asked now to fix on any special date for this debate. I simply must decline to do it.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : I move that the motion be adjourned to the 19th January.

Mr. President : Secretary explains to me that there was no time actually to print the new notice, but, having printed the list with this item upon it, it was officially struck out. I was not aware of that. The Honourable Member will understand that I had to call it, with the notice appearing before me. However, the motion which he has moved need not now be proceeded with, namely, for postponement, because we may take it that technically this notice does not appear on the paper.

Sir P. S. Sivaswamy Aiyer : (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, I should like to ask, on a question of procedure, whether you consider yourself so far bound by a clerical error in the preparation of the agenda that you should adhere to the agenda in spite of the fact that it contains an obvious mistake of which you and ourselves are aware, and whether you should take up the erroneous item and propose it for consideration. Now it so happens that Munshi Iswar Saran is present, but he might have gone back yesterday to Allahabad, or some other Member might, on the strength of the decision, have absented himself. I wish to know whether you would consider yourself so rigidly bound by all the mistakes committed by the office in the preparation of the agenda that you feel you ought to adhere to the agenda nevertheless and insist upon it.

Mr. President : I should certainly not consider the Chair bound by clerical errors of the Department or of the printer; and I do not want to allow the suggestion to pass that it is due to a mistake of the office. After all, the Assembly made up its mind somewhat in a hurry yesterday, and it was not very easy to get a list printed 3 or 4 days ago corrected in time. It is entirely due to accident and circumstances of the moment that this appears on the list at all. As I understand, in some cases it has been scored out, and in some cases it has not been scored out, but I assure the Honourable Member that neither the Chair nor the Assembly are bound by any such errors.

Munshi Iswar Saran: Sir, I may be permitted to explain that it was by mere chance that I came into this Chamber just now. I came to mention a different matter to one of my colleagues. I was all along under the impression that this Resolution would not come up to-day. Had it not been for the fact that I had to consult a friend of mine, I would not have come into the Chamber at this moment and I would have been working on the Committee on the Income-tax Bill.

Mr. President: This House now stands adjourned till Eleven of the Clock to-morrow, the 12th January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

THURSDAY, 12th JANUARY, 1922

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OFFICIAL REPORT



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1922

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LEGISLATIVE ASSEMBLY.

Thursday, 12th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

MEMBER SWORN.

Mr. Theodore Alban Henry Way, M.L.A. (United Provinces : Nominated Official).

RESOLUTION *RE*: UTILISATION OF INDIGENOUS SYSTEMS OF MEDICINE.

Bai Sahib Lakshmi Narayan Lal (Bihar and Orissa : Nominated Non-Official) : Sir, the Resolution that I have the honour to move runs as follows :

‘That this Assembly recommends to the Governor General in Council that some practical steps be taken to utilize the services of the Unani and Ayurvedic experts for the prevention and cure of the epidemics in the country with the help of the indigenous systems—and that a Committee be appointed to recommend those steps.’

Before I deal with the merits of the Resolution, I want to say a few words regarding the jurisdiction of this august Assembly about this Resolution. Honourable Members are aware that in February last the Honourable Lala Sukhbir Sinha moved a Resolution in the Council of State regarding the desirability of having Unani and Ayurvedic Medical Colleges in the provinces, which was lost on the ground that the matter was a provincial subject. The Resolution of the Honourable Lala Sukhbir Sinha might have touched upon a provincial subject as it related to the desirability of starting colleges in the provinces ; but I most respectfully submit, that every Resolution regarding public health is not necessarily a provincial subject. Clause 3 of the list of provincial subjects in the Appendix to the Subjects Committee’s Report is as follows :

‘Public Health and Sanitation and Vital Statistics—subject to Indian Legislation in respect of contagious diseases to such extent as may be declared by an Act of the Indian Legislature.’

The Resolution before the House relates to the prevention and cure of epidemics and so it cannot be said that this House has no jurisdiction to appoint a Committee. In their note on clause 3 above, the Committee say that the Indian Legislature should have concurrent power to legislate regarding protection against infectious and contagious diseases. In paragraph 40 of their Report, the Committee say :

‘There remains however a special case for consideration, namely, legislation affecting a certain class of provincial subjects as to which it seems expedient, while giving freedom to provincial legislatures, also to preserve the full authority of the Indian Legislature. The subjects falling into this class are subjects in which the backwardness or laxity of one province is specially liable seriously to endanger the interests of other provinces. They all have to do with health, either that of human beings, or that of animals or plants.’

[Rai Sahib Lakshmi Narayan Lal.]

After giving details of the measures they recommended, the Report goes on :

' In regard to these matters we recommend that it should be definitely recognized that it is open to the Indian Legislature to legislate, notwithstanding that they fall within the limits of provincial subjects which are not classified as subject to Indian Legislation. The provinces will, however, retain their own freedom to legislate on these subjects without previous sanction, except that, where the Indian Legislature passes a law of general application dealing with these subjects, it will be open to that Legislature to prescribe that a provincial legislature shall not be competent to amend such a law without obtaining previous sanction.

' In making the above recommendation we do not leave out of consideration one of the alternatives mentioned in paragraph 212, namely, that the Indian Legislature should pass legislation which might be adopted either *simpliciter* or with modifications by any province which may wish to make use of it. We agree that this form of legislation should be recognized as within the scope of the Indian Legislature as regards any provincial subject, and that such legislation should not be regarded as involving any invasion of the provincial field. But, as the adoption of such model legislation passed by the Indian Legislature is to be left entirely to the discretion of the province, the acceptance of this plan does not adequately provide for such conditions as are referred to in the preceding paragraph.'

Plague and influenza were not known to India before recently they broke out in a corner of the country and spread out from place to place and almost annually recur in the same manner. It is the Central Government which alone can take some adequate steps for the whole of the country for their prevention and cure. In a matter like this the Provincial Governments, with their limited resources, cannot do much, it is the Central Government which should take the lead and it is for the provinces to follow the noble example of the Central Government.

The Report of the Functions Committee states :

' The Provinces may adopt such model legislation passed by the Indian Legislature'.

It cannot be said that the Resolution has nothing to do with legislation. This is a new step for the protection of the health of the people, and the Committee may recommend some sort of legislation, and the Government, after considering the report of the Committee, may think it expedient to have recourse to some sort of legislation. A Committee appointed by this House will have special advantages. It will consist of the representatives of most of the provinces and will therefore be in a position to handle the question from an all-India point of view. Besides, the matter is so urgent that it can be safely called an emergency measure. A Reuter's telegram, as published in the *Eastern Mail* of the 6th February about the Report of the Ministry of Health, London, runs as follows :

' The Report of the Ministry of Health furnishes a grave warning with regard to world-wide possibility of further epidemics similar to those of 1919 which was responsible for more deaths than the whole war. A number of very eminent medical men state that the world's outlook with regard to future pestilence is gloomy. From a perusal of the carefully prepared report it is plain that the influenza epidemic remains a mystery disease despite all experiments in bacteriological test and other data. The medical men are at a loss to define the cause or to offer a cure. They express the opinion that conditions over wide tracts of the world will be favourable to further epidemics for at least another generation.'

Should the Central Government, after this grave warning, leave the matter entirely in the hands of the Provincial Governments? The attitude of the Government regarding this matter is, of late, very sympathetic, but mere sympathy will not solve the problem. Some practical steps should be taken.

This warning proves, beyond doubt, that this is a very important subject and deserves the serious consideration of every well-wisher of the country. Considering the importance of the subject, I have collected the valuable opinions of high Government officials, eminent European, American and Anglo-Indian medical experts, historians, journalists and councillors speaking with personal experience and got the same printed and published as a small book called 'Glories of the Indian Medicine,' which has been circulated to the Honourable Members of this House. I made this collection for the purposes of my speech and therefore hope to be excused for making frequent references to the pages of this book. As I have said in the first page of the preface :

'Famine and pestilence are the two great evils which are the root causes of most of the present troubles of India. Although each of these two evils causes immense havoc in the country and each serves to aggravate the rigour of the other, it can be safely said that pestilence is really responsible for most of the mischiefs. Numberless souls are annually swept away like flies by the epidemics without receiving any medical relief whatsoever. In the words of the Right Honourable Winston Churchill: 'It is our duty to arrest the ghastly waste, not merely of human happiness but of national health and strength, which follows when through the death of the bread-earner, the frail boat, in which the fortunes of the family are embarked, founders and women and children are left to struggle hopelessly on the dark waters of a friendless world'.

These wise words apply *a fortiori* to India where the poverty of the people is proverbial.

'But this ghastly waste cannot be arrested without eradicating the epidemics, which is by no means an easy task, and is next to impossible in India without fighting out this fearful foe with the joint forces of the allopathic and the indigenous system of medicine.'

It is certainly not intended that recourse should be had to the indigenous system in substitution for the allopathic system. No doubt Allopathy is an acquisition to the country and is one of the blessings of British rule in India ; but there are strong grounds for supplementing the Allopathic system by the indigenous system generally for every medical relief and especially for the prevention and cure of epidemics.

Along with the aforesaid report of the Ministry of Health, London, expressing inability to define the cause or offer a cure for the influenza epidemic, Honourable Members will be pleased to hear what Dewan Bahadur D. Seshagiri Rao said in the Madras Legislative Council on the 21st February, 1921. It will be found on page 41 of the book and runs as follows :

'In the late epidemic of influenza which ravaged the Godavari district I may say from my personal experience—it is reported and I have seen it too 90 per cent. of the patients treated under the English treatment succumbed. You will also be glad to learn that 90 per cent. of the patients treated under the Ayurvedic treatment recovered. I therefore place it before the Council in order that they may be pleased to brush aside scientific knowledge for a time, and have sympathy for the poor who will get some relief if Ayurvedic system is encouraged and after all, if only on the ground of economy, we should encourage the Ayurvedic treatment. In a rich district like Godavari we have been able to start only 12 dispensaries and hospitals for a population of over 14 lakhs of people and these dispensaries are at a distance of 15 to 20 miles from one another. It is simply ridiculous for the people to be expected to go to these dispensaries for medical aid. On an average these dispensaries cost us from Rs. 200 to Rs. 250 a month and if Ayurvedic treatment is properly organised and extended to these villages that with Rs. 40 a month you can run a good dispensary which gives Ayurvedic medicines. I feel strongly on the point and the strength is due to the experience that I have gained all these 36 years.'

[Rai Sahib Lakshmi Narayan Lal.]

The Honourable Khan Bahadur Mir Asad Ali, speaking in the Supreme Council on the 15th of March, 1916 (page 34 of the book), said :

'The existing medical institutions, as well as medical practitioners, are quite inadequate to meet the growing requirements of the country. According to the latest figures available

* * * * * there is one hospital for every 5,500 population. *

* * * * * The rate of mortality is very high when compared with that of the United Kingdom. * * * * * Cholera and plague have claimed millions of victims.'

Babu Rebati Kanta Ghosh, in the Legislative Council of Bihar and Orissa on the 27th July last, repeats the same sad story (page 39 of the book). He says :

'It is said that the Allopathic system of treatment has improved a great deal, but I fail to understand whether this improvement is in quality or in quantity. The district from which I come as a representative is one with an area of 3,656 square miles and, after more than a century of British rule, I have got in the rural areas of that district only 8 or 9 Allopathic District Board dispensaries and four or five other dispensaries of private gentlemen. In some places there are no Allopathic dispensaries even at a distance of 30 or 40 miles. If even after more than a century of British rule we have got only a few dispensaries in the district, I do not know in how many years we can have a sufficient number of Allopathic dispensaries so that the people may be treated at their doors.'

The Honourable Sir William Vincent, speaking in the Council of State on the 16th February last, was pleased to observe somewhat similarly :

'The real fact however is that the facilities for medical treatment in this country are very inadequate at present and we should do everything we can to increase them.'

Now let us see how to increase the facilities for medical relief.

It is not practicable to increase the facilities for medical treatment much under the Allopathic system especially under the present financial conditions. The real situation has been very clearly expressed by Dewan Bahadur M. Krishna Nayar. Speaking in Council on 21st February last (page 45 of the book) :

'There is no attempt whatever made in any direction either through this Resolution or in any other way to prevent people from adopting the Western system of medicine. The Western system has come to stay in this country, and I thank God that it is so. Its benefits are immense. What is sought in this Resolution, however, is to allow the poor Indian systems, the Unani system and the Ayurvedic system, to supplement the Western system. The Western system touches only a very small fringe of the population of the country, and I venture, Sir, to say very boldly that whatever amount the Government or any local body, Municipality or District Board may be able to spend upon the Western system, you will never be able to bring the aid under this Western medical system to the door of every man in the country. On the other hand, people living in all nooks and corners of the country would be able to avail themselves of the Unani and Ayurvedic systems. Well, Sir, with your kind permission, if you will not rule me out of order, I may be permitted to say that I know a State where this system—I am speaking with reference to the Ayurvedic system—has not only been encouraged but has been established as a Government departmental system. I refer, of course, to Travancore. There is a Government Ayurvedic Department manned at its head by an Indian graduate who is a practical and theoretical Ayurvedic physician. There is an educational institution there, an Ayurvedic *Pathshala* where, in addition to the teaching that is imparted in the Ayurvedic system, professors who are graduates of the Medical College are employed to give lectures on physiology and anatomy. There is a course of about four or five years and after students pass certain prescribed examinations, they are allowed to practise as Ayurvedic physicians, and there is a net-work of these Ayurvedic institutions spread throughout the State which render immense medical aid to all the population of the State. I don't want to dilate upon this but I refer to that, Sir, only for the purpose of showing that the system has not only been encouraged but introduced with success in a part of the Presidency. There is no reason whatever that a system that has been found successful in one part of the Presidency will not be found successful in another part of that Presidency.'

But economy is not the only merit of the indigenous system. It has got other valuable merits recognised by doctors and medical experts whose authority cannot be in any way challenged. In this book will be found a complete reply to the objections that are sometimes raised against the indigenous system, that it is not scientific, that its practitioners are quacks and that at any rate even if they can treat diseases successfully they do not know how to diagnose. I claim the indulgence of this House while I quote some of the opinions, in the short space of time at my disposal, and hope the others will be taken as read. Surgeon General Pardey Lukis, at pages 6, 7 and 8 of the book : While strongly supporting the Resolution moved by the Honourable Khan Bahadur Mir Asad Ali Khan in March 1916 regarding the investigation of the indigenous systems of medicine in the Imperial Legislative Council, the Honourable Surgeon General Sir Pardey Lukis remarked :

'The motion now before us deals with the subjects to which I have devoted considerable thought during the 36 years of my residence in the East, and, as I said the other day at Indore, the longer I remain in India and the more I see of the country and its people, the more convinced I am that many of the empirical methods of treatment adopted by the Vaidas and Hakims are of the greatest value.'

and, continuing, the Surgeon General said :

'Why then should the Allopath arrogate to himself the right to appropriate for the individual benefit all new discoveries denying these privileges to the practitioners of other systems of medicines? This appears to be specially unfair when it is borne in mind that 90 per cent of the Indian population lives in rural areas where the Vaidas and Hakims are and will be for many years to come the chief attendants of these dumb millions alluded to in recent speeches in this Council. I am strongly of opinion that in the interest of the masses the improvement of the education of those who profess the indigenous systems of medicine is quite as important as the invention of a lower grade of Allopathic practitioner—personally if I were ill I say frankly that I would prefer to be treated by a good Vaidya or Hakim rather than by a bad doctor. I resent strongly that spirit of medical trade unionism which leads many doctors to stigmatise all Vaidas and Hakims as quacks and charlatans and shall be always proud of the fact that I was privileged to have the friendship of such learned men as Nawab Shafa Uddowlah of Fyzabad and Kabiraj Bijay Ratna Sen of Calcutta. I will not trouble a lay audience with all the evidence that exists to show that many of the so-called discoveries of the recent years are re-discoveries of facts known centuries ago to the ancients; I will merely remark that I am not alone in my opinion as regards the value of the ancient systems of medicine. If I err, I do so in good company with my friend and former colleague, Sir Havelock Charles, Colonel King of Madras to whom India owes the magnificent Research Institute at Guindy and that distinguished Sanitarian, Doctor Turner, the Health Officer of Bombay.'

Again at page 8, paragraph (3). On the occasion of his opening the Hukumchand Laboratories and Reading Room attached to the King Edward Medical School at Indore, he said :

'I wish to impress upon you most strongly that you should not run away with the idea that everything that is good in the way of medicine is contained within ring-fence of Allopathy or Western medicine. The longer I remain in India and the more I see of the country and the people, the more convinced I am that many of the empirical methods of treatment adopted by the Vaidas and Hakims are of the greatest value and there is no doubt whatever that their ancestors knew ages ago many things which are now-a-days being brought forward as new discoveries.'

Much would have been done if this Resolution had been adopted at that time, but somehow or other the matter was sent to the Local Governments for opinion and Honourable Members will find that the opinions of Local Governments were not very favourable. The Government is very keen about expert opinions and it seems to me very strange that a matter on which expert like Sir Pardey Lukis gave his opinion should have been sent for the opinions of Local Governments, which opinions could only be gathered

[Rai Sahib Lakshmi Narayan Lal.]

either from laymen or persons of inferior merits to Sir Pardey Lukis. However, that might have been done under the old Councils, but I hold that under the new Reform Councils a thing like that should not be done. When the expert opinions are unanimous in recognising the merits of the indigenous system and its utility, those opinions should be regarded. No doubt promises after promises have been made and hopes after hopes have been given by Government; but the realisation of those promises and the fulfilment of those hopes are now overdue and, if really, these indigenous systems are of any help to the public, then something practical should be done and the initial step should be taken by the Central Government. Honourable Members will find a similar opinion in a speech of Colonel Maclaren, Civil Surgeon of Allahabad, at pages 13 and 14. He said :

‘When I first came to India I had no idea that your system of medicine has made such advances, but now I know better, and I much regret that owing to the busy life I have had to lead during my service, I have not given it that attention and study which its importance deserves. I know that you can diagnose and treat all diseases and that your treatment of chronic complaints is remarkable. Your treatment of such diseases as Asthma, Ascites, Insanity, diseases of the brain, spine and generative complaints is very successful under the climatic conditions of the country and the habits of the people. I was much interested in the drawings of the instrument used and charts shown to me the other day by Babu Sohan Lal Jain, Vaid, prepared under supervision of Pandit Narayan Dikshit Bapat. As you know, India is rich in medicinal products and herbs, many hundreds of which are incorporated in the Indian Pharmacopœa. I trust that as time goes on and social intercourse advances, there will be greater co-operation amongst gentlemen practising in two systems of medicines, for we can undoubtedly learn much from each other for our subject is the same, namely, the cure of the diseases. Each can learn from the other, as I say, we from your knowledge and experience, and you by the study of physical and chemical science and its applications to your medical methods.’

In page 22 of the book, Honourable Members will find :

Mr. President : I must warn the Honourable Member that he has very nearly exhausted his time.

Rai Sahib Lakshmi Narayan Lal : Honourable Members will find that all the remarks which I have still to cite in favour of the indigenous systems, are contained in this book. With these few remarks, as the time is up, I close my submission and commend this Resolution to the House as strongly as I can for its adoption. The Resolution is a very modest one. It does not dictate any particular step to be taken; it simply asks for a Committee to be appointed and it is left to the Committee to say what steps should be taken.

Mr. P. L. Misra (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I have much pleasure in supporting this Resolution. As the Honourable Mover has said just now, the Resolution is a very simple one. It is that some practical steps should be taken to utilise the services of the Unani and Ayurvedic experts for the prevention and cure of the epidemics in the country and so on. Sir, connected as I am with many public institutions in my province I have some experience of these epidemics—I mean plague and influenza. During the last influenza epidemic, as the Assembly knows very well, millions of people were swept away by this fell disease. In my province about five lakhs of people were the victims of this epidemic, and the result was that when this epidemic spread in the districts, the dispensaries were quite insufficient to cope with it; the consequence being that, as my friend has already described in a graphic way, thousands of souls were swept away uncared for. Poverty, as the Assembly knows very well, is a curse of this country and in

the countryside many people who could not resist the disease were lying like rats and cats in the streets and in the roads. I know instances when even Government servants, police sub-inspectors, head constables and postal officials, for epidemics are no respecters of persons, were all victims to this fell disease, and the institutions such as Post and Telegraph offices in some districts had to be closed, in fact there was none to look after these institutions. In my own district, which has a population of about five lakhs, I regret very much to observe that there were only half a dozen dispensaries. Now you can imagine how ridiculously small this number was, also the staff engaged therein to cope with influenza of such a virulent type. The result was that we people had to go to these Hakims and Vaidis and ask them to use their utmost skill to treat these people; and to our surprise hundreds of patients were cured by simple treatment by these Vaidis and Hakims who administered pills consisting of herbs, and the results were marvellous. That was also the case during the plague time. The Assembly knows that no specific has yet been discovered in this country ever since plague came here. People have been using all sorts of medicines and in some cases they have been very successful. Therefore, my submission is, that when these Vaidis and Hakims can use medicines which have been proved to be efficacious in many cases, is it not time that we should take some steps to institute a sort of inquiry to encourage these people and find out from this committee whether it will really be useful to employ them during the epidemics of influenza and plague. My submission therefore is, that it is absolutely necessary that we should take this step and I therefore support this Resolution.

Lieut.-Col. H. A. J. Gidney (Nominated Anglo-Indian): Sir, my chief reason for entering into this discussion is because I find that Resolution No. 1, and the Resolution which stands against my name, No. 4, relate to two opposite systems of treatment. It has been very truly said that when doctors disagree, the only one who can settle the matter is the undertaker. Yet, we as legislators, are asked in this Resolution, by my Honourable friend, the Mover, to settle as to whether the Ayurvedic and Unani system of treatment is superior to the Allopathic system. (Cries of 'No.')

I repeat we are asked to take this matter up—if I may be allowed to continue and amplify my statement. I hope to show its justification. I am alluding to the results which my Honourable friend mentioned in support of the Unani system. He stated that 90 per cent. of influenza cases had been cured by the Unani system while 91 per cent. of deaths had occurred under Allopathic treatment. Now, we are not here to decide which is the better method of treatment. We are a body of legislators, not medical men. I submit, if all that is claimed for this system of treatment, which I have no desire to decry, is true, then it needs no legislation, interference, or advocacy, on our part; it stands on its own merits, self-advertised and self-evident. I do not therefore see that any practical good will result by any such committee being appointed. The Unani and Ayurvedic systems have stood the test of centuries in India; whereas western medicine has been quite recently introduced into this country, and, if the latter system has supplanted the former, it is because it is as good or better than it. Moreover, the Indian is well able to decide the treatment he requires without any advice from the Legislative Assembly. This very matter was discussed in the Council of State and certain statistics, etc., were asked for, before that House could or would pass an opinion.

[Lieut.-Col. H. A. J. Gidney.]

The Honourable Mover of this Resolution has said that when expert opinion like that of the late Sir Pardey Lukis favoured this system, why should the matter have been sent to Local Governments for opinion. Now, if the expert opinion that was given to us before was not considered satisfactory by Government, how can the opinion of this Legislature, a body of laymen, be of any use to decide on the merits or demerits of the system? I do not, in any little way, wish to decry the merits of the indigenous systems of medicine which have peculiar justifiable claims of their own. But we must remember, in all forms of medicines; 'what is food for one is poison to another'.

I ask the Honourable Mover to believe me when I say that if I could see that any good would accrue by appointing this Committee, I, for one, would be the first to support it. But, since I am not convinced that any good will result, I feel constrained to oppose the Resolution.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, I am afraid that Colonel Gidney had not sufficient time to give his serious consideration to the words of the Resolution. The words of the Resolution are not that this Assembly or the Honourable Mover is in favour of driving out the western system. What the Honourable Mover means to suggest to this Assembly is this, that the Ayurvedic system, which is an indigenous system and which has been found to be adequate so far as the diseases in this country are concerned, may as well be adopted. What the Honourable Mover has suggested in his very modest speech is this, that a Committee should be appointed and that Committee may deliberate over all the reasons which have been advanced in favour of the indigenous system. I cannot see for a moment how Colonel Gidney entertains the fear that we are against the western system. We are not against it. We concede and make bold admissions before this House that the western system of treatment has done immense good to us, but not so much good as we expected, and, therefore, we feel constrained to suggest very strongly that this Resolution, which has been so ably supported by citations, authorities, references and opinions, should be passed unanimously. I come from the Punjab, and if I may be allowed to make a reference to my own experience—I don't mean to speak of my experience as a physician, because I am not a medical man, but of my experience which has come to me in the form of an information, from a good many friends and relations—that the Ayurvedic system is as much wholesome and as much useful as the western system. If Colonel Gidney has any fear about the Ayurvedic system, he may ask his friends not to resort to it, but we Indians are quite prepared to assert in the strongest terms that the Ayurvedic system is very much useful and will, as I believe, drive away a good many diseases which, unfortunately, the western system has failed to drive. With these few observations, Sir, I very strongly support the Resolution which speaks for itself and which is very modest in its terms.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division : Muhammadan) : Sir, not being a medical man, I cannot form an opinion on the comparative merits of the two systems of medicine, but my own experience has been that the Unani and Ayurvedic systems of medicine have done immense good to the country, but we are not going into the comparative merits of the two systems. The principal point for the consideration of this House is that Medicine is a provincial subject, and when the Provinces have not moved in the matter, there is no reason why the Imperial Government should spend,

as the Mover of the Resolution says, 'to utilise the services of the Unani and Ayurvedic experts'. Of course it will be for the Honourable the Finance Member, as the fittest person, to find out how the cost is to be met. But any one who has gone closely into the Budget will see that we have various demands of an urgent nature to meet. I therefore oppose the Resolution on purely financial grounds:

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I had no intention to take part in the debate, but if I stand up, I do so with a view to remove certain misconceptions, if I may so describe them, on the point. As it has been pointed out by several previous speakers, the point is not which is the better system, the European or Indian, but the point now under consideration is the utilisation of the existing forces in the country; that is to say, when we find that there are in the country certain other systems of medicines at work, whether we should or should not avail ourselves of those systems in order to supplement the European system and whether inquiry should be made into the matter by appointing a Committee. Unless there is a central organization, for the whole of India for purposes of the inquiry, it is difficult to consider all aspects of the question in a systematic manner, and that, I submit, is the whole point. Eminent persons including even Viceroys have admitted that there are certain points in favour of the indigenous systems of medicine, but we are not concerned with these points at the present moment. The question is whether we should or should not utilize the existing forces; and not whether the European system has appealed more widely to the people generally, or not. The fact is, however, I may state, that the public have immense faith in the indigenous system. In accounting for the popularity of the European system, one must not forget that Government have put facilities in the way of the people in availing themselves of that system of medicine, and that public money is being spent towards popularising the western system of medicine. We must not forget this fact, as an element which goes towards popularising that system. We have, however, no reliable statistics upon which we can base our conclusions so far as the Unani and Ayurvedic systems of medicine are concerned. We do not possess sufficient information about their working, and what is worse, we do not even care to know anything about them. To refuse to look into the question betrays an attitude of mind which I deprecate. I am not a doctor myself and my views are not narrow. I speak as one who is anxious to make use of all the advantages or benefits that are available under the existing circumstances of the country. That is my point. I therefore submit that the House should not look at the question from a financial point of view because the present is not a financial question at all. We do not know how the Committee will be constituted, and what amount of money we shall have to spend, but at any rate it will not come to much, and we can economise as much as possible. But to postpone all inquiry into a matter of this kind, in order to meet cases of supposed emergency in other directions, indicates an attitude of mind, which does not certainly appeal to me. With all my heart, therefore, I support the Resolution which has been so ably moved by my Honourable friend, the Mover.

Rai Bahadur Bishambhar Nath (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, the importance and utility of the Unani and Ayurvedic systems of medicine and treatment has been discussed and proved several times and in different Councils. Even in the Council of State last year the subject was discussed and the attitude of the Government in the

[Rai Bahadur Bishambhar Nath.]

matter was found extremely sympathetic. I wish the Local Governments who in my opinion should take the initiative in a matter like this had done something more substantial. - The Resolution that has been moved by my friend, Rai Sahib Lakshmi Narain, would once more draw their attention to the subject and they would seriously consider the steps recommended by the Committee proposed to be appointed. I therefore support the Resolution and commend it to your acceptance.

Mr. N. M. Joshi (Labour Interests) : Sir, I think there is some confusion between the speeches in support of this Resolution and the wording of the Resolution itself. The wording of the Resolution does not leave it open for us to say that the Committee should consider the desirability of utilising the services of the experts of the Unani and the Ayurvedic systems. The wording of the Resolution commits the Assembly to the view that it is desirable to make use of the services of the Ayurvedic and Unani systems of medicine.

Sir, as a layman, it is very difficult for me to commit myself to the view that those systems of medicine are to-day in such a position that the Government should spend public money on them. I do say however that those systems may be good and I would not object to Government spending a limited amount in finding out whether the Unani and Ayurvedic systems are really scientific or not, but I would certainly object to Government spending money in at once establishing those systems throughout the country. If the Mover of the Resolution, or his supporters, would change the wording of the Resolution in such a way that the Government be asked to consider the desirability of utilising the services of the Unani and Ayurvedic experts, then I may be able to support it, but as it reads at present, I regret that I cannot.

Personally, I do not believe much in the Ayurvedic and Unani systems at all, although I have no objection to Government making experiments in regard to those systems. What little experience I have had of them leads me to say that even the people in general have no faith in them (Cries of 'No'!). Sir, I am only giving Members of this Assembly my own experience of the matter. I may say that during my life I have seen hundreds of cases of serious illness, and I have invariably found that when the condition of the patient really became serious, the doctor has been called in and the Hakim and the Vaid generally given a 'go-by'. That has also happened when epidemics have raged through the country; on these occasions the services of the doctor are always requisitioned.

Sir, in India we have many Municipalities and many Local Boards which could certainly patronise the Unani and Ayurvedic systems of medicine, but what do we find? Have we seen many Municipalities or Local Boards dispensing with the services of doctors and calling in Hakim or the Vaid? For my own part, I have seen very few indeed. Take even the private charitable institutions, you will find very few dispensaries with a Ayurvedic or Unani practitioner in charge. Again, whenever a person wishes to leave some money for medical purposes, it is generally left to a western institution or to be used in fitting up a dispensary on western lines. At any rate, that is my experience; the experience of other people may be different. Then there is the difficulty of the subject being a Transferred Provincial Subject, and it is not right for us to pass here a Resolution which the Local Councils may not accept. On that ground alone we should seriously consider whether we should ask the

Government of India, whose hands are already quite full and whom we want to take up several other important subjects, to fritter away their time and money on a matter which does not pertain to them.

On these grounds, Sir, as the Resolution stand, I cannot support it at all.

Mr. H. Sharp (Education Secretary): Sir, I shall try to reply briefly to the various views that have been put forward in the discussion this morning, and I hope that my reply will be acceptable both to the Mover of this Resolution and also to the majority in this House. Possibly, it will not be quite acceptable to all; for we have heard some dissentient notes; and whether it will be altogether acceptable to the Mover, or not, I cannot yet say. I think possibly that the Mover of this Resolution would like us to move rather more rapidly than the position of the Government of India, as it is at present, permits it to do. But in that respect I must point out, with reference to what the Honourable the Mover said regarding the danger of another pandemic of influenza and such diseases, that unfortunately the urgency of an object does not mean that the attainment of that object can be realised by any rapid or sudden means. After all, our medical knowledge, whether it be of the West or whether it be of the East, represents the growth of not hundreds, but thousands of years. Rome was not built in a day, and medical systems have to be built up by slow degrees. With reference to this, I must make a remark on something which the Honourable the Mover said regarding the mortality from influenza in 1918. I hope I understood him aright and I hope I heard him aright. If I understood him properly, I think he said that 90 per cent. of the patients treated by the Allopathic systems succumbed, and 90 per cent. of those treated by the indigenous systems recovered. Well now, I have seen it constantly stated, both in writing and in speech that 90 per cent. of the population of this country still depends on the Unani and Ayurvedic systems of medicine. A simple calculation will show that if these premises are, as stated, the conclusion would appear to be very inconsistent with the appalling mortality figures with which we were faced in October and November 1918. As regards the warning which the Honourable Mover put forward with reference to what has been stated in the Ministry of Health, as soon as I saw that telegram I immediately set about inquiring what are our supplies of anti-influenza vaccine and what steps can immediately be taken for combating any pandemic should it appear. I merely say that incidentally.

The Honourable Mover referred to the history of this case. I need not go further back than 1916 when the Honourable Mir Asad Ali Khan moved a Resolution in the Legislative Council. As the terms of that Resolution are important, I had better perhaps read them out to the Assembly:

12 noon. 'This Council recommends to the Governor General in Council that the Government of India, in consultation with Local Governments, should investigate the possibility of placing the ancient and indigenous systems of medicine on a scientific basis and increasing their usefulness'.

That Resolution, as we have already been told, was accepted, and the Government of India addressed the Local Governments asking what was being done and what could be done. As we have also heard to-day, the Local Governments found certain difficulties. Some remarks which have been made to-day show that there is not entire agreement as to the propriety of having put this question to the Local Governments in that way, and that merely lay

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 information was received back. I remember that a year ago, in the Council of State, it was stated by somebody that the investigations have been made primarily through the police. I do not think that that was so. I have the correspondence with me, and it shows that a very large amount of expert and professional opinion was at that time collected together and that the whole question was treated with very considerable care. However, in view of the opinion expressed by the Local Governments, nothing could be done. Just eleven months ago, the Honourable Lala Sukhbir Sinha moved in the Council of State another Resolution. The terms of that Resolution too are rather important, and I had better read them :

'This Council recommends to the Governor General in Council to recommend to every Provincial Government the desirability of (a) having an Ayurvedic and Tibbi Medical College in their Provinces, (b) taking measures to develop Indian drugs, and (c) appointing Vaidyas and Hakims in every dispensary to treat patients by indigenous methods'.

Various views were expressed at the time and that Resolution met with some opposition in the Council of State. The main opposition, however, that was brought against it was by reason of the fact that it seemed an invasion of the sphere of the Local Governments and the Ministers. That view was put forward by various people including non-officials, and it was put forward very forcibly by the Honourable Sir William Vincent in the following words :

'My objection, however, to the Resolution—and I hope on that point I shall secure the support of this Council—is that this is a provincial transferred subject in which it would be wrong for the Government of India as an executive body to interfere at all and that we should confine ourselves to forwarding this debate to Local Governments for such action as they think fit'.

As a matter of fact, the Honourable Sir William Vincent *did* secure very great support, so much so that if I remember aright, the Resolution secured only 11 votes against 32 votes against it, and so it was lost.

Why did the Government of India accept the one Resolution and oppose the other Resolution which was lost? The first Resolution recommended investigation; the second recommended what I may perhaps term direct action, although of course through the agency of the Local Governments. Furthermore, since the Resolution of 1916 was accepted and these circulars went out to the Local Governments there has been a constitutional change in India. It would be difficult now for the Government of India to address the Local Governments, although of course there could be no harm in sending the proceedings of to-day's meeting to them for their information, and I have no doubt that that will be done. But to go further than that would be trenching upon the domain of the Ministers, and it would constitute to some extent an undue interference with their freedom and their activities.

Now, this particular Resolution which has been moved to-day also is in danger of trenching upon that sphere, because it makes specific reference both to prevention and cure of epidemics, which are provincial transferred subjects. The Honourable Mover referred to one of the entries—I think it is No. 3—in Part II of the Schedule to the Devolution Rules under Section 45-A of the Government of India Act, and he quoted it. It shows that public health and sanitation and vital statistics are provincial subjects, subject however to legislation by the Indian Legislature in respect of infectious and contagious diseases, etc. He built an argument upon that. Well, Sir, I do not think that any argument can be built upon that in respect of this Resolution. That entry

refers to legislation. It refers undoubtedly to such measures as the Epidemic Diseases Act. We are not going to make doctors work under one system or another by means of legislation. There is, however, another entry on which I think the Honourable Member might more firmly have depended in building his argument. The Resolution asks for practical steps to be taken in bringing in Vaidyas and Hakims to assist in the prevention and cure of diseases and it also asks for a Committee. I think it was the Honourable Mover himself who said that he simply asked for a Committee. This idea of a Committee brings in what is obviously essential to any successful pursuit of this topic, and that is, preliminary investigation and research. Well, Sir, even here, research is not entirely a Central subject by any means. Local Governments are not prohibited from having their research institutes. Indeed, they already have their medical research institutes. But we do find under Part I of the Schedule to the Devolution Rules—I think it is entry No. 33 under Part I—that central agencies and institutes for research are classed as Central subjects. Now, Khan Bahadur Sarfaraz Hussain Khan pertinently asked: 'Where are we to get the money from for research or for any matter with reference to these purely Provincial transferred subjects?' It would be, if I may say so, rather unconstitutional for Central Revenues to contribute to any such object. But if such investigation can be pursued, if such a Committee can be held in connection with any central research institute, then I think that the Government of India can do something, and I am authorised to say at once that the Government of India do view this Resolution with the very greatest sympathy (Hear, hear). They are prepared to accept it both in its general spirit, and also more particularly with reference to such practical steps as do seem possible for giving effect to it. I only hope that the Honourable Mover will understand the restrictions under which the Government of India labours in a matter like this and will not take it amiss that the acceptance of the Resolution has to be conditioned by certain factors which perhaps will make progress rather slower than he would desire.

The Government of India can do two things. In the first place, it can send the report of these proceedings round to the Local Governments. It cannot guarantee what view the Local Governments will take of them. The Local Governments will have their own ideas and no doubt they will take their own action and that action will vary from province to province. In Calcutta and in Bombay, there are now Schools of Tropical Medicine which, if I may say so, appear to afford an excellent field for discussion between Allopaths, Vaidyas and Hakims, if of course, the authorities in charge in the Local Governments think that that is desirable. It was pointed out in the Council of State a year ago that already in the Calcutta School the processes which are being used or were being used by Sir Leonard Rogers and Dr. Chatterjee in the treatment of leprosy are the accepted Indian remedies, *chanmoogra* oil and *neem* oil. That is, I think, just a little instance of what can be done by way of collaboration in an institute of this kind. I hear that in the United Provinces the Government has granted a sum of money, and a substantial sum of money, for the maintenance of indigenous dispensaries. It was I think the Honourable Mr. Sethna who pointed out in the Council of State that although Bengal professes to be very keen on the Ayurvedic and Unani systems, the Provincial Council has passed a Resolution to the effect that every *thana* ought to possess a charitable dispensary and that every charitable dispensary should have its three Allopathic doctors. So we may expect some difference of treatment among the provinces.

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Now, secondly, what can the Government of India do itself? The Government of India can encourage research along these lines in any central research institute. The Government of India has already a small central research institute, but that research institute during the war had transformed itself into a therapeutic institute dealing purely with the manufacture of vaccines; and I may say incidentally that by means of almost superhuman efforts that institute has saved tens of thousands of lives during the War. Partly owing to its success the demand for vaccines has arisen and, so far as one can see, that institute will have very largely to confine itself to the manufacture of vaccines in future. But the Government of India hope shortly to have a research institute on a very much larger scale. I am prohibited at the present moment from saying very much about this. The whole matter will be laid before the Assembly in due time; but this I can say by way of encouragement that save possibly for a small sum, a comparatively small sum, for capital expenditure, it is hoped that the maintenance of this institution will call for no new funds and that it will be possible to finance it out of existing funds and out of private donations which are hoped for. When the Government of India has such a research institute, then, and this is important, its professors and workers will be encouraged to get into communication with distinguished Vaidyas and Hakims; and if their discussions appear likely to lead to solid results, then will come the time for a Committee of experts of these various schools and that Committee will be able to consider the proper lines along which progress can be made and to indicate for the benefit of India at large the methods in which they can be practically employed.

I have laid stress on the extreme necessity of research in this matter—a certain amount of discussion and research even before it would be useful to appoint this Committee. The reason why I have done so is that there are certain circumstances which appear to constitute differences between the Western and Eastern systems of medicine. When I speak of differences, I am quite aware that that difference is only of method; as the Honourable General Edwards said in the Council of State, there is really no western system, there is really no eastern systems of medicine; they are alike in goal and they are alike in this also that in civilised countries, once a practitioner is qualified, he is not forbidden by law from adopting any treatment. He can adopt hydropathy, or homeopathy, or hypnotism, or faith-healing if he chooses.

Now what are the characteristics of the so-called Western medicine or Allopathy? Well, I am a layman and I daresay that Colonel Gidney will correct me if I am wrong. But I should say that these characteristics are that it insists upon organised training; it practises regular diagnosis; it has brought surgery up to an unexampled pitch; it encourages prevention as well as cure; and it depends for its development upon systematic research. Dr. Nand Lal said that he quite admired the Western system but unfortunately it has not done all that they expected of it. Nor has any system of medicine! I remember a quotation which was made in the Council of State about the methods of Hakims, and if Dr. Nand Lal wishes, I can quote him a little *shloka* which would show that a Vaidya is even a worse thief than death. But I lay no emphasis on these things at all. We find such sayings in every language, in every country, simply because no system of medicine is yet complete and therefore the doctor has not yet full commandment over the pulse of life.

Eastern medicine, on the other hand, we are often told, is characterised by the fact that it is stationary and empirical.

Now, Sir, I do not know enough about it to say whether that is correct. But this I do know, that there have come to my own notice in my time in India remarkable cures effected both by Ayurvedic and Unani Medicine; and I emphatically say with the Honourable Mover that the professors of this system, at least the professors that I have come across, are anything but quacks. They are certainly not. We hear from various sources that these systems are making progress and I see that there has been in our places copies of a little brochure by the Honourable Mover, entitled 'The Glories of Indian Medicine'. There are also schools of Unani and Ayurvedic Medicine in the country. I have sometimes visited such schools and I believe that they are doing good work. And here in Delhi we have the Tibbi College founded by the exertions of Hakim Ajmal Khan; and may I say incidentally that whatever differences may arise in political opinions, on this platform there should be no separation, namely, the platform of the alleviation of human suffering (Hear, hear), just as one wishes that differences in these opinions might make no difference in the ordinary intercourse and courtesies of human life. But there is even a greater difference between the developments of these two systems. Allopathic medicine has spread all over the world, into every civilised country and has become a world-wide heritage. The Ayurvedic and Unani systems, although they appeal to millions and hundreds of millions of people, are localised practically in India.

Now, this, I think, is a most important point and shows clearly the need for preliminary research and for some system of collaboration. The Honourable Mover himself declared that he did not wish to substitute Ayurvedic and Unani medicine for the allopathic. They ought to go hand in hand. It is not to be thought that these Indian systems should attempt to cut themselves off from the great stream of medical development which is going on in every civilised country in the world and retreat into a backwater. That is the very last thing that is required and therefore there are wanted research and discussion between the Allopath, the Hakim and the Vaidya.

I hope, Sir, that I have made myself clear. I have taken more time than I had intended to take. I hope I have made clear in the first place the circumstances which restrict the scope of the action possible by the Government of India in this matter and also the conditions, the rather restrictive conditions, upon which Government can accept the spirit and to some extent also the details of this particular Resolution. It is inconceivable to me that we should ignore the system or systems, which still cater for the great mass of the people and that we should fail to utilise this mass of experience, this mass of knowledge, which is lying about the country, so to speak unedited, unindexed, uncollected. It is also inconceivable to me that there could be any successful line of progress if we tried to develop those systems alone and did not attempt to link them up with the systems which have come to us from the West and whose great recommendation is that they are practically spread over the whole world. In conclusion, as I have stated before, the Government of India accept the spirit of this Resolution and they are also prepared to take the practical steps which I have indicated upon the conditions and in the circumstances which I have indicated. I only hope that the Honourable Mover will be satisfied.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadah Urban) : I am thankful to Mr. Sharp for the very assuring way in which he has accepted this Resolution

Sir Deva Prasad Sarvadhikary : But has he ?

Rao Bahadur T. Rangachariar : I read it so and although he has hedged round his acceptance with a lot of 'ifs' and 'buts' I wish that those 'ifs' and 'buts' disappear and that we have whole-hearted action in the direction in which this Resolution asks Government to take steps. Sir, the Honourable Member for Government brings into prominence the difficulty about this being a provincial subject and a transferred subject. There are certain areas under the Government of India direct for which the Government of India finds the money for medical relief. I know, Sir, as a Member of the Finance Committee that Mr. Sharp himself has been bringing up proposals after proposals for revisions or reorganisation of the medical department in the areas under the direct control of the Government of India and therefore in such areas there can be no such difficulty, as he fancies, of forcing his views upon the Ministers of the province and I do not think that any Minister who is responsible to his constituency will at all resent any direction and guidance from the Central Government. On the other hand, he would welcome such assistance and guidance from the Central Government so that he may go forward with the schemes which I know all of them have. The only difficulty is the question of finance in their way. The western system of medicine has under the western Government been fostered and protected and therefore it has thrived and the common people think that the western Government did not encourage the eastern systems, and one of the main causes of the unpopularity of this Government to-day is that the millions of the people of this land resort to Hakims and Vaidis and when the Government did not take steps to encourage those systems they think that the Government act as a step-mother to these systems of medicine and Colonel Gidney, I deplore it, belonging as he does to the western system of medicine, stood up to-day to oppose this Resolution. It is unfortunately the impression in the country, I do not know whether it is well founded or ill founded, that it is the doctors who advise the Government in this matter that stand in the way of the Government improving and encouraging the eastern systems of medicine. They think that their vested interests require that the Government should not take hearty action in this direction. Sir, the people of this country demand that hearty action, whole-hearted action should be taken. Sir, we believe in these systems of medicine. I was myself under the treatment of a western doctor and when my life was in danger he administered an Indian medicine and saved my life. It is not a question of research. By research you can improve the system, but you must accept the soundness of the system. Sir, an Honourable Member mentioned the financial difficulty. We are spending crores and crores of rupees upon objects which do not appeal to the country. The country will not grudge spending even a crore of rupees, or even two crores of rupees, even five crores, if they are devoted to a purpose like this which will appeal to the masses. The masses require it. The Government, I ask, should take whole-hearted action in this direction. I am glad that Mr. Sharp has defended the system. It is not intended that you should supplant the western system. The country is so large, you cannot found hospitals all over the place.

There are families, well-known families who have been physicians for centuries together. If you go to the west coast of Malabar, you will find ancient families who still possess medicines prepared hundreds and hundreds of years ago. Sir, these physicians and Hakims thrived because of the encouragement given to them by the ancient Governments: We know, Sir, a Tanjore Raja under the Maratha King encouraged these systems of medicine, and medicines were prepared which have been even preserved to-day, and people resort to these in order to cure diseases which are supposed to be incurable, so that, Sir, the system need not require any defence at my hands, because they are self-evident to us. They may not be strictly scientific, but we do not care what science means, we know that it is a successful system of medicine. The only thing is that it is not getting encouragement from Government. Medical relief and sanitation are a primary function of the Government. You cannot expect people to spend large sums of money on preparing valuable and costly medicines unless the Government come to their rescue and start institutions where such medicines can be prepared, stored and distributed all over the country. I therefore heartily support the Resolution.

I shall say one word in regard to Mr. Joshi's remarks, which I think were rather unfortunate. Sir, a most enlightened countryman, Mr. V. Krishnaswamy Aiyar of the Madras Council, founded large endowments for establishing a school for encouraging the Ayurvedic system of medicine, and to-day, Sir, in Madras it is training a number of students, and there are not wanting other philanthropists who have founded similar institutions. But they are few, too few indeed. Unless the Government come to rescue, unless the Government come liberally to the rescue, of these Vaid physicians and Hakims, they are bound to die out. Would it be right to allow them to die out? Scientifically speaking, on scientific grounds it would not be right to allow them to die out. We must not starve them out. I think Government will be failing in their duty if they do not actively encourage the revival and growth of these systems. I therefore, Sir, heartily support this Resolution.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): Sir, I support the Resolution on the ground that the Unani and Ayurvedic systems are very popular with the masses. The Allopathic system may be very good, and I personally admit it, but the masses are not yet utilising it fully as they think otherwise. My experience is, if the patient has no faith in the medicine, he or she derives no benefit from it. As the masses have faith in the Unani and Ayurvedic medicines, I am certain they will derive great benefits from using them. I have also known cases where patients determinedly refused to take Allopathic medicines, thinking them not only worthless but poisonous. Such being the public faith, it is no use to be wiser than them.

I am almost certain if the Government will take up the matter in hand, public charity will come forward to support it. I am amused to find that we have got in this Assembly a few Indians who are more westernized than the Western people. I ask—I name nobody—why are they making themselves ridiculous like that? I can only congratulate the Government on bringing such men into the Assembly by Government nomination.

Mr. J. F. Bryant (Madras: Nominated Official): Sir, I do not intend to inflict a long speech on the House to-day. I merely want to congratulate the Honourable Member for Health on the attitude he has adopted. There is a very pronounced feeling in favour of the Ayurvedic and the Unani systems of

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medicine throughout the country. That sentiment is largely political. It reflects the self-centered tendency to preserve India for the Indians, and to have an Indian Government. We, westerners, have to reckon with that feeling. We see reflected in everything around us, in all the institutions of life, in everything with which we come in contact. We have to reckon with that feeling, whether we like it or not, and that feeling is reflected in the demand for indigenous systems,—the Ayurvedic and Unani systems,—as opposed to a foreign system of medicine. Sir, I can only congratulate the Government on the very correct attitude that it has adopted towards this Resolution. I sympathise with the Resolution and I support the Government.

Rai D. C. Barua Bahadur (Assam Valley Non-Muhammadan): Sir, when I first came to know that this would be the first Resolution to-day before yesterday, I thought that it would be an uncontested one. but now I find that there are enemies to this Resolution also. After all, the thing is, what is truth? We are going to ascertain it by appointing a Committee. So from that point of view there ought not to have been any opposition simply because the truth would have been found out by the appointment of a Committee—and the Committee would not cost us very much as is apprehended in some quarters. Sir, as regards the merits of the different systems, we are not here to discuss about them: we want *all* the systems, we want Allopathy, we want Homœopathy, we want Ayurvedic, we want Unani, everything is useful. I may be permitted, Sir, to relate some of my experiences in my own family. A child of mine was attacked with fever while he was 2½ years old. Then I invited the Assistant Surgeon,—the Sub-Assistant Surgeon, to look after the child. The child would have the same amount of temperature in the day time, and at night of course there was a slight reduction, but there was no remission; and I was myself hopeless that the child would recover, and in the last resort I called in an Ayurvedic practitioner. That gentleman came in, examined the boy, and said that there was nothing to be afraid of, that the child would get a remission in about 12 hours later, and that after 24 hours it could have rice as food. And the whole thing happened as he predicted. He took up the case and gave medicine, and there was remission after 12 hours, and after 24 hours the boy was given rice. At the same time I must relate another incident in my own family. Subsequently, about three years later, another child of mine was attacked with fever and I called in an Ayurvedic practitioner. The Ayurvedic practitioner was of no use to me this time. Then, Sir, I continued with him for some days, but without any result whatsoever. The case also seemed to be quite hopeless. Then I called in an Allopathic doctor, and that Allopathic doctor also did not for some time bring the child to recovery, and I had to call in another Allopathic doctor and this doctor prescribed injections and not medicines and those injections cured the child at once. So in my own family I have had experience of both these systems. In both cases I have found either one or the other successful. All systems are therefore useful and it is the bounden duty of the State to encourage all systems. There is no question of rivalry between different systems. We want help for the suffering public and whether it is given by the Allopathic system or the Ayurvedic or the Unani systems, we should welcome it and at the same time try our best to encourage all systems and to improve them as much as possible. Considering all these points I support the Resolution and hope that the little cost which it may be necessary to incur will not be allowed to stand in our way.

Lieut.-Col. H. A. J. Gidney: I rise to a point of order. I have been waiting for an answer from the Government Member repudiating what the Honourable Member . . .

Mr. President: That is not a point of order.

Lieut.-Col. H. A. J. Gidney: I rise to another point of order. My name was mentioned by the Honourable Member and as a medical man belonging to an honourable service I repudiate . . .

Mr. H. Sharp: May I ask what the Honourable Member repudiates? Because I did not understand what he said. Was it anything I said?

Lieut.-Col. H. A. J. Gidney: No, I was referring to what the Honourable Mr. Rangachariar said . . .

(At this stage several Members asked that the question be put.)

Mr. President: The question is that the question be now put.

The motion was adopted.

Mr. President: The question is :

'That this Assembly recommends to the Governor General in Council that some practical steps be taken to utilise the services of the Unani and Ayurvedic experts for the prevention and cure of the epidemics in the country with the help of the indigenous systems—and that a Committee be appointed to recommend those steps.'

The motion was adopted.

RESOLUTION *RE*: INDIAN MERCANTILE MARINE.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural: Sir, the Resolution, which I beg to move, runs in these terms :

'This Assembly recommends to the Governor General in Council that a Committee including experts and non-official Indians be appointed to prepare a scheme :

- (i) for the liberal recruitment of Indians as Deck or Executive Officers and Engineers in the Royal Indian Marine ;
- (ii) for the establishment of a Nautical College in Indian waters for the purpose of training Executive officers and Engineers of ships ;
- (iii) for the creation of an adequate number of State scholarships for providing instruction in the Nautical Colleges and training ships, in England, pending the formation of a Nautical College in India ;
- (iv) for the encouragement of ship-building and of the growth of an Indian Mercantile Marine by a system of bounties, subsidies and such other measures as have been adopted in Japan ;
- (v) for the acquisition of training ships by gift from the Imperial Government or otherwise ; and
- (vi) for the construction of the necessary dockyards and Engineering workshops in one or more ports.'

The object of this Resolution is to investigate the possibilities and the ways and means of promoting the industrial development of India, in one important

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direction, namely, the formation of a Mercantile Marine and the encouragement of ship-building. The Resolution, you will see, is rather comprehensive, but it is necessarily so. The subject is wide and it is complicated and all parts of the Resolution hang together. To attain the objects of this Resolution the co-operation of a large number of factors is required; first of all, taste and aptitude for sea-faring occupations; secondly, skill and technical knowledge; thirdly, prospects of employment; fourthly, natural resources and capital; and lastly, enterprise and Government help for nursing the infant industry.

As regards the Indian's aptitude for sea-faring, I might, if I chose, take you back to ancient history and point to the extensive maritime intercourse that once subsisted between India and the other countries of the world. On the west it extended to the Persian Gulf, to Egypt and certain parts of eastern Africa. On the east it extended to Ceylon, Burma, Java, Sumatra and even to China. There were flourishing seaports on the coast of India, in Cutch, at Broach and Surat, in north Canara and south Malabar, and there were also flourishing seaports on the east coast of India, in the Tamil country, on the Kalinga country and in Bengal. Colonies were sent out by the Hindus as far east as Java and to this day there are traces of the Hindu colonization of Java. But there is no need for me to go back to such remote times. The East India Company formed a squadron at Surat in 1630. In the 18th century, ship-building was carried on both in Bombay and in Calcutta. In Bombay there was an enterprising firm of Parsee contractors and ship-builders who were exceedingly successful in constructing ships. In 1802, the Admiralty ordered certain men-of-war also to be built in Bombay. From 1781 to 1800, there were 35 ships with a total tonnage of 17,000 built on the Hooghly. From 1801 to 1830, 237 ships with a tonnage of 105,000 were built on the Hooghly. In 1800, Lord Wellesley remarked:

'From the quantity of private tonnage now at command in the port of Calcutta, from the state of perfection which the art of ship-building has already attained in Bengal, promising still more rapid progress and supported by abundant and increasing supplies of timber, it is certain that this port will always be able to furnish tonnage, to whatever extent it may be required, for conveying to the port of London the trade of the private British merchants of Bengal.'

The decline and extinction of ship-building in India may be traced to the advent of the steamship, about the middle of the 19th century when steel and iron took the place of wood. Apart from capital and enterprise, the starting of ship-building requires certain natural resources in the shape of steel, iron and coal. The development of the mineral resources of the country that is now going on may or may not be sufficient in the near future for this purpose, and to the extent to which our natural resources may not be able to cope with the demand, we may have to import the necessary materials for ship-building. In this connection the replacement of coal by oil may have a bearing. Again, as against this advantage of the cost of importing the materials required, may be set down the advantage of the comparative cheapness of labour, notwithstanding the fact that it may not be as efficient as the more highly paid labour of the west. Other countries with somewhat similar disadvantages as Japan for instance have succeeded wonderfully well in recent times. British experts may tell us that India can never become a ship-building nation, or, at any rate, must wait for a generation till her resources in

coal, steel and iron are properly developed. But I am afraid public opinion in India will not acquiesce in this verdict, at any rate it will not acquiesce in it unless and until an impartial Committee of experts and others interested in the subject has carefully examined the whole problem. For the purpose of achieving our commercial independence, for the purpose of providing a new career for our youth and for the purpose of securing for the country some of the profits of the carrying trade, our countrymen are anxious to try this experiment. The formation of a mercantile marine and the encouragement of ship-building can be largely assisted by Government, and aid of this description has been largely given by Japan and other western countries. Such aid to the encouragement of ship-building has taken various shapes. It may take the shape of an exemption of ship-building materials from import duties; it may take the shape of preferential railway rates to goods shipped over specified steamship lines; it may take the shape of loans to shipowners for the construction of ships; it may take the shape of a re-imbusement of port dues; or you may grant subventions for the purpose of carrying mails. These subventions are not always strictly proportioned to the value of the services rendered. They are often in excess of the value of such services, and, in so far as they are in excess, they operate as bounties. You may also assist by granting subsidies for the construction of ships in the country or you may grant subsidies for ships run under Indian ownership. In certain countries again the coasting trade has been reserved for ships under native management for ships of native construction. During the latter half of the 19th century and in the present century, the policy followed by England has been largely one really of abstinence from any form of adventitious aid to shipping. But England had already established her supremacy owing to various causes including a drastic scheme of navigation laws which had been in operation for nearly two centuries. I do not wish it to be understood that in making that remark, I attribute the maritime supremacy of England merely to her navigation laws. They were operative to a considerable extent, but there were undoubtedly other factors which have contributed to the maritime supremacy of England. The example of England is, in my opinion, not of much use for our purposes, and I would rather ask you to go to Japan and borrow a lesson from the experience of that country. Till 1896, Japan had no definite plan or policy, but in 1896, she took up the matter seriously and, for the purpose of encouraging her shipping trade, she passed laws for the encouragement of ship-building and for the encouragement of navigation. The Navigation Law was superseded in 1909 by what is called an Overseas Navigation Subsidy Law which is now in force. The gross tonnage of the Japanese Mercantile Marine in 1896 was 15,000 tons. In the year 1918, about 22 years after, it was 2,482,000 tons, and there are now five steamship companies which are being subsidised. You will find it stated in the latest Japanese Year Book that though seriously handicapped from an inadequate supply of materials and skilled labour, the private ship yards have attained the marked progress to which the ship-building encouragement law of 1896 has given no little aid. Here also probably our course may be to follow in the footsteps of Japan.

The formation of a Mercantile Marine may perhaps be the first step to be taken. A Mercantile Marine under Indian ownership, and the construction of the necessary dockyards for repairs and construction will have to be first taken in hand. Ship-building on an appreciable scale will perhaps have to be

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taken up next. I do not wish to dogmatize on a matter like this, which is essentially for the consideration of experts.

I will now pass on to another question. Where is all the capital for all these things to come from? I would say here that I do not belong to the school of thought which rejects the aid of foreign capital (Hear, hear). I would welcome the influx of foreign capital, of cheap capital from whatever source it may come. English capital, English business knowledge and English technical skill ought to be specially welcome in this connection. It is one of the unfortunate results of the movement that is now stirring the country that there is a deplorable feeling of an anti-English character, which may dispose people to reject aid from English sources. But, if we remember that our own capital is utterly inadequate for all the purposes of development of the country, if we remember that the Britisher is supreme in many spheres and especially in the sphere of ship-building, of maritime enterprise, and of banking, it would be foolish on our part not to invite the co-operation and the aid of English business knowledge and English capital. I would therefore welcome the co-operation of the Briton in achieving this object as well as many other objects which are dear to us all, for the purpose of promoting the development of the country.

Now, this policy which I advocate of giving bounties or subsidies may itself induce a number of British firms to establish the industry here.

It may be said that if you offer bounties for Indian construction of ships
 I P.M. or if you reserve your coastal trade to ships of Indian construction, or if you impose any such restraints upon foreign ships, English firms may themselves establish branches here and start industries of this character. For my part, I would welcome such a thing. In so far as English capital may be induced to come out into this country, and in so far as English manufactures may be induced to start industries here I should welcome that contingency. But if you consider it desirable, you may impose certain conditions which will be just both to British and to Indian interests. You may, for instance, suggest that if English companies are established here, half their capital shall be open to subscription in India and that an adequate voice in the management should be given to Indians on the directorate of these companies. But these are details with which it is not necessary for me to trouble the House now.

Then again apart from the question of finding the necessary capital and finding the necessary business knowledge for the encouragement of ship-building, I have referred to the necessity for opening of a new career for our young men. Now their willingness to undergo to train themselves depends upon the chances of employment which they can get, and their employment depends upon the training they acquire. In fact the problems of training and of employment are closely interdependent, and that is why I suggest in my Resolution that Indians should be liberally recruited for employment as deck or executive officers and Engineers in the Royal Indian Marine. I do not expect and I do not ask that Indians without qualification or training would or should be recruited at once and employed in these capacities; but what I do ask is that Indians may be recruited for these appointments provided they acquire the necessary qualifications, and that in order to enable them to acquire the necessary qualifications you must provide adequate facilities for training in this country. The nautical colleges,

I am afraid, however, cannot be started in a day, and it will take time. That is why I propose, that pending the establishment of nautical colleges in this country, scholarships should be provided for the purpose of enabling young men to acquire the necessary training in English nautical colleges and on board English training ships. There is no use in asking for the employment of Indians as deck officers or engineers on board ships which belong to English companies. There may be a very considerable amount of prejudice against such employment. There may be other reasons not perhaps of an altruistic character against such employment. We have no power to compel those companies to employ our young men. The only chances of employment for Indian youth, the only opportunities which they can get, are in connection with the Royal Indian Marine which maintains a certain number of ships for various purposes such as transport, the inspection of light-houses, and other services, and which has got a certain number of ships at its disposal. That is a service which is paid for by this country and we are entitled to ask that the higher services of the Royal Indian Marine shall be open to Indians on a liberal scale. As regards the necessary training ships, we might require one in Bombay, one in Calcutta, one in Karachi and one in Rangoon. I believe the Government of India have already applied for a training ship for the purpose of training Indians as seamen. Whether the sloop has been already received or not I do not know, but in these days when there is so much competition on the part of nations to scrap their ships, and when England has been generous enough to give a number of ships to the Colonies for training purposes, I think we may approach the Home Government with a request to treat us with the same generosity with which it has treated the colonies and to spare us a certain number of ships for which there may be no need in the British Navy but which may be useful enough for our purposes, for the purpose of providing nautical training. I ask that the whole problem should be referred to a Committee of experts and non-official Indians. I do not suggest that it should contain any Members of the Legislature or any particular Members of the Legislature. I do not wish to impose any restrictions with regard to personnel. My object is to secure the best expert advice possible and to secure the presence, if possible, of disinterested experts; and I wish to secure also on this Committee the representatives of the mercantile interests, both Indian and English in this country. I hope that a Committee composed of representatives of the mercantile interests of India, Indian and European, and consisting of experts with, I should like to say, a majority of Indian representatives, would be a suitable body for the purpose of examining this question in all its bearings and making the necessary recommendations. I do not think it necessary to expatiate further upon the subject, but I appeal to the Government to accept this Resolution and to give effect to it at as early a date as possible.

The Honourable Mr. C. A. Innes (Commerce and Industries Member) : Sir, I see that there are 15 Resolutions down on the day's paper and I think that I can save the time of the House if I make the position of Government on this Resolution plain at this very early stage of the debate. Put very shortly, Sir Sivaswamy Aiyer's object is an Indian Mercantile Marine, and I may say at once on behalf of the Government that we recognise that this desire on the part of the people of India for their own Mercantile Marine is a very natural desire and that we are quite willing to co-operate by having the whole subject

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thoroughly explored. We recognise of course on this side of the House, as I am sure everybody in this House recognises also and it is plain from Sir Sivaswamy Aiyer's very able and comprehensive speech that he too recognises the difficulties in the way. But if I mention one or two difficulties, I hope it will not be thought that I am mentioning those difficulties as arguments against the Resolution or by way of discouragement. My whole object is that the subject may be seen by this House in its true perspective, and that too great hopes may not be formed for the very rapid development of an Indian Mercantile Marine. Sir Sivaswamy Aiyer has referred to the example of Japan; and everybody knows that Japan's policy for the encouragement of the growth of a Mercantile Marine has been phenomenally successful. But it was a policy of encouragement by what I may call for the moment artificial means, a policy of subsidies, bounties and other measures; and it is well to bear in mind that there are two points of difference. Japan began with her Navy. The first step in Japan's marine policy was the gift in 1855 by the Dutch Government of a war-ship for training purposes. The establishment of ship-building yards and iron and steel industries were subsequent developments. They came not long after, it is true, but it is well to remember that the first impulse came from Japan's need for a Navy. She was an island nation and she had to have a Navy for her own safety. Now, India is not an island like Japan; she has not got the same vital need for a Navy and, moreover, fortunately for herself so long as she remains within the British Empire India is spared the enormous financial burden of a Navy. Her shores and her commerce are protected by the British Navy at the cost, I believe, of £100,000 per annum. There is one other point to bear in mind; in one respect Japan was peculiarly fortunate. As we all know she adopted for a period of 200 years a policy of strict seclusion, a *gosha* policy. She abandoned that policy in the middle of the last century and she embarked on her policy of marine enterprise just at the time when the transition from sail to steam was beginning. Consequently, she began establishing her ship-yards and building her own steam ships on more or less level terms with other nations. In India the case is different. We shall have to struggle against the competition of established ship-yards in other countries which have been long practising the art of ship-building. I have here some notes by a distinguished naval architect upon the possibilities and prospects of ship-building in India. He points out our various disabilities at present in the way of manufacture, and he arrives at the conclusion that for some years at any rate we must continue to buy engines, boilers and other special fittings from abroad. But what impressed him most was the complete absence in India not only of trained ship-builders but of the means of training ship-builders. He pointed out that ship-building is a highly developed and complex industry. In England wherever there is a ship-building port it has its school or schools in which a full technical education can be obtained. There are three universities in each of which a chair of naval architecture and engineering is established, where a full scientific education in this subject can be got; the result is that ship-designing is done by men of high scientific and technical attainments, and the ship-yards are continually recruiting young men who are technically trained to take positions as draftsmen, foremen and managers. He pointed out that it would be a long time before India can make up its deficiencies in that respect, a very important respect.

I mention these points to show that before we can fully attain the objects which Sir Sivaswamy Aiyer and indeed we all have in view two things are required. One is time and the other is money; and I must warn the House that the expenditure will be very great, even the expenditure merely on getting the nautical colleges and training ships and the ship-building yards started. It will be much greater still if we embark on a policy of subsidising navigation and subsidising ship-building yards. I do not quarrel with that policy; in fact I have a blue-book here which shows that that policy has been adopted in most countries in the world; and it has been a very successful policy in some countries, particularly in Japan, but it is a costly policy, and the time will come or may come when this House will have to count the cost very seriously. In 1901, the Japanese Government provided in its budget for navigation and ship-building subsidies the sum of nearly 7½ million yen; and taking the yen at 2 shillings and the rupee at 1s. 4d., I calculate that that cost them Rs. 112 lakhs. Since 1901 as we all know the purchasing power of money has decreased very greatly and at this time we could not give that measure of assistance to ship-building and shipping lines for anything less than Rs. 2 crores per annum. As I have said, though I think we ought to recognise these difficulties, I do not advance them in any way as arguments against the Resolution.

As I have said the Government are anxious and willing to have the whole subject explored and examined. But I have one small suggestion to make regarding the form of Sir Sivaswamy Aiyer's Resolution. As Sir Sivaswamy Aiyer has himself admitted, it is a very comprehensive Resolution. It proposes that the subject should be dealt with under six different heads, and I do not deny that each and every one of those heads refers to a very important branch of the subject. But the Resolution does not merely ask that all these branches should be examined. It suggests that the Committee should prepare a definite scheme under each and every one of these branches. Now what I feel is that if we charge this Committee with the task of preparing a definite scheme for all these six branches of the subject, we shall impose upon that Committee a subject of unmanageable proportions and we shall necessitate a Committee of unmanageable size. I suggest that we should make our terms of reference slightly more elastic and give the Committee more latitude. I quite agree with Sir Sivaswamy Aiyer that if we have a Committee at all, it should be a Committee composed, as he suggests, of experts, businessmen, and Indian non-officials. But what I suggest is that instead of asking that Committee 'to prepare a scheme,' we substitute for those words 'to consider what measures can usefully be taken'. The Committee in that case can put up a scheme for any subject for which they think they can put up an authoritative scheme, and for other subjects they can propose an expert Committee. I understand from Sir Sivaswamy Aiyer that he is willing to accept this small amendment, and I am sure that the House will do so also. If that is done, I have great pleasure in saying on behalf of Government that we should be very glad to accept the Resolution and to appoint the Committee.

Mr. President : The question is :

'That for the words 'prepare a scheme' in line 2 of the Resolution, the words 'consider what measures can usefully be taken' be inserted.'

Sir P. S. Sivaswamy Aiyer : I am willing to accept it.

The motion was adopted.

Sir Godfrey Fell (Army Secretary) : Sir, there is a small point in Sir Sivaswamy Aiyer's Resolution which was not definitely touched upon by the Honourable Mr. Innes, relating to the admission of Indians as officers in the Royal Indian Marine. I think that the Assembly might be interested to know what is the Government of India's attitude towards that part of the Resolution. The Government of India have been in correspondence with the Secretary of State on this subject. It is their aim and object to grant facilities to Indians and members of the domiciled community to attain the position of commissioned officers in the Royal Indian Marine. The exact method of training them is at present under discussion. We made a reference to the Secretary of State on the subject, and we have recently had a reply from him in which he states that he has also been considering the question and hopes very shortly to let us have his views.

Again, as regards the admission of Indians as engineer officers in the Royal Indian Marine, we have been considering how to give facilities for training in this country; but unfortunately there are great practical difficulties in the way. The Director of the Royal Indian Marine, whom we consulted on the subject, has told us that one of the qualifications for appointment of Indians as engineers in the Royal Indian Marine is that the candidate must have served for at least five years as an apprentice in a recognised engineering firm of Government Dockyard. We hoped it might be possible to afford that training either in private engineering firms in India or in the Royal Indian Marine Dockyard at Bombay. The Director of the Royal Indian Marine tells us, however, that there are no engineering firms in India at present which are capable of training apprentices as marine engineers suitable to receive commissions in the Royal Indian Marine, and that such training as can be given in the Dockyard in Bombay will also be insufficient for this purpose. The difficulty is this, that the training which the existing engineering firms or the Royal Indian Marine Dockyard might give consists only of repair work and the erection of imported machinery and its adjuncts. There is no construction work undertaken in these dockyards, nor can any theoretical work, which an engineer must know, be imparted. I am afraid, therefore, that nothing further can be done at present in the direction of affording facilities for training Indians in this country to be Engineer officers in the Royal Indian Marine. We hope, however, that the difficulties may be surmounted in time; and no doubt this is one of the matters which the Committee, which is to be appointed to consider the whole question, will deal with.

There is only one other point which I should like to mention and it is this. Sir Sivaswamy Aiyer asked that His Majesty's Government might treat us in the matter of vessels in the same generous spirit as they have treated the Colonies. I think that the Assembly might be interested to know that the Admiralty have made a free gift of one sloop for training purposes, which sloop has either just sailed from England or is just about to sail from England and will arrive in Bombay in February; and we hope very shortly to be able to train deck hands and engineers in our own waters for the Royal Indian Marine. In addition to this sloop the Admiralty have also made us a free gift of two boats of what are technically known as the 'P. C.' class.

Mr. President : It may be convenient for the Assembly to know that of the seven amendments on the paper, those standing in the name of Lala Girdharilal Agarwala are out of order, because they propose to widen the

scope of the Resolution beyond its true subject. Therefore the only amendment in order is that standing in the name of the Honourable Member from Bengal. I do not know how far the Assembly is prepared to accept the suggestion made by Mr. Innes, but in view of his readiness to accept the Resolution, the debate might be shortened. We will now adjourn for three quarters of an hour and resume at 2-15.

The Assembly then adjourned till Quarter Past Two of the Clock.

The Assembly re-assembled after Lunch at Quarter Past Two of the Clock. Mr. President was in the Chair.

Sir Vithaldas D. Thackersey (Bombay Millowners' Association : Indian Commerce): Mr. President, I have very great pleasure in supporting the Resolution moved by my Honourable friend, Sir P. S. Sivaswamy Aiyer. It is absolutely necessary that active steps be taken now for encouraging the growth of Indian Mercantile Marine and the essential condition of it is that the Indian should be trained to take up the several important appointments. My Honourable friend, the Mover, has given very strong reasons why his Resolution should be accepted by this House and I will, therefore, confine myself only to one or two aspects of the question which have come into my experience and on which I can speak with some personal knowledge. The House will agree that it is absolutely necessary that all the drawbacks and the difficulties which are existing at present against the establishment of an Indian Mercantile Marine must first be removed. It should not be forgotten that the shipping industry has become a sort of monopoly. It is a kind of trust against the principles of which it is known how America fought hard. The various methods by which the existing companies try to kill any competitor that may arise in the trade is well known. I may give a few instances of the methods by which they are trying to gain their objects.

The rebate system by which they are holding a part of the money of the shipper on condition that if he ships his goods by any other steamer, for a certain time, his money is forfeited. Government are aware that there was some years ago a great hue and cry and Government themselves sent out inquiries to the various commercial bodies about the effect of the rebate system and the Indian commercial community strongly protested against the system and asked Government to take steps to abolish the same as soon as possible. I am sorry to say that Government have taken no steps in this direction. So long as this system lasts, there is no use denying the fact that an Indian Mercantile Marine cannot be established.

It may be asked what Government can do to force this combination of liners to be reasonable. A case in point arose with the Australian shipping companies and the foreign companies tried to kill the Australian shipping companies by withholding the rebate. I am informed that the Australian Government took up a very bold stand and they declared that if this demand was persisted, the Australian Government would reimburse their shippers for all the loss they suffer by the forfeiture of the rebate, by shipping their goods into Australian boats. When the foreign steamship companies were faced with the position where the whole resources of the Australian Government were at the back of the Australian shipping companies, they gave way and a satisfactory arrangement was arrived at. Now, are the Government of India prepared to encourage the Indian Mercantile Marine

[Sir Vithaldas D. Thackersey.]

either by making the rebate system illegal or by reimbursing the shippers for their loss by forfeiture.

I do not wish to detain this House by giving specific instances as I am sure that all those who have any knowledge of shipping know the hardship of the rebate system ; but if Government require any specific instances, I shall be very happy to supply all the information they want.

In addition to the rebate system, these steamship companies have adopted the system of combining and maintaining the freights at an unusually high level. Some years ago the Millowners of Bombay had a very sad experience

Mr. President: Order, order. Will the Honourable Member kindly resume his seat? I have allowed the Honourable Member to go a considerable distance beyond what I really think is in order. The proposal here is to set up a Committee to consider what measures may be taken for the establishment of an Indian Mercantile Marine and subsidiary purposes. The Committee, I take it, will not be authorised to consider questions of management, and, therefore, the question of the grievances of shippers under the practices adopted by the present shipping companies are not in order.

Sir Vithaldas D. Thackersey : I bow to your ruling, Sir, but I was only going to point out that the rebate system has a bearing on clause (iv) of the Resolution. I was about to say that when the existing liners refused to agree to a reasonable freight for China and Japan, we tried to adopt some method. What was done was that the late Sir Jamshedji Tata made an arrangement with some Japanese Companies and chartered some boats to carry yarn to China. What was the result? All the rebates were forfeited and the freights to China was at once brought down not with the object of benefiting the industry but with the object of killing the competition. No body could stand such a strong measure, and after two years of enormous loss and of rebates, we had to give up the attempt. The scheme failed. To-day also we are in the same difficulty. I am only pointing out these difficulties so that the Committee might consider them immediately so that we can at once get benefit from it. Education of course must follow as a necessary corollary. Mr. President, there is one measure which the Committee can recommend, and immediately recommend. In all the civilised countries, particularly in Japan, the law is that the coastal trade is confined to ships of their own nation. That is, in Japan, no outsider can trade from port to port. Even if we do this as a beginning, if we restrict that only Indian steamers should sail from port to port in India, and that until a sufficiently large Indian Mercantile Marine is developed, the foreign shippers should not cut the rates, if these two things are done immediately, I think it will not be difficult to get an Indian Mercantile Marine. We are not wanting in capital. All we want is exactly the same that Japan does or any other civilised country does for the maintenance of their own Marine.

With these words, Mr. President, I recommend the Resolution.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Sir, I rise to congratulate my friend, the Honourable Mr. Innes, in his kind acceptance of the Resolution in part. The Resolution, as it stands, Sir, is for the preparation of a scheme and to appoint a Committee to consider what measures can be taken for the preparation of such a scheme. Sir, that question, on the face of it, is not a very sympathetic one. But half a loaf is better than no loaf at

all In that view, Sir, I have the greatest pleasure in thanking my Honourable friend very sincerely. But, Sir, I cannot pass over without making some remarks with regard to an observation made by the Honourable Sir Godfrey Fell. He has said something, Sir, which has really been answered by my Honourable friend, Sir Vithaldas Thackersey, from Bombay. With regard to the six items in the Resolution which we have to consider what measures can be adopted, it appears that for the first two items, *viz.*, (i) and (ii), we have got any number of men to supply and enough men to give every facility to the Committee in considering what measures should be adopted. With regard to the rest of the Resolution, Sir, it has been suggested that we are ready to accept funds from abroad such as Europe, England or anywhere outside, because it is not within our power to supply enough. On the other hand, Sir, it has been replied to by the Honourable Member on my right from Bombay that he has enough opportunities to facilitate the case. 'So much the better. But when we come to the question of getting persons fit for training in the Royal Indian Marine five years' training it has been said is not available because no dockyard can supply men deemed fit for entering into the Royal Indian Marine. Sir, it has been observed some time ago, I suppose with regard to the Military College at Sandhurst, that the Government of India has already given a little assistance in order to select more persons from India. Sir, 'where there is a will there is a way'. We know, Sir, that 99 per cent of the Indians on board the ships plying both in the Indian waters and in the Mediterranean are from the ports of Bombay, Calcutta, Rangoon and Madras Indian deck crews, serangs and lascars are all poor people. There is no denial of this fact that these poor people get only Rs. 25 a month on average and a few rupees for their food. Sir, if an account is brought in here, you will find that one European sailor's salary is equal to ten lascars' (or ten average Indian seamen's salary). That being so, Sir, the profit that is made by the ship-owners in this country is at a great loss to these poor people who do not even get more than one full meal per day, *i.e.*, within the course of 24 hours. If you compare the salary of the Chinese and Japanese sailors—I suppose you have got the statistics—you will realise that India has been very badly treated. I have some experience, being the Vice-President of Indian Seamen, and I have had enough opportunities of entering into their question. It is a shocking thing to find that the Indian seamen in this country have not had good treatment from their masters. Government is not willing to look at it. There was a Resolution about it last Session, but it is not only a question of complaint but it is a question of disappointment that the seamen did not receive any justice in the hands of the Government. There was misrepresentation set up by the anti-party, and Government was rather very cold. They are all in the archives of Government, and I suppose it is the office that is responsible for not uplifting the condition of these poor people. Sir, as a Secretary of the Bengal Joatdars and Raiyats' Association, I am quite aware of the fact that a majority of them come from Eastern Bengal. And generally they come to the port of Calcutta. Some of them are also provided with some service in other ports such as Bombay, Rangoon and others. Some of these people are no doubt agriculturists, but certainly there is no justification why they should be paid such poor salaries while the sailors from other countries are paid more.

The Honourable Mr. C. A. Innes: May I rise to a point of order, Sir? As far as I can understand, the Honourable Member is discussing the Geneva

[Mr. C. A. Innes.]

Seamen's Conference Resolution and not the particular Resolution before the House. I ask whether that is relevant.

Mr. K. Ahmed: The Resolution speaks of the establishment of an Engineering school and the recruitment of Indian deck crews. Is not the recruitment of the Indian deck crews a relevant subject?

Mr. President: The Resolution refers to the training of officers, the higher personnel of the Indian Mercantile Marine and the Royal Indian Marine. I do not find anything in it which refers specifically to the classes of marine labour to which the Honourable Member has been referring.

Mr. K. Ahmed: When you have got to train persons for the higher offices, you have got to give a lift to the people of the lower ranks also, and in that sense I suppose I am quite entitled to make the observations I am making.

Mr. President: That is just what the Honourable Member is not entitled to.

Mr. K. Ahmed: I have no objection to begin from the top, and if you do so, the question of recruitment comes in and you cannot get any persons from a place other than that from where these men come and their children would be educated and they would discharge all the high functions relating to what is called the Deck Engineering Department. These are the officers we want and that has been lacking for a long time as the Government have left these people in the dark from generation to generation and taken no step to uplift the condition of these poor people.

Now, with regard to the Committee of experts and non-official Indians who are to be appointed to consider the scheme, I am afraid we have got a Committee, Sir, by the same Department of the Government of India and nothing has come out of it? The question of majority is an important question. In this Resolution two sets of people are proposed to be taken, I find that they will be experts and non-official Indians. As my Honourable friend, Sir Sivaswamy Aiyer, in his opening words said, the experts may come from England or anywhere else. But with regard to the Indian non-officials I hope some proper step will be taken to get a majority. Unfortunately the Resolution is not properly worded. But I want to bring out this fact, because a 'burnt cow fears the fire,' and I have some experience about it. Therefore I beg to suggest that some method should be adopted and justice may be done in the course of selecting the non-official Indians for the Committee in order to consider what measure should be adopted to give effect to the six items of the Resolution. The best course would be if the Government could give us some detail so that we can understand the situation. I have the greatest pleasure to see that the Government have made up their mind to consider the question which was left alone for generations. Up till now though we have been trying our best nothing has been done.

Rai Bahadur S. P. Bajpai (Lucknow Division: Non-Muhammadan Rural): I move that the question be now put.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): I am not very greedy and I fully share Mr. Kabeer-ud-Din Ahmed's gratification

in having one loaf. Only I want it to weigh a little heavier and not to be reduced to the size of a small loaf with prices going up. I think we may very well congratulate the Government on the business-like treatment of an obvious and inevitable Resolution and I appreciate the Honourable Mr. Innes's appeal for economy of time. If I intervene in the debate at this stage it is only for the purpose of making a very small contribution.

As has been freely admitted, the Resolution is a very comprehensive one and will require a great deal of work before we can arrive at any working results. But we can and ought to proceed immediately with a great deal of work under item No. 3, namely, the creation of State scholarships for providing instruction in the nautical colleges and training ships in England. I may inform this Assembly without any breach of confidence or secrets that in response to very strong appeals by the Lytton Committee, somewhat of a red rag to some Members of the Assembly, the Marine Authorities in England have agreed to what they had never agreed to before (Hear, hear), and that is to admit half a dozen Indian students for training in the establishments if they are of the proper order. We also interviewed a large number of representatives of shipping interests and I shall not say that we have the assurance but we have reason to believe and hope that if the proper type of men should turn out there will be absolutely no difficulty in finding employment not only for half a dozen but for as many half dozens as India can find. Having regard to these facts, although my Committee could not do it, I had the honour of personally pressing before the Secretary of State two points, namely, the creation of these scholarships and also the provision of immediate facilities for training in oceanography (a subject that is engaging a very large attention in England), and dock engineering. Madras is soon going to have docks of considerable proportions, and if immediately some trained assistant engineers are sent to England to qualify in dock engineering, we can make a fair start. Therefore, in view of what the Committee will be charged with doing under sub-section (3) of the Resolution, I think this Assembly can press on the Government to enlarge the weight of the loaf that has been already given to us. Sir, the Indian Army grew up because the Government wanted it. From Telingana sepoys of Madras we have to-day an army that is giving a good account of itself not only in India and beyond the frontiers, but also in Europe. The Government's duty in the matter of marine training has been neglected and I congratulate Sir Sivaswamy Aiyer on bringing this Resolution forward, which has not come a day too soon. On the other hand, having regard to the growth of public opinion in England in marine circles to which I have referred, I think the Resolution is opportune, and as a preparation for that we ought to press for giving a large number of State scholarships, under sub-section (3) of the Resolution, and for the initial training, without which our officers will not be ready, and no college can be run unless we have men on the spot. I do sympathise with Mr. Kabeer-ud-Din Ahmed that training in the lower ranks is also necessary.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : With reference to my amendment I hope the Honourable Mr. Innes will be pleased to explain the attitude of Government with regard to the point raised therein. So far as I could understand him, his reply does not cover the point raised by me in this amendment. Therefore I propose to move my amendment more for the purpose of eliciting a reply from the Honourable Mr. Innes than for pressing

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the amendment for the acceptance of this House, and I shall be very brief in my submissions.

My amendment runs as follows :

‘ That the following words be inserted at the beginning of clause (iii) :

‘ for ensuring the entertainment of Indian apprentices for training as such officers and engineers, in the ships owned by shipping firms that enjoy any subsidy or other benefits from Government on any account and ’.

The Honourable Mr. Innes has told us that the question of development of the Indian Mercantile Marine is a question of time and money.

So far as the question of training of Indian officers goes, that also is a question of time and money. Therefore in this amendment I thought that I might as well see what could be done to utilise the available opportunities for training, on the practical side at least, of these officers by insisting on the entertainment of Indian apprentices by those firms that enjoy some subsidy or other benefits from the Government. First of all, there is the mail contract; and I remember that the Indian Merchants Chamber of Bombay has raised this question of Indian apprentices in connection with the renewal of the mail contract with the Peninsular and Oriental Company. The Chamber states that the entertainment of Indian apprentices should be made a condition of the renewal of the contract. I am told by Sir Sydney Crookshank that the mail contract is a matter which does not lie within the competence of this Government, but it is a matter wholly within the competence of the Home Government; and he has very kindly assured me that Government would not object to a suggestion being forwarded to the Home Government to see as to what could be done in this matter. That disposes of one aspect of the question. Then there are other shipping firms that enjoy Government subsidies as well. I may remind the Honourable Mr. Innes of the steamship ‘*Maharaja*’ which came in for a good deal of discussion during the September sittings of this Council. If I am not mistaken, I think Government have been guaranteeing an annual profit of Rs. 3,89,000 to the owners of that ship on the condition that they would convey our prisoners from India to the convict settlements. That may not be a bounty strictly so called, but I think we are entitled to some sort of concession at the hands of a company which is so well served in this matter. Then, Sir, I am very well aware of the objection that is likely to be raised in this connection. I may tell this Assembly that a Committee was appointed by the Government of Bengal to consider this question and some four or five shipping firms were represented on it, one of them being an Indian firm and the others European. The representative of the Indian firm has recorded a note in connection with the report of the Committee, from which I propose to read just a few lines. He says :

‘ The whole question centred in one point, *viz.*, are the shipping companies willing to employ the Indians as apprentices. The Marine Superintendent of :

- (1) the British Indian Steam Navigation Company Limited,
- (2) the Asiatic Steam Navigation Company Limited,
- (3) the Indian General Navigation Railway Company Limited, and
- (4) the Rivers Steam Navigation Company Limited,

were present and I asked them point blank if they were willing to take in Indian apprentices. All of them expressed their inability to do so, and their official reply runs as follows :

'It is doubtful if the shipping companies would find it either possible or expedient to employ Indians as mates while there are other Europeans on board with whom these Indians would have to associate'.

I tried to ascertain the cause of this unwillingness and got my colleagues to admit that it was the question of prestige that stood in the way. My friends expressed their sympathy with the aspiration of our young men to adopt the sea life, but they could not see their way to allow the Indian lads to mix on equal terms with the European lads who are already there as apprentices.'

Well, Sir, I think this matter is well worth inquiring into. If the matters are as they are represented to be, we ought to be told so at once, and then we will know where we stand. I will not labour this point any more. The acceptance of my amendment does not commit this House to any particular scheme. And if the Honourable Mr. Innes will see his way to accept this small amendment of mine there will be no harm done. The Committee which will go into the other questions might go into this as well. With these few words I move my amendment.

The Honourable Mr. C. A. Innes : Sir, I think, if I may venture to say so, Mr. Neogy's procedure is rather peculiar. He has been replying to a speech which I never made. What happened was this. Just before we assembled after lunch he came to me and asked me what I thought about his amendment. I said that I proposed to advise the House against it and I gave very briefly my main reason. He has developed that theme and as I say he has been answering a speech which I have never made. I personally do not attach very much importance to the subject one way or the other, but I do not think that his amendment should be added to the Resolution. My reason is this. The only subsidies, as far as I know which the Government of India pay to any ships or steamships at all, are the mail subsidies and they are not subsidies in the ordinary sense of the term. They are not bounties. They are payments for services rendered. What happens is this. I take the case of the P. and O. It is the only important subsidy we have got. The important thing about the conveyance of His Majesty's mails is to have them as rapid, as punctual and as regular as possible. Our requirements are stated in tender forms and tenders are invited, and the lowest tenderer gets what is called a subsidy. It is not a subsidy at all. It is simply as I said a payment for services rendered. Then there is another point. The P. and O. mail subsidy is not given out by the Government of India. It is arranged for by the General Post Office at Home and the terms are approved by Parliament : The subsidy is given at present for a service not to India only. It is for India, China, Australia and the Far East generally. The annual subsidy, I understand, at the present moment is £305,000 and the share of India in that is only Rs. 6,56,000. There is one other point with which we are faced in matters of this kind. The Home Government has always laid down the principle : That the mail contract is a contract for the carriage of mails only and they have always protested against our introducing any extraneous conditions. They said : 'if you want to do these things you can make separate contracts but you must not attempt to introduce them into mail contracts'. I feel that it is a wrong way of attacking this subject to write to the Home Government and try to get this clause inserted into mail contract. I am quite sure that the Home Government would never agree to such a course, and therefore I think that the effect of adding this

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amendment to the Resolution would be to put the Committee on the wrong track. I entirely agree with what Sir Sivaswamy Aiyer said, namely, that this problem is one not only of training suitable Indians but also of finding them employment when they are so trained. Sir Deva Prasad Sarvadhikary has told us the right way to tackle it. Let us send our men to ships such as the Pangbourne, Worcester and Conway, and then as Sir Deva Prasad has told us the ship owners will have no objection to taking and training our men.

Sir Deva Prasad Sarvadhikary : Provided they are men of the right type.

The Honourable Mr. C. A. Innes : It is our business to see that they are men of the right type. If they do well at the Worcester, Conway or Pangbourne or any of these training establishments, I am sure that the ship-owners will take them. The Assembly can take it from me that at home there is none of this racial feeling. Mr. Neogy has referred to the question of the 'Maharaja'. Of course I know the case of the 'Maharaja'. I had something to do myself with the contract. But how long is that contract going to last? It will last for another three years at the most. And during the three years' time does Mr. Neogy expect that we can ask Turner-Morrison, the owner of the line, to take Indians, *because* they are Indians and *before* they have had any training at all, as mates, as officers? That is not possible. You have got to have them trained first, and then to get them taken on. It does not really matter whether we make this addition to the Resolution or not, it does not matter a straw to us—but I do not think that is the right way of tackling the problem. It is not right to include a stipulation of this kind in a mail contract. We have got to approach the matter in a different way,—we should adopt different tactics with the shipping companies. That is my objection.

Lieut.-Col. H. A. J. Gidney (Nominated Anglo-Indian) : Sir, my reason for participating in this discussion is, *firstly*, to thank Sir Sivaswamy Aiyer, on behalf of my community, for the very able way in which he has moved his Resolution. *Secondly* I wish to thank Government for the very generous way in which they have received this Resolution and, *thirdly*, to state that two years have elapsed, since I first interested myself in this scheme, when Admiral Lord Jellicoe came to India.

This is the first time that I have had an assurance from Government that Domiciled Europeans and Anglo-Indians are to be included in this scheme, and though such a long time has elapsed, I am very much obliged to Government for recognising the claims of my Community.

Sir, this is a subject which is of very great importance, and I think, Sir Sivaswamy Aiyer deserves the thanks not only of this Honourable House, but of the whole of India, for he has in his Resolution laid the seeds of a scheme whose ultimate development none of us can foresee. It now seems quite possible that India will one day have her own mercantile service, and who can deny that this is the nucleus of a big Indian Navy. But, Sir, in forming this Committee, I would ask Sir Sivaswamy Aiyer to include one of my Community, and I should like him to give an assurance to this House, that when he talks about the admission of Indians into the Service, he *ipso facto* includes Anglo-Indians. I wish to associate myself with the amendment that has been put forward by my Honourable friend, Mr. Neogy. The Honourable Member for Commerce has repudiated

Mr. Neogy's assertion of racial bias and has said: 'If you show yourselves to be worthy, there is no racial distinction'. With all respect to his remarks, I do not accept his statement and in support of Mr. Neogy's assertion I may be allowed to relate my experience. The Kalimpong Homes have up to date sent up more than 50 Anglo-Indian youths who joined the Royal Navy. They have done well, and many have sacrificed their lives for the country during the past great war.

But I obtained statistics from the leading shipping firms in Bombay *re* Anglo-Indians in their employ. It showed that no Anglo-Indians were accepted or appointed as '*officers*' in the mercantile marine service, although some of them were employed as engineers and pursers.

I placed my views prominently before Admiral Jellicoe, the Government of India, and the Bombay Government. I received no reply 3 P. M. from any, except a demi-official letter from the present Governor of Bombay. This is the first time that I have heard from the Government Member, Sir Godfrey Fell, that the Anglo-Indians would be admitted, and I thank him. But, Sir, following up the matter, I tried to enlist the support of the various mercantile firms in Bombay to men of my Community getting into their Shipping Departments, and from every one of them I got the reply: 'we do not enlist the services of local men, we get all our men from England.' I therefore submit, Sir, that there is some justification for Mr. Neogy's amendment and I support it. I again thank Sir Sivaswamy Aiyer for his Resolution.

Mr. President: Amendment moved:

'That the following words be inserted at the beginning of clause (iii):

'for ensuring the entertainment of Indian apprentices for training as such officers and engineers, in the ships owned by shipping firms that enjoy any subsidy or other benefits from Government on any account, and.'

The question is that that amendment be made.

The motion was adopted.

Mr. R. A. Spence (Bombay: European): Sir, now that that amendment has been disposed of, I would like to express my cordial sympathy with the motion made by Sir Sivaswamy Aiyer, especially as amended and accepted by the Honourable Member for Commerce. I did think at first that this was a very comprehensive Resolution of Sir Sivaswamy Aiyer's and that he had put the various points down in the wrong order, but as it has been amended, I do not think the order matters at all. What I think is very essential is that we should press for the creation of these State scholarships, which I and many of us here have been very glad to hear that the Lytton Committee, which we had hoped would come out here, has secured for us at home.

Sir Deva Prasad Sarvadhikary: Not scholarships,—facilities.

Mr. R. A. Spence: Yes, facilities. Sir Sivaswamy Aiyer has said that in the old days India was famous for its ship-building, and I hope that the time will shortly come when there will be ship-building industries in India. I thought some few years ago most of the large shipping companies at home were coming out to Calcutta for that purpose, but I suppose it is the slump that has prevented them coming out.

I not so much has been made of the fact that the shipping companies trading in Indian waters are not Indian-owned, but I think the Members

[Mr. R. A. Spence.]

who said that must have forgotten that these companies are public companies, and that it is perfectly open to people residing in India to own the whole of them. You have only got to buy the shares. I know that the answer given by the P. and O. when a complaint was made about their fares being a little bit high, was 'become a shareholder and you won't complain'; and I think that if India owned a P. and O. there would be no complaint.

I was very glad that Sir Sivaswamy Aiyer expressed his welcome to foreign capital into this country and for his tribute to what British capital had done, and I am sure that we Europeans would be only too pleased to see ship-building industries and engineering works established in this country and Indians trained up to take that part in the direction and officering of the ships which the Indian seamen for generations and generations past have taken to the admiration of the whole world. I do not wish to detain the House any longer, Sir, except to assure Sir Sivaswamy of my cordial sympathy with this Resolution.

Mr. President: The question is, that the following Resolution as amended be accepted:—

'This Assembly recommends to the Governor General in Council that a Committee including experts and non-official Indians be appointed to *consider what measures can usefully be taken:*

- (i) for the liberal recruitment of Indians as Deck or Executive Officers and Engineers in the Royal Indian Marine;
- (ii) for the establishment of a Nautical College in Indian waters for the purpose of training Executive Officers and Engineers of ships;
- (iii) for ensuring the entertainment of Indian apprentices for training as such officers and engineers, in the ships owned by shipping firms that enjoy any subsidy or other benefits from Government on any account, and for the creation of an adequate number of State scholarships for providing instruction in the Nautical College and training ships in England pending the formation of a Nautical College in India;
- (iv) for the encouragement of ship-building and of the growth of an Indian Mercantile Marine by a system of bounties, subsidies and such other measures as have been adopted in Japan;
- (v) for the acquisition of training ships by gift from the Imperial Government or otherwise, and
- (vi) for the construction of the necessary dockyards and Engineering workshops in one or more ports."

The motion was adopted.

RESOLUTION RE: PREVENTION OF OVERCROWDING IN RAILWAYS.

Rao Bahadur C. S. Subrahmanayam (Madras ceded Districts and Chittoor: Non-Muhammadian Rural): The Resolution that I propose to move, Sir, reads as follows:

'This Assembly recommends to the Governor General in Council that he may be pleased to take early steps to amend section 109 of the Indian Railways Act, 1890:

- (a) In order to make it obligatory upon a railway administration to see that no more than the number of passengers exhibited on a compartment under section 63 enter such compartment or occupy the same, and
- (b) That a penalty in each case shall be imposed on such railway administration for allowing the entry or occupation by more than the maximum number of passengers so exhibited.'

Now, Sir, this question of the overcrowding of the third class carriages on railways is a very old question. For years past the conduct of railway administrations in this country has been the subject of serious and severe criticism, and representations have frequently been made to the railway administrations and also to the Government but without avail. Resolutions have been moved and interpellations have been made in the old Council. In this Assembly in the Delhi Session nearly 120 questions were asked; in the Simla Session nearly 80 questions were asked. In answer to these questions, the Honourable Member who represents the railway administration has frequently exhibited the spectacle of a good man fighting against adverse circumstances.

He has got the dangerous knack of giving us the soft word to turn away our wrath. Well, with these two characteristics he has been parrying all the questions that have been addressed to him; but that cannot last much longer; it must come to an end sooner or later. Well, one thing which strikes us is that the Government practically takes no decisive steps to correct these lapses. It is forgotten that these railway companies are commercial undertakings and they are worked for the benefit of the shareholders. Now, where do the people who travel by these railways come in? That is the question to which the Government does not seem to pay much attention. One thing ought to be kept in view, namely, that these railways are practically creatures of Government. They get so many concessions from Government which it is not necessary to detail here. These concessions cost money, and it is the taxpayers' money that has gone to help these companies and also continues to help them to run their lines. In the old days, in our school days, we were told of the benefits of railways. No one denies the benefits of railways, and I hope no one will say in this Assembly that I had forgotten to mention or minimise the benefits which railways have conferred on this country. But that stage is passed and we have come to the stage of demanding a *quid pro quo* for the money that is paid.

Now, if you take the Railway Act, you will see that the railway company is protected at every stage, that the whole Act is so conceived as to give absolute protection to all the lapses to which the railway companies are subject, and merchants and traders know it to their cost. I am not dealing now with the difficulties of merchants, but take the case of passengers. There are just two or three matters which I think it is necessary to refer to, because there may be some misapprehension in the minds of my Honourable friends who do not know how this Act is framed and what control the Government has over these railway companies.

Now there is the section which I have referred to in my Resolution, *viz.*, section 109. It says in the first instance that if a passenger enters a compartment which contains the maximum number of passengers in it and if he refuses to leave it, he may be punished, and if a compartment contains the maximum number of passengers, say it is 10, the 11th man that enters may be resisted and turned out. So far it is right, but it is put the other way. What it says is that the eleventh man who enters a compartment containing 10 may be punished if he forcibly enters it.

'If a railway servant compels a passenger'—that is another section—'to enter a compartment which has already its maximum number he shall be open to, etc.'

Well, it reads well, it sounds well. But how to prove that a railway servant has compelled more than the maximum number of passengers to enter a

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compartment? Well, I have been told, passengers need not enter when a compartment is full; but we have to take passengers—the people who travel by these carriages—as you find them. They are mostly people who cannot take care of themselves; they are illiterate villagers from far off places who are not in a position to enforce their rights. They rush into the compartments which are nearest the entrance of the station, or the compartment which is first opened, and no railway servant ever takes the trouble to direct them to other compartments or to see that they are properly seated. The railway servants think it is none of their business. The result is you find a mad rush into these railway carriages. I once heard the Honourable Member who represents the Railways say: 'What can we do if people rush the compartments and overcrowd them?' I want to put down just that evil. I want the railway servants at each station to realise that it is their duty to see that persons from whom the company have taken money are properly seated. It should be their duty, carriage after carriage, to regulate the number of persons to be carried in each compartment and if there is any surplus to send them on by the next train. If they are made to understand that they have to do that, then I think there will not be this complaint about overcrowding and so on. That is, while you impose duties upon passengers, while you protect the railway companies in various ways, no obligation upon the railway company is really enforced. It is true there is a section in the Railway Act which says that when a railway company allows a larger number of passengers than the number exhibited on the carriage to travel in the compartment it is liable to a penalty. Then section 97 says, that the sum shall be recoverable by suing in the district court having jurisdiction in the place. Then it says—here is the funniest part of it—the suit must be instituted 'with the previous sanction of the Governor General in Council'. So if the railway company commits daily this egregious offence, no doubt the law says it is liable to a penalty. That sounds well. The law is no respecter of persons and a railway company is also liable to a penalty. But how are you going to enforce the penalty? We must come to the Governor General in Council for sanction to recover that penalty. Now why this big safeguard with regard to an offence which the railway company commits daily and hourly? Now what I ask is that that should be done away with. Why it was so stringently protected is a matter which need not be discussed here. But the enforcement of the penalty must be open to every citizen in the country. Otherwise, it is no good giving this kind of redress. And I would ask whether this forfeiture has ever been enforced?

In the history of the railways in this country has the Government ever enforced this penalty against a railway for allowing overcrowding in carriages? It is true that there are notices exhibited in compartments showing the number of passengers that can be accommodated. That is after consulting railway administrations the numbers exhibited on the compartments are numbers fixed with the sanction of the Governor General in Council. All that is very nice; that shows that thought is given to it. But where is the enforcement of the thing? Therefore, I now ask that very early steps be taken to amend this section and make it obligatory upon the railway company to see that no more than the proper number is allowed and if it allows, whether intentionally or unintentionally, more than that number, it should be liable to a fine just like any other individual who violates the law and the forfeiture must be recovered by a suit or prosecution before a magistrate,

it does not matter which, by any individual. There need be absolutely no fear that there will be a crowd of prosecutions or cases ; people who travel long distances are not going to break their journey and prosecute the railway, but the railway company will begin to realise that it has got a duty to perform to the public when it knows that it will be open to any public-spirited citizen to bring it into a court of law.

I believe there may be some slight misunderstanding in the minds of my Honourable friends ; some of them seem to think that if overcrowding is not allowed, some of these passengers might be left behind. It may happen occasionally that some passengers will have to be left behind ; but it is far better that people are trained to assert their rights and the railway company is also told to do its duty than to allow things to go on and allow the railway company to profit at the expense and inconvenience and trouble of the people who travel by the railways. I therefore commend this Resolution to the unanimous acceptance of the House.

The Honourable Mr. C. A. Innes (Commerce and Industries Member) : Sir, in spite of the very powerful speech which we have heard from Mr. Subrahmanayam I confess that I am still rather doubtful whether this House is intended to take Mr. Subrahmanayam's precise suggestions very seriously. I have a sort of feeling in my mind that what Mr. Subrahmanayam is aiming at is bringing prominently to the attention of this House a very real evil, namely, the evil of overcrowding. I am very grateful to him for bringing that question up, because I hope that I shall be able to make use of his speech later on. But if he really is serious in these suggestions which he has put forward, I regret I must ask the House very definitely to oppose them, for I am quite sure that they are not practicable.

I understand that the head and front of Mr. Subrahmanayam's charge is this. He says that the railway companies exploit the Indian passenger for the benefit of their share-holders, that the representations which have frequently been made to the railway administrations have not been of any avail, that Colonel Waghorn has always given the House the soft answer that turneth away wrath, but nothing has ever come of it. Therefore, it is now time for the House to assert itself and to place upon the railway companies a definite obligation for seeing that railway carriages are not overcrowded. If this obligation is not discharged, the railway administration is to be liable to a fine or penalty. Now the first point the House has got to remember is that the Railway practically belong to the Government of India. We talk about companies. It is true. We do entrust the management of the railways to the companies, but we own the railways. To all intents and purposes they are all State Railways. In some cases 19-20ths of the net profits come to us ; in other cases 5-6ths. Mr. Subrahmanayam means, therefore, that we should fine ourselves for breaches of the law as amended and I point out that since fines will be credited to law and justice, a provincial head, we shall be fining central revenues for the benefit of provincial revenues. However, that is a small point. My real point is that it is quite impossible to work these suggestions. The provisions of our law in regard to overcrowding are practically the same as in other countries. The Railway administrations are required to exhibit on the inside and outside of each compartment the maximum number of passengers which that compartment can hold. The railway servants are authorised, if they find the compartments overcrowded, to require passengers to leave those compartments, and if a passenger won't leave

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a compartment, then it is an offence and he is liable to a fine. Then, again, any passenger is entitled to resist, as I read section 109 (2) of the Act, the entry into a compartment when it is full. Now, as I said, the law in this matter is the same as in other countries. What I want to know is, is there any particular reason why we should treat India separately in the matter. Overcrowding is not peculiar to India. Every one of us who has been at Home knows what it is to hang on to the strap of a London Tube. When London is going to its work in the morning or going Home from its work in the evening, the Tubes and the undergrounds are far more overcrowded than anywhere in India. I can guarantee that.

My second point is this. If we are to place a definite obligation on the railway companies to see that before a train leaves any station no compartment contains more than its maximum complement, they will naturally try to discharge the obligations. But how are they going to do it? We cannot limit the issue of tickets at any given station to a number of vacant seats we anticipate. It is not practicable. Therefore we have to issue tickets and let the passengers into the platform. The only thing to do then would be to take measures to ensure that the train did not leave the station with any carriages overcrowded. We shall have to appoint a horde of inspectors to turn out from the overcrowded compartments the excess of passengers. Let us see how an arrangement of this kind would work, say, on the suburban trains on the Bombay, Baroda and Central India Railway in Bombay. I ask any Bombay gentleman here to say whether the arrangement is possible. There are stations every few minutes apart. During the busy season you have trains charging down one after another both in the mornings and in the evenings at very short intervals. They stop for the briefest possible time and discharge hordes of passengers, take on others and then proceed. Does any reasonable man suppose that we could post inspectors at these stations and that those inspectors could go through the train and turn out passengers in excess of the prescribed number? How would the Bombay business man like it? I would like to ask what his feelings would be if he was treated in this manner. He would say: 'I do not mind putting up with the inconvenience; my fellow passengers have no objection; what right have you to interfere?'

There would be a free fight on the platforms of the stations almost every hour of the day. Trains would be delayed and the Courts would be full of cases under section 109 of the Railway Act and counter-cases of battery and assault. The whole life of Bombay would be disorganised. I cannot imagine a proposal that would cause more friction between railway administrations and their customers; and the law which Mr. Subrahmanayam proposes would be at variance with the commonsense of India. But, as I have said, I do not really suppose that Mr. Subrahmanayam means us to accept his Resolution in its present form. In my view his object is to draw attention to what I know is a serious evil. Briefly, the cause of that evil is this. The number of passengers travelling on railways in this country has increased out of all proportion to the increase in rolling stock. Since 1908 our passenger traffic expressed in terms of passenger miles has increased by almost 100 per cent. Our passenger stock on the broad gauge has increased by 42 per cent and on the meter gauge only by 40 per cent. The main reason of this overcrowding on our railways is that we have not got enough coaching stock for the number of passengers. Now what is the remedy? We cannot go in for such a

drastic remedy as is proposed. The right way is to enable us to rehabilitate the railway system. I would draw the Honourable Member's attention to the Railway Committee's Report, I would also draw his attention to the Report of the Railway Finance Committee. In that Report special attention was drawn to the very question of overcrowding, and if, when the subject comes before it, this House will give us the money we require for the next 5 years, then, I hope, they will find that this evil will have disappeared.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, I am one of those who have been very staunch and strong advocates of the passengers. I identify myself with the remarks of the Honourable the Mover that so far as railway administration is concerned, we find a number of defects because a great many passengers are put to a lot of discomfort and no small inconvenience. But I am afraid I am unable to agree with him so far as the terms of his Resolution are concerned. In the first place, the very trend of the Resolution indicates that it is highly improbable and highly impracticable to adopt the method which he suggests should be carried out. I agree with the Honourable Mr. Innes that there would be free fights on the railway platforms, and the wisest course is to offer some other whole-ome suggestions, for instance, that the rolling stock should be increased. There is no doubt that the number of passengers has increased by leaps and bounds, and I know that there is a great need for carriages.

I think the explanation given by the Government seems acceptable, but all the same, the grievances which have been put forward by the Honourable Mover have got great truth in them with which I identify myself as I have already submitted above. But the Resolution, as it stands, I am afraid, cannot claim any sympathy. Therefore, I am sorry to say that I oppose this motion.

Mr. Darcy Lindsay (Bengal : European) : Sir, I must also add my voice in opposition to this Resolution. It appears to me that the Honourable the Mover's main complaint is that the Railway Act imposes regulations which the Companies do not carry out. According to what was read out, we were told that the Railway Company can prosecute and fine excess passengers. They do not do so, because that regulation is only adopted in order to safeguard the 10 passengers referred to who have the right of turning out the 11th passenger if they so wish. The Honourable Member for Commerce has explained to us the position very clearly that overcrowding is due to want of rolling stock, and that we know full well. A suggestion I make in that direction in regard to local traffic, which is perhaps the worst offender, is whether it would not be possible to have two deck carriages, as they have in Europe, particularly in France. The local traffic is very severe at certain hours of the day. As regards the possibility of carrying out the Resolution as proposed, I say it is absolutely impossible, a passenger will force his way into the carriage whether the Railway Company wish it or not. It is for the passengers who are already inside the carriage to endeavour to keep out any excess beyond the prescribed number. If they wish to exercise their right, I have no doubt that the Railway would support them in prosecuting and imposing fines on the excess passengers. The Honourable Member for Commerce has also referred to the overcrowding in England. As far as my knowledge goes, overcrowding is the same all the world over, whether on short or long journeys. When I was in England last year, I made several long journeys, and both in the third class and in the first class there were excess passengers standing down the passage way, there being no seats for them in the carriages, so that, it is not at all an evil confined to India. I am

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perfectly satisfied that if the Railways can remedy the defect, they will do so, and to impose such a Resolution as this upon the Companies, I consider, is very wrong.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : I have every sympathy, Sir, with the Resolution as proposed by my friend, Mr. Subrahmanayam, with regard to the overcrowding and the evils thereof. I will just relate an incident which occurred about a month or two ago at the Karachi Cantonment station when I was travelling myself on the North-Western Railway. Although all the seats in my compartment were occupied to the full complement of the compartment, a Railway Official, who called himself a Traffic Inspector, insisted upon coming into the compartment. I protested very vehemently. The Assistant Station Master on duty was called in, and he also, in the first instance, insisted that the man should be allowed to have a seat within the compartment. But upon my making a firm stand, better counsels prevailed, and the gentleman had to leave the compartment to find a place somewhere else. I threatened to report him, but eventually did not do so because better sense had prevailed. But this, so far as the higher compartments are concerned. So far as the third class compartments and the ladies' compartments are concerned, the overcrowding there is far worse, and frequently we find that the women and children have no seats at all, not even standing room for themselves or their children. No doubt there has been a cry about want of rolling stock, on part of the Railways concerned, but this cry has been going on for years past, and I know for certain that even before the war, in normal times there was very much overcrowding in particular places; therefore this state of things requires immediate remedy. I have had a talk with Colonel Waghorn some time ago upon this very subject, and one of my reasons for moving a Resolution with regard to the removal of the European reserved compartments at the last Session was this scandalous overcrowding. It seems to me that if the rolling stock is not sufficient at particular places, there are other remedies which ought to be had recourse to. For instance, if the trains were to go faster and less time spent at junction stations where ordinarily a long time is misspent—actually misspent—I think the trains could be run faster and consequently more trains could be run to carry the excess passengers. I can tell you that nearly one and a half hours or one hour is spent at Samasata Junction where there is absolutely no work to be done. I think about ten or fifteen minutes' stay there is ample if a sufficient number of coolies be employed to transport all the luggage and parcels, etc. Similarly, at other junction stations in Sind like Ruk, Rohri, and Kotri about an hour or an hour and a half is lost in changing passengers and parcels, which can easily be spared, and if the mail trains and other passenger trains are run faster this difficulty of rolling stock will vanish largely, and passengers can be carried much to their comfort by running extra trains for the excess. So far as this Resolution is concerned, I have every sympathy with the first clause, but I think the second clause will be unworkable so far as the State Railways are concerned, because the penalty imposed on a State Railway is a penalty imposed upon the Government itself and I do not know how that clause will be worked. But it is sufficient at the present moment that the attention of the Railway Department is attracted to this important matter and I hope that they will find some remedy for the difficulty.

Mr. K. Ahmed (Rajshahi Division: Muhammadan, Rural) . With regard to the second clause (b) of the Resolution, namely, the penal clause, I think

the proposer of the Resolution will probably find a suitable suggestion to make. I beg under the circumstances to move that the following few words may be added. The second clause runs as follows :

'That a penalty in each case shall be imposed on such railway administration for allowing the entry or occupation by more than the maximum number of passengers so exhibited'.

I wish to add the words :

'or in the alternative to supply a sufficient number of carriages to facilitate traffic.'

Unless there is a penalty imposed it is not very easy in India, having regard to the sleeping partners of the railway at home, to get anything useful done. It is desirable under the circumstances that they must take jolly good care to supply a sufficient number of carriages to facilitate travel and that being so it is a suggestion for the Honourable Members of this House to accept and it is a good suggestion too.

Mr. President : The question is :

'That after clause (b) of the Resolution the following words be added :

'or in the alternative to supply a sufficient number of carriages to facilitate traffic'.

The motion was negatived.

Mr. N. M. Joshi (Nominated Labour Interests) : Every Member of this Assembly deprecates the evil of overcrowding on the railways, especially in third class compartments. At the same time I must say that the remedy proposed by the Honourable Mover of this Resolution is worse than the disease. In 75 cases out of a hundred, whenever there are more passengers in a compartment than are allowed by the rules, it is the passengers themselves who enter the compartment after it is full and the railway officers do not force them to enter it. Therefore if we make the railway companies liable for overcrowding, the result will be that the railway passengers and the railway officers will always come into conflict as was said by the Honourable Member on the other side. I therefore feel that this Assembly will not pass this Resolution. But I may suggest one thing. According to the present law a passenger can resist the entry of a surplus passenger and at the same time I would suggest that if a passenger complains to the railway officer that he does not want more passengers to be admitted than are allowed by the rules and the railway officer does not take action, he must be held responsible both in civil law and in criminal law. That we can do and I do not think the present law provides for that. I therefore feel that instead of accepting the suggestion of the Honourable Mover the law may be changed in the way I suggest. On the local trains it is simply impossible to enforce the law which the Honourable Mover proposes. The trains cannot be stopped for several minutes in order to see that each compartment does not contain more than the prescribed number of passengers. Therefore the rule will be found to be unworkable. The Honourable Member for Commerce has already said, all over the world you will find, during certain parts of the day, the trains crowded. The trains will be found to be crowded even in the first class and I think the passengers will not like a rule of the kind proposed by the Mover of the Resolution, being made. There is another difficulty. When we travel we do not purchase tickets several days before we have to start. When a passenger goes to a station and finds that he will not have a seat, I can only ask the Members of this Assembly to imagine what his feeling would be especially when he spends 4 or 5 rupees for cart or gharry hire if he has to go back for a train next day. I do not therefore feel that this House should accept this Resolution at all.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): Sir, I support the Resolution on the ground that I have seen the railway officials forcing passengers into the compartment just as if they were so much merchandise. On one occasion I found that one passenger was pushed in such a way by a ticket collector that one leg of the man got inside, and the other remained out, as he had no room to take it in. When the door was going to be closed, the man's leg was nearly crushed. The Honourable Mr. Innes opposed the Resolution on the ground that it would be a real hardship on the railway. I may only say he ought to have been, in the same way, as generous to the employers when he forced on them similar unworkable clauses at the time of the passing of the Factories Act only a couple of days ago. Why his generous heart failed him now in the interest of passengers when it was so touchy in the interest of the workmen? I may as well ask the Labour Member, by Government nomination, why he is so callous to the sufferings of the third class passengers, as most of them are workmen whose champion he is.

Mr. F. McCarthy (Burma: European): Sir, I beg to move that the question be now put.

Mr. Jamnadas Dwarkadas (Bombay City: Non-Muhammadan Urban): Sir, I do not want to support the Resolution because I think I agree with Mr. Joshi that the remedy suggested is worse than the disease. The Honourable Member for Commerce has admitted that the evil is really a very great one, and it ought to be eradicated. Some measures ought to be taken to eradicate the evil, but, Sir, there is one point which I cannot desist the temptation of bringing to the notice of this House and to the attention of the Honourable Member for Commerce. There is a greater deal of truth in what my friend, Mr. Zahiruddin Ahmed, has said. I myself have seen third class passengers kicked into overcrowded compartments by railway guards and railway officials, that is a spectacle which certainly—I think Honourable Members will agree with me—is not a very pleasant one to look at. At the same time when in one compartment passengers are kicked by railway officials, as if they were not human beings, in the adjoining compartment I have seen one Anglo-Indian or two smoking comfortably with their legs stretched out. I do not think, Sir, I can be accused of raising any racial issue. But I do think that the practice of reserving compartments for Anglo-Indians and Europeans, especially when trains are overcrowded, and when the railway officials in the most inhuman manner kick passengers into the compartments, is a thing which I cannot characterise in words less severe than that it is inhuman.

I do not want to bring in another subject which does not relate to the subject of the Resolution, but I do feel, Sir, that the Honourable Member for Commerce and the Honourable the Chairman of the Railway Board should kindly draw the attention of the railway companies to the fact that whenever railway carriages are crowded care should be taken to remove the board 'Reserved for Anglo-Indians and Europeans', and people should be freely admitted into all compartments. I however have to oppose the Resolution because it will entail a great hardship on the railway companies.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Having regard to the gravity of the issues involved and the serious complaints that have been made, I think it is but right that Government should take steps to attend to them and we must have regard to the practical difficulties which have been pointed out by the Honourable Member for

Commerce. I propose, Sir, to modify the Resolution so as to meet the necessities of the case. I would modify the Resolution to read thus :

'This Assembly recommends to the Governor General in Council that he may be pleased to consider and adopt such further measures as may be necessary to ensure the avoidance of overcrowding of passengers in railway compartments'.

I think, Sir, that will be acceptable to both sides and Government on its part should promise that steps will be taken, because the steps already taken are not sufficient.

Mr. President : The question is :

'That in place of all the words after the word 'to' in line 2 of the Resolution, where it occurs for the first time, the following words be inserted :

'consider and adopt such further measures as may be necessary to ensure the avoidance of over-crowding of passengers in railway compartments'.

The Honourable Mr. C. A. Innes : I have no objection to the Resolution worded in that way.

Mr. N. M. Joshi : While supporting this amendment I only want to say one word to the Member for Commerce and that is that I hope that while taking measures to avoid overcrowding he will not include in those measures the measure of carrying human beings in goods vans. I hope for the sake of the good name of the Government as well as for the sake of humanity, this practice will be abolished.

Mr. President : The question is that that amendment be made.

Rao Bahadur C. S. Subrahmanayam : Sir, I was surprised that the Honourable Member for Commerce simply put forward a
 4 P. M. a negative to my proposal. He was not good enough to furnish any kind of explanation in amelioration of the charges I laid against the railway. My chief point which has been missed by my Honourable friends who have been eager to support Government and who have been eager to oppose my Resolution and to support the Honourable Member for Commerce's position, is the law under which the railway company is bound not to carry more than the number of passengers written on the carriage boards ; and if it does it violates the law and it is liable to a forfeiture. The forfeiture, however, can be recovered only with the sanction of the Governor General. There is therefore a law ; I want to work the law without the sanction of the Governor General. It is not altogether a new law that I am proposing. I want to take away the bar at present existing against its operation. I put the specific question whether at any time in the history of the Indian railways the Government of India had recovered any single fine for violation of the existing law, which is on the Statute Book. How is it that this law has been a dead letter for all these years. We all want law and order and to live under the rule of law and I do not see why my Honourable friend, Mr. Innes, should say that the enforcement of this law against the railway company will work hardship. Where is the hardship ? The suggestion that my Honourable friend, Mr. Joshi, made was that if a railway servant forces a number of people into a compartment, then he should be prosecuted. There is already a law to that effect. In Madras the Passengers' Association did prosecute a railway guard as a test case and he was convicted only a month ago. Honourable Members may not have looked into this law I referred to, and without looking into the law, without knowing the existing law, and without giving full value to the alteration I suggest, they have opposed me. But it does not matter. So far as the amendment is concerned, I hope that this proposal which

[Rao Bahadur C. S. Subrahmanayam.]

has been made by Government will not be a dead letter like the Statute which has been in force for so many years. It is hardly right to say on behalf of Government that overcrowding exists all over the world, let it be so here, and then make a special pleading on behalf of the railway companies at a time when everybody is displeased with the conduct of these railways. There is another point that has been made of comparing the condition of Indian railways with the condition of railways in Europe, in England, or Scotland or Ireland. But under Indian conditions the passenger and the railway management are two distinct classes. We have seen it every day, we know it every day, that the railway administration thinks that the Indian passenger is nothing more than cattle. The eugenic conditions governing the selection of railway servants are largely the cause of this trouble. It is not so in England. Therefore, the analogy between the condition of railways in Britain and the condition of the management of railways in India is utterly untenable. The conditions which prevail on these latter railways are the curse of the railway carrying department; that should not be forgotten. I did not want to mention them, but I thought there would be something of a really sympathetic character, of a really friendly character from Government. Not finding it, I am only sorry to see that a blank, a bar, a negative, has been placed before me, and Honourable Members who have not seen into the matter carefully are eager to welcome the very sympathetic utterances of the Honourable Member for Commerce. This word 'sympathy' has been ridden to death. Sympathy is everywhere, but actually no action of a sympathetic character. Suburban railways do not furnish an analogy at all. Half an hour's, a quarter of an hour's or twenty minutes' overcrowding in a railway compartment does not do us any harm, but take the long distances we have to travel in India. Do you have such long distances in England, Scotland or Ireland? What is the good of comparing British railways with Indian railways? Am I to be met with an argument which can at any moment be upset? Take the case of a man travelling from Madras to Delhi. The master travels first class while the servant travels third class continuously for four days in an overcrowded compartment with ten or fifteen passengers. I cannot understand the self-sufficient way of dealing with a matter like this. I am simply sorry, not so much for the Honourable Member for Commerce as for my Honourable friends who seem to treat the matter lightly and then make suggestions which are a waste of time. The only way to have our rights established in this country is by having a legal remedy and making the offender go before a court. There is no good saying the railways are Government owned. So much the worse for Government and so much the better for my position. Because they are Government owned, Government winks at the foibles of the railways. The argument that Government owns railways and therefore the profits that are made go into the coffer of the tax-payer, and therefore the travelling public must be fleeced, must be practically looted, I do not consider that an argument at all in support of the existing state of affairs. As for the Railway Committee, goodness knows what these Committees and Commissions have done. They have been rather a frequent source of expense and practically no good comes out of them. The upshot of these Committees and Commissions is that certain gentlemen travel from one end of the country to the other at public expense in convenient carriages; but how can they know that the third class passengers are treated well and that there are no remedies to be applied in that class of travelling.

I am very sorry that this subject about which everyone raises questions should have been treated in that light-hearted manner. Well, therefore, seeing that my Honourable friends have taken up this attitude, I think it is far better to go to the Government itself for relief than to place this matter before my Honourable friends from whom I expected more sympathetic treatment for their own countrymen, and for whom they exhibit so much sympathy on public platform.

Colonel W. D. Waghorn (President, Railway Board): Sir, the Honourable the Mover has represented that Government is treating this question in a very unsympathetic manner. As a matter of fact, we feel very keenly on this question of the insufficiency of accommodation for third class passengers and conveniences for them. We have only recently addressed railway administrations in connection with the preparation of budgets which we hope we shall get passed in this House shortly with a view to paying particular attention to this question of proper facilities for the third class passenger. We know perfectly well what that involves—not only additional third class carriages and locomotives, but probably duplication of lines, platforms and facilities at railway stations. That is the remedy proposed, and these are the steps we shall have to take and must take, and the sooner we get the money and get along with these remedies the better.

As has been pointed out in the course of this debate, there are passengers who are unfortunately only too anxious to crowd into carriages rather than be left behind; and this is the case everywhere. If you wish the railway servant to use that authority, such authority as he has got under section 109, to prevent this, I am prepared to address the railway administrations and ask them to accede to and bring to the notice of their servants the power they have; but I very much doubt whether the passengers will appreciate this little attention on the part of railway servants.

Dr. Nand Lal: Sir, the Honourable Mover has been very hard upon some Members who had acted according to their conscience. My friend has not realised

Mr. W. M. Hussanally: I rise to a point of order. Has Dr. Nand Lal the right to speak twice?

Dr. Nand Lal: Certainly. An insinuation has been made, and this being a permanent record, we should explain that these remarks are unfounded.

Mr. President: The Honourable Member is giving quite the wrong reason now (Laughter).

Dr. Nand Lal: My learned friend failed to see that he was responsible for the result at which we have arrived, and the fate which has been meted out to his Resolution can be traced to his worthy self. Now he has happened to say that some of us have not sympathised with the Resolution without knowing anything. He is wrong there and I may assure him that we have studied the question as much as he has done. Does he mean that the provisions of section 109 should be seriously adopted? If so, then every passenger will be within the clutches of the Law. The Law and Rules are clear enough. A certain maximum number is fixed there. The passengers know that this compartment is full. If it is a third class compartment, then similarly third class passengers may be supposed to know at least if there is any room and they should not enter it if there is no room.

And if they are going to force their entry inside and the railway official comes and asks them not to do it, there will be a struggle. This explanation was given. Is it wrong? Will it not end in a struggle? Will it not end in

[Dr. Nand Lal.]

a fight? Will it not give rise to litigation? Is my friend in favour of litigation? There may be thousands of cases so far as the Railway Department is concerned. Does he realise the force of his Resolution? I am sorry to say that he has not penetrated into what would be the result if his Resolution were accepted. Then he says that the Railway Department should be held responsible and the Railway Department should be called upon to pay fine. Now, the explanation which was given was quite good. Does the Honourable Member know who will pay that fine? It is we who will pay the fine, so far as the State Railways are concerned, and, yet, the Honourable Member—I do not know how far he is right—had the courage to say that we were wrong in going against the Resolution—I may be excused for saying that—but every Member should be cautious so far as such remarks are concerned. Then the Honourable Member goes on to say that really the drift of the Resolution has not been followed by those Members who have unfortunately been compelled not to sympathise with his Resolution. I may tell him that some of us have read the section and his Resolution more than five times, and our opinion is this, that his Resolution is very unhappily worded. Therefore, with these remarks, I may submit that we have got full sympathy with the passengers; we are therefore compelled to say that the Railway Department is responsible for this over crowding, but we have got another remedy for it; on the occasion of the budget we shall say to the Railway Department: ‘You are not doing your duty; we are not going to give you money.’ That is the proper remedy. If the railway servants are not going to do their duty we are not going to pay them. But the remedy does not lie in it that a certain new law may be pressed upon them so that they feel incapacitated, so far as the performance of their duty is concerned. Certainly their administration is defective; as I offered some observations sometimes back it requires improvement and some of the third class passengers are really treated as chattels. So far as those remarks are concerned I associate myself with the Honourable Member’s attitude. But if he thinks that the Railway Department should be called upon to pay a fine as the Resolution says, I differ. Therefore, the best remedy would be on the occasion of the budget; we shall then call upon the Railway Department to give us reasons why they have not made any improvements in the administration.

Mr. P. E. Percival (Bombay: Nominated Official): I move that the question be now put.

The motion was adopted.

Mr. President: The question is:

‘That the proposed amendment* be made.’

The motion was adopted.

Mr. President: The question is:

‘That the following Resolution, as amended, be accepted:

‘This Assembly recommends to the Governor General in Council that he may be pleased to consider and adopt such further measures as may be necessary to ensure the avoidance of overcrowding of passengers in railway compartments.’

The motion was adopted.

Mr. President: This Assembly now stands adjourned till Eleven of the Clock on Monday, the 16th January, 1922.

* That in place of all the words after the word ‘to’ in line 2 of the Resolution, where it occurs for the first time, the following words be inserted:

‘consider and adopt such further measures as may be necessary to ensure the avoidance of overcrowding of passengers in railway compartments.’

LEGISLATIVE ASSEMBLY DEBATES

MONDAY, 16th JANUARY, 1922

Vol. II—No. 16

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Monday, 16th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

MEMBERS SWORN :

Mr. William John Keith, C.I.E., M.L.A. (Official : Burma).

Mr. Denys deSaumarez Bray, C.S.I., C.I.E., C.B.E., M.L.A. (Foreign Secretary).

Mr. Khagendra Nath Mitra (Official : Bengal).

QUESTIONS AND ANSWERS.

COMPLETION OF RAILWAY LINE BETWEEN FUTWAH AND ISLAMPUR.

50. * **Khan Bahadur Sarfaraz Husain Khan** : Will the Government be pleased to state by what time the Railway line between Futwah Station and Islampur (Patna District) is likely to be completed ?

Colonel W. D. Waghorn : It is expected that the Futwah Islampur Railway will be opened this month.

STATION STAFF AND FIRST CLASS COMPARTMENTS.

51. * **Khan Bahadur Sarfaraz Husain Khan** : Will the Government be pleased to state :

(a) If the guards of trains are supplied with a 'Constitution' according to which Station Masters are empowered to change first class compartments into second class compartments ?

(b) If the station staff have instructions not to check the tickets of first class passengers in trains while travelling between the hours of 8 P.M. and 4 A.M. ?

Colonel W. D. Waghorn : (a) Government have no information as to the detailed orders issued by the various railway administrations in regard to this matter, but inquiry will be made and the result communicated to the Honourable Member.

(b) The instructions to the station staff on individual railways differ in detail but, generally speaking, the orders are that first and second class passengers should not be disturbed at night by requests to show their tickets.

INCONVENIENCE TO TRAVELLING PUBLIC OWING TO STEAMER NOT VISITING
MAHABIRGHAT.

52. * **Khan Bahadur Sarfaraz Husain Khan** : Will the Government be pleased to state :

(a) If they are aware of the hardship experienced by the travelling public of North Bihar going to and coming from Patna City owing to the Bengal and North-Western Railway steamer not visiting Mahabirghat each time it visits Mahendru Ghat ?

(b) If not, do Government propose to ascertain the nature of the grievance and inconvenience to the travelling public, with a view to take necessary action ?

Colonel W. D. Waghorn : (a) No representations appear to have been made on the subject.

(b) It is not possible to extend the run of the afternoon steamer to Mahabirghat as time does not permit of it. It is understood that there are objections from the point of view of navigation to night running to Mahabirghat which prevents the last steamer running to that Ghat.

CONVEYANCE AND HAULAGE ALLOWANCE TO M. L. A.'S ATTENDING SESSION AT
DELHI.

53. * **Khan Bahadur Sarfaraz Husain Khan** : Will the Government be pleased to state if (a) conveyance allowance, (b) free haulage of a motor car is allowed in the case of Members residing only in one of the hostels at Raisina or also at other places during the Legislative Sessions ?

The Honourable Sir William Vincent (on behalf of the Honourable Dr. T. B. Sapru) : (a) Conveyance allowance is admissible to any Member who lives in Raisina whether at the hostels or not.

(b) Haulage of motor cars is admissible no matter what part of Delhi a Member lives in.

MEMORIAL ON TRANSFER OF THE ADMINISTRATION OF ADEN.

54. * **Khan Bahadur Sarfaraz Husain Khan** : Will the Government be pleased to state if a memorial dated Bombay, the 15th May, 1921, regarding the contemplated transference of the Administration of Aden from the Government of India to the Colonial Office has been submitted to His Excellency the Viceroy and Governor General of India ?

(a) If so, has any action been taken on it ?

(b) If action has been taken, what action has been taken ?

Mr. Denys Bray : Yes. (a) and (b). I would refer the Honourable Member to the answer given on the 10th September, 1921 to (r) of Question No. 129.

Mr. K. Ahmed : Was there any money spent by the Government of Bombay or Government of India for the improvement of Aden ?

Mr. President : The Honourable Member had better give notice of that question.

Mr. K. Ahmed : Was there any loss sustained by the transfer of the administration of Aden to the Colonial Office ? Will there be any loss ?

The Honourable Sir Malcolm Hailey: I think the Honourable Member's question was whether any loss was sustained. The transfer has not taken place.

As regards the expenditure mentioned by the Honourable Member, namely, on the improvement of Aden, Aden is under the administration of the Bombay Government and such public works as are carried out in Aden have been carried out by the Bombay Government. If the Honourable Member desires, I can show him the figures of expenditure by the Bombay Government in this respect. I may add, that taken over a series of years, the receipts and expenditure of a purely civil nature in Aden approximately balance themselves.

INDIAN PILGRIMS DURING THE LAST HAJ.

55. * **Khan Bahadur Sarfaraz Husain Khan:** Will the Government be pleased to state:

- (a) the number of Indian pilgrims during the last *Haj* season?
- (b) the number of such pilgrims as have not returned to India as yet?

Mr. H. Sharp: (a) 10,825 pilgrims.
(b) 376 pilgrims.

Bao Bahadur T. Bangachariar: Sir, I understand there was a proposal to start a fund from the Muhammadan community for the benefit of pilgrims. I should like to know if it met with any successful response.

Mr. H. Sharp: I am doubtful, Sir, whether that question arises out of the question I have just answered, but I have no objection to giving a reply to the Honourable Member. The fund has not met with the response we anticipated and the last I heard from Bombay, I think, was that only about Rs. 6,000 had reached the bank.

Mr. K. Ahmed: May I inquire, Sir, whether there is a lady doctor to attend to the needs of the Muhammadan lady pilgrims?

Mr. H. Sharp: Again, Sir, I think that question does not arise, but I may say that a lady doctor has been sanctioned.

INCONVENIENCE TO INDIAN PILGRIMS FROM QUARANTINE.

56. * **Khan Bahadur Sarfaraz Husain Khan:** Have the Government of India received any complaints that Indian pilgrims, specially ladies, have been put to much inconvenience owing to the enforcement of quarantine or other Sanitary Regulations?

Mr. H. Sharp: No such complaint has been received in recent years regarding medical inspection at Bombay or quarantine at Kamaran. By Indian pilgrims it is presumed that the Honourable Member means Musalman pilgrims to the Hedjaz.

URDU FOR I. C. S. EXAMINATION SYLLABUS.

57. * **Khan Bahadur Sarfaraz Husain Khan:** With reference to the Home Department Notification, dated Simla, the 28th October, 1921, re

Indian Civil Service Examination in India, published in the Gazette of India, Home Department, dated the 22nd October, 1921, will the Government be pleased to state :

- (a) Why Urdu, which is and has been a recognised language of India, does not find a place in the syllabus item (5) Vernacular ?
- (b) Is it that 'Hindustani' has been substituted for Urdu ?
- (c) If so, why, for what reason, and under what circumstances ?
- (d) Is the Government prepared to substitute 'Urdu' for 'Hindustani,' specially when Hindi has got a place in the syllabus ?

The Honourable Sir William Vincent : (a), (b), (c) and (d). In accordance with past practice the term 'Hindustani' has been used in the syllabus for the Indian Civil Service examination to be held in India as equivalent to 'Urdu'. The Government of India agree that Urdu is a better term and will convey to the Secretary of State, who frames the rules under section 97 (1) of the Government of India Act, the suggestion that the term 'Urdu' should be substituted for 'Hindustani'.

ADMISSION OF INDIANS INTO THE ROYAL AIR FORCE.

58. * **Khan Bahadur Sarfaraz Husain Khan :** (a) With reference to the answer given by Sir Godfrey Fell to Question No. 415* put by Munshi Iswar Saran on the 21st September, 1921, in this Assembly, will Government be pleased to state if they have now received a reply from the Secretary of State ?

(b) If so, will they be pleased to communicate the reply to the Assembly ?

Sir Godfrey Fell : (a) and (b). No reply has yet been received from the Secretary of State for India.

RESOLUTIONS PASSED BY COUNCIL OF STATE AND LEGISLATIVE ASSEMBLY.

59. * **Khan Bahadur Sarfaraz Husain Khan :** With reference to the answer given by the Honourable Dr. T. B. Sapru to Question No. 622† put by Mr. K. B. L. Agnihotri on the 22nd September, 1921, will the Government be pleased to state if the information asked for by the Honourable Member has been collected, and, if so, will they please communicate the information so collected to the Assembly ?

The Honourable Dr. T. B. Sapru : Statements are being prepared and will be laid on the table as soon as possible.

MOPLAH TRAIN TRAGEDY.

60. * **Khan Bahadur Sarfaraz Husain Khan :** Will the Government be pleased :

- (a) to mention the circumstances which led to the death of the 64 Moplah prisoners in the Martial Law area of Malabar while entrained for the Bellary Moplah Prison Camp ?

* Vide Legislative Assembly Debates, Volume II, page 637.

† Vide Legislative Assembly Debates, Volume II, page 624.

(b) to state whether the unfortunate dead got buried according to Muhammadan customary religious law, and whether non-official Mussalmans were summoned or permitted to assist in the burial of the dead bodies ?

The Honourable Sir William Vincent: (a) The subject is under inquiry by a Committee whose report is awaited by Government.

(b) Yes. The bodies of the victims of this unfortunate tragedy were made over for burial to local Muhammadans at Tirur and Coimbatore.

POSITION IN MALABAR.

61. * **Khan Bahadur Sarfaraz Husain Khan:** Will the Government be pleased to make a statement as to the progress of the Martial Law régime in Malabar, its probable duration, the number of the Moplahs so far killed and sentenced to death and imprisonment, the number undergoing and awaiting trial and the number of them still wanted to be brought to book ?

Sir Godfrey Fell: With reference to the first part of the Honourable Member's question, I will furnish him with a copy of the latest weekly report received by the General Staff on the situation in Malabar.

As to the second part of the question, martial law will be withdrawn as soon as circumstances permit. The Government of India have been for some time and still are in correspondence with the Local Government on this subject.

As to the third part of the question, the figures are as follows :

Number of Moplahs killed	2,250 (approximately.)
Number of Moplahs sentenced to imprisonment by Summary Courts	5,727

Information with regard to the number of Moplahs sentenced to death, or imprisonment by Courts of all kinds is being asked for and will be communicated to the Honourable Member when received. As to the number awaiting trial and still to be arrested, the Government of India have no information.

GOVERNMENT TREATMENT OF RESIDENT MOPLAHS IN RECOVERED VILLAGES.

62. * **Khan Bahadur Sarfaraz Husain Khan:** Will the Government be pleased to state what treatment has been accorded by the Martial Law Authorities in Malabar to Moplah men, women and children found in dwelling houses and residential quarters after villages were won back from the rebels ?

The Honourable Sir William Vincent: Information has been asked for and will be supplied to the Honourable Member when received.

RAVAGES WROUGHT BY MOPLAHS.

63. * **Khan Bahadur Sarfaraz Husain Khan:** Will the Government be pleased to state :

- (a) the number of Hindus forcibly converted to Islam by the Moplahs ?
- (b) the number of Hindu temples desecrated or destroyed, if any, by the Moplahs ?

- (c) the number and names of the villages looted by the Moplahs before the Martial Law was proclaimed and the number and names of the villages looted by them afterwards?

The Honourable Sir William Vincent: (a) The Madras Government report that the number of forcible conversions probably runs to thousands but that for obvious reasons it will never be possible to obtain anything like an accurate estimate.

(b) and (c). The information has been asked for and will be supplied to the Honourable Member when received.

JURISDICTION TO JURY IN SESSIONS TRIAL.

64. * **Khan Bahadur Sarfaraz Husain Khan:** Will the Government be pleased to state whether, within the recent times, Provincial Administrations have been authorized or advised to give jurisdiction to the Jury in all the cases of Sessions trial, in which the Government are the prosecutors?

The Honourable Sir William Vincent: So far as I am aware, Provincial Governments have never been so advised, at any rate since they were given full powers by the Devolution Act, 1920, in this respect.

RESOLUTION OF KARACHI KHILAFAT CONFERENCE.

65. * **Khan Bahadur Sarfaraz Husain Khan:** Will the Government be pleased to state:

- (a) if they have given any instructions or directions to Local Governments relating to the legal action to be taken or not to be taken against the men and women who have been openly and publicly repeating the Resolution of the Karachi Khilafat Conference for which the Ali Brothers and their comrades and associates were prosecuted and tried at Karachi?
- (b) if so, what are those instructions or directions?

The Honourable Sir William Vincent: (a) and (b). No such instructions have been issued by the Government of India.

MOPLAH TRAIN TRAGEDY.

66. * **Mr. Muhammad Yamin Khan:** Will the Government be pleased to supply information as to the following questions relating to the death of the Moplah convicts on the 20th of November in a railway van:

- (i) What was the size of the van in which 100 Moplah convicts were shut to be transferred from Tirur on 19th of November, 1921?
- (ii) By whose order were these convicts closed in a goods wagon?
- (iii) Was there any responsible officer of the Government present at the railway station to supervise and to see that the prisoners for whose welfare the Government is responsible were properly lodged in railway carriage with all requirements necessary for human life, safety and convenience?
- (iv) Is it the usual practice to shift the convicts from one place to another in goods wagon or was it specially done in case of these unfortunate Moplahs?

- (v) At how many stations did the train carrying these Moplah convicts stop between Tirur and Padanur ?
- (vi) Who was the Chief Officer in charge of these convicts ?
- (vii) At how many stations did he go to look after the comfort of the persons in his charge and to ascertain their presence in the train between Tirur and Padanur ?
- (viii) Did the Government find fault with any of the officials concerned ? If so, what punishment has been awarded to him or them ?
- (ix) Was there any water supply and other requirements for human convenience present in the van in which these Moplahs were closed ?
- (x) Can the convicts be supplied with water if they feel thirsty at any time of the day ? If they can be so provided, did any of the persons in charge take the trouble to go to these convicts to inquire whether they required water or wished anything else ?
- (xi) Were the Moplah convicts handcuffed and fettered while being conducted in that van ?
- (xii) Did Government or any officer of the Government take the precaution to record the statements of those Moplahs who were sent to Tirur for medical help and subsequently died ?
- (xiii) Have statements of those who are fortunate to have escaped death been recorded to find out the history of the most unfortunate tragedy ?
- (xiv) Has the Government ascertained the cause of death ? Is it true that they died on account of gas fumes ?

The Honourable Sir William Vincent : As the Honourable Member is no doubt now aware, the whole circumstances connected with this terrible affair which the Government of India very deeply regret are under inquiry by a Committee containing a majority of non-officials appointed by the Government of Madras. Pending the report of that Committee, which will doubtless deal with the various points raised in these questions, Government are not in a position to answer this question.

Mr. N. M. Joshi : Sir, may I inquire whether the practice of carrying prisoners in goods vans still continues or whether the practice has been stopped ?

The Honourable Sir William Vincent : I hope that the practice has stopped and I can only conclude that the Madras Government have stopped it, but if the Honourable Member wishes I will make inquiries.

AUTHORITY FOR EXTENDING HOLIDAYS IN SECRETARIAT.

67. * **Mr. Muhammad Yamin Khan :** (a) Will the Government be pleased to state as to whose primary business is it to extend a day in a public holiday for the persons employed under the Government of India and in its offices ?

(b) Will the Government be pleased to kindly inform as to who is the proper authority if not the Governor General in Council to extend one day

more in Ed-uz-Zoha holiday for the persons employed in the Government of India Secretariat and other departments under the Government of India ?

The Honourable Sir William Vincent: (a) and (b). Public holidays are notified by the Local Governments and Administrations, and the Government of India Departments and attached offices ordinarily observe the holidays notified by the Local Government or Administration within whose jurisdiction their headquarters are for the time being. But the question whether the staff of a Department or office may be allowed actually to enjoy a holiday depends on the orders of the head of that Department or office.

EXPORT OF WHEAT FLOUR IN 1921.

68. * **Mr. Muhammad Yamin Khan:** (a) Will the Government be pleased to state as to whose business it is if not of the Governor General in Council to know whether wheat flour has been exported in 1921 from India and its destination and the names of persons who exported it ?

(b) If it is the business of the Governor General in Council to know all or any of the information required in (a) above, will the Government be pleased to state (i) if there had been any export of wheat flour in 1921, (ii) its destination, and (iii) the name of person or firm who exported it ?

Mr. J. Hullah: Subject to definite restrictions, wheat flour has been exported in 1921. Information regarding the quantity and the destinations to which it has been exported can be obtained from the monthly "accounts relating to the Sea-borne Trade and Navigation of British India" which are available in the Members' Library and have been published up to the month of October 1921.

The Government of India do not know the names of the persons or firms exporting wheat flour, but they are able to obtain this information from the Collectors of Customs should they consider it of public interest or importance to do so.

RALLI BROTHERS AND EXPORT OF WHEAT FLOUR.

69. * **Mr. Muhammad Yamin Khan:** Is it not a fact that Messrs Ralli Brothers exported wheat flour for the Greeks in 1921 from India ?

Mr. J. Hullah: The answer is 'No.' And I have Messrs Ralli Brothers' authorisation to say that they did not export any flour to any destination during 1921.

COMMERCIAL REPRESENTATION IN APPOINTMENTS OF THE SUB ACCOUNT SERVICE.

70. * **Haji Wajih-ud-Din:** Will the Government be pleased to lay on the table a statement showing the number of permanent, probationary, provisional, sub. *pro tem.* and officiating appointments of the Sub Account Service filled in by different communities, i.e., Hindus, Muslims, Anglo-Indians, etc., respectively, in the Office of the Accountant-General, Posts and Telegraphs, Calcutta, and offices subordinate to it ?

The Honourable Sir Malcolm Hailey: The information asked for by the Honourable Member is being collected.

EXCLUSION OF INDIANS FROM VACANCIES ON RAILWAYS.

71. * **Haji Wajih-ud-Din** : Will the Government be pleased to state on what principle North-Western Railway and Oudh and Rohilkhand Railway have recently advertised in the Press calling applications from European and Anglo-Indian apprentices only, for the carriage, wagon and locomotive workshops, totally excluding Indians ?

Colonel W. D. Waghorn : I would refer the Honourable Member to the reply given by me on the 10th instant to his Question No. 10. Conditions on the North-Western and Oudh and Rohilkhand Railways are similar and beyond the fact that the North-Western Railway administration is collaborating with the Government of the Punjab in the matter of affording improved technical training, there is nothing to add.

TRANSFER OF VILLAGES FROM BIHAR AND ORISSA TO BENGAL.

72. * **Khan Bahadur Sarfaraz Husain Khan** : Will the Government be pleased to state :

(a) whether a memorial has been submitted to His Excellency the Viceroy through the Government of Bihar and Orissa in December last, praying that the villages within Police Stations Rajmahal and Barharwa, within the District of Santal Perganas, within the Province of Bihar and Orissa, be transferred to the District of Murshidabad, within the Province of Bengal ?

(b) if so, will it be pleased to state as to what is the recommendation of the Local Government on the Memorial ?

The Honourable Sir William Vincent : The attention of the Honourable Member is invited to the answer given by me on the 10th January to Mr. K. Ahmed's question on the same subject.

COMPETITIVE EXAMINATIONS IN INDIA FOR IMPERIAL SERVICES.

73. * **Mr. Sambanda Mudaliar** : Will Government be pleased to state :

(a) whether they propose to hold Competitive Examinations in India, for selection of officers for all branches of the Imperial Service (Police, Medical, Forest, Engineering Departments, etc.) ?

(b) whether they propose to recruit by nomination qualified candidates from among the backward classes in the various branches of the Imperial Service ?

The Honourable Sir William Vincent : In future a proportion of the recruitment for the All-India Services is to be effected in India. A more precise answer cannot be given to the question as the rules regarding competition and nomination vary from service to service. If the Honourable Member desires particulars regarding recruitment for any particular service I shall be glad to arrange to have the required information supplied to him or to any other Member of the Assembly.

RAILWAY BETWEEN ERODE AND NANJUNDANGUDI.

74. * **Mr. Sambanda Mudaliar** : Will Government be pleased to state if they have received proposals for construction of railway between Erode and Nanjundangudi (Mysore Province) ? . If so, have Government sanctioned for the said construction ?

Colonel W. D. Waghorn : It is presumed that the Honourable Member refers to the Erode-Nanjangud Railway. Government have at present no proposals before them for the construction of the line. A detailed survey for a through connection from Erode to Nanjangud with a branch from Kootamangalam to Mettupalaiyam was carried out in 1910-11 and the results show that the line is not likely to give a remunerative return. Sanction has however been accorded to the construction of the section between Nanjangud and Hardanahalli by the Mysore Darbar with a view to the opening up of their own territory.

DISASTROUS FIRE IN GODOWN IN BOMBAY CONTAINING MILITARY SURPLUS STORES.

75. * Mr. Sambanda Mudaliar : Will Government be pleased to state :

- (a) whether it is a fact that a disastrous fire broke out on 22nd December, 1921, in a godown in Bombay containing military surplus stores composed of textiles such as flannels, towels, medicines and ammunition boots, etc. ?
- (b) If the answer is in the affirmative, please state :
 - (1) the causes of the fire ?
 - (2) the value of property stored there ?
 - (3) the amount of loss incurred on account of the fire ?
 - (4) whether the stores contained therein were insured ; if not, why not ?

The Honourable Mr. C. A. Innes : (a) The answer is in the affirmative. The building, which was destroyed, contained medical stores, boots, cotton thread and towels, but not flannel.

(b) An official inquiry was held on the 27th December, 1921. The Committee holding the inquiry were of opinion that the fire probably originated inside the building and not outside, but held that it was impossible to say what the cause of the fire was.

The book value of the building destroyed was one lakh twelve thousand seven hundred rupees. The estimated value of the stores in the building was about 12 lakhs of rupees, and it is not anticipated that any appreciable quantity will be salvaged.

The stores, which were the property of His Majesty's Government and not of the Government of India, were not insured.

RAVAGES WROUGHT BY MOPLAHS.

76. * Mr. Sambanda Mudaliar : Will Government be pleased to state :

- (a) the number of men and women (non-Mussalman) who have been killed by the Moplahs during the recent disturbances in Malabar ?
- (b) the casualties among the Muhammadan population ?
- (c) the number of forced conversions from among the Hindus ?
- (d) the value and extent of loss to the public and private properties caused on account of this outbreak ?
- (e) the amount of expenditure incurred by the Government on account of the military operations and martial law administration ?

- (f) whether they propose to grant compensation to the owners whose properties have been burnt or destroyed by the rebels and also to the families of persons murdered while in the discharge of public duty and of persons who fell victims to the rebels?

The Honourable Sir William Vincent : (a) and (b). No accurate figures are at present available. The Government of Madras is however collecting information as regards known casualties.

(c) The Madras Government state that forced conversion probably run into thousands but that for obvious reasons it will never be possible to obtain anything like an accurate estimate.

(d) Government are unable to add anything to the reply given on this point on the 28th September in answer to a question by Mr. Misra. No estimate of the damage done, which is serious and extensive, can be prepared until conditions are such as to permit of systematic investigation. The damage to Government property includes the wholesale destruction of Government buildings, judicial and other records, railways and telegraphs. Private owners have been unable yet to return or ascertain the damage done to their property.

(e) The military expenditure is roughly estimated at Rs. 15 lakhs up to the end of December, 1921.

(f) The question has been referred for the consideration of the Government of Madras.

Rao Bahadur T. Rangachariar : Do the Government propose to hold an inquiry or initiate an inquiry, and, if so, when, as to the causes of this outbreak?

The Honourable Sir William Vincent : The answer is that at present they do not propose to hold such an inquiry, but the matter will be brought up, I believe, on a separate Resolution when the question will be more fully discussed.

Mr. R. A. Spence : May I ask a supplementary question, Sir? Do Government intend to make use of the labour of the rebel prisoners in restoring the damage done by those rebels?

The Honourable Sir William Vincent : I will make the suggestion for what it is worth to the Local Government and ascertain their views on that point.

Mr. K. Ahmed : Is it a fact that the Muhammadan women and children of the Moplah prisoners who were alleged to have committed murder, were not allowed to come to Calicut to get relief from the local Khilafat Committee there? Is it a fact that the women and children of the (Muhammadan) Moplahs who were prosecuted or taken to jail were not allowed to get relief from the Calicut Khilafat Committee?

The Honourable Sir William Vincent : I have no information on that point at all.

Mr. K. Ahmed : Was not there a letter to the District Magistrate of Malabar written by the Secretary (M. Abdur Rahman) of the Khilafat Committee about it which appeared on the 9th of October in the '*Hindu*' and which was again re-printed and published in the '*Amrita Bazar Patrika*,' dated the 2nd November last?

The Honourable Sir William Vincent: A great many letters appear in various papers which I do not accept as accurate. If the Honourable Member wishes me to make inquiries on the point, I am quite prepared to do so. I have no information before me at present.

Mr. K. Ahmed: What was the size or area of the van or wagon in which the 100 prisoners were shut up? What was the area of space allowed to each prisoner in the van?

Mr. President: These are primarily matters for the Madras Government, and if the Honourable Member has friends in the Madras Council, he can get these questions put there.

SAFEGUARDING OF PROPERTY AND LIVES IN MALABAR.

77. ***Mr. Sambanda Mudaliar:** Will Government be pleased to state:

- (a) the reason why the garrison permanently stationed hitherto before at Mallapuram in South Malabar was disbanded and whether it is a fact that Government of Madras objected to such disbandment?
- (b) in the light of the experience gained during the recent outbreak, what steps they propose to take to safeguard the property and lives of the Hindu population and other classes of people in these affected areas against any further recurrence?

Sir Godfrey Fell: (a) The attention of the Honourable Member is invited to parts (a) and (b) of the reply* given in the Council of State on the 26th September last to Question No. 155.

(b) The matter is receiving the most careful consideration of Government.

Mr. Sambanda Mudaliar: May I ask a supplementary question, Sir? Will the Government be pleased to locate the permanent garrison at Mallapuram as was done in previous years in view of the present situation as a safeguard?

Sir Godfrey Fell: I am afraid I cannot give an assurance on behalf of the military authorities in a matter of this sort. The question of the disposition of troops in the Madras Presidency as in all other areas in India, must be governed by general considerations of internal security and I cannot give a pledge on behalf of Government that any particular garrison will be located in any particular area or place.

SUBSIDY TO ASSOCIATED PRESS.

78. ***Rai Sahib Lakshmi Narayan Lal:** (a) Is the Associated Press subsidised by the Government? Or do the Government pay any money to the Associated Press?

(b) If the answer is in the affirmative, how much is paid to the Associated Press annually?

(c) Why is the payment, if any, made?

(d) In what item of the Budget is the expenditure shown?

The Honourable Sir William Vincent: The Associated Press receives no subsidy from Government.

ROUND TABLE CONFERENCE BY GOVERNMENT.

79. ***Rai Bahadur Pandit J. L. Bhargava:** Do the Government propose to hold a Round Table Conference as early as possible

* Vide Council of State Debates, Volume II, pages 366-367.

and invite thereto men of all shades of opinion including non-co-operation leaders ?

The Honourable Sir William Vincent: The Honourable Member's attention is invited to His Excellency's speech of the 21st December, 1921, to the Calcutta Deputation in which the attitude of Government was clearly explained.

ABOLITION OF REPRESSIVE LAWS.

80. * **Rai Bahadur Pandit J. L. Bhargava:** (a) Will the Government be pleased to state for the information of this Assembly if they contemplate to cancel the notifications regarding the application of the Criminal Law Amendment Act and the Seditious Meetings Act at an early date ?

(b) If so, by what time ?

The Honourable Sir William Vincent: It is within the competence of Local Governments to cancel the notifications regarding the operation of the Criminal Law Amendment Act, 1908.

The Government of India do not contemplate taking any action at present as regards the withdrawal of the Seditious Meetings Act, 1911.

RECOMMENDATIONS BY THE INDIAN JAILS COMMITTEE.

81. * **Rai Bahadur Pandit J. L. Bhargava:** Will the Government be pleased to state what action they have taken to give effect to :

(a) the recommendations of the Indian Jails Committee detailed forth in the following paragraphs :

- (1) Paragraph 290 (importance of variety in Jail dietary),
- (2) Paragraph 293 (importance of good cooking and preparation of food),
- (3) Paragraph 297 (clothing for convicts),
- (4) Paragraph 307 (conservancy arrangements);

(b) the following recommendations referred to in the summary of recommendations :

- (1) Recommendation No. 127 relating to the provision of the essential education and recreation,
- (2) Recommendation No. 150 relating to the provision of light to enable literate prisoners to read between lock up and sleeping time,
- (3) Recommendation No. 248 relating to the length of trousers ?

(c) If no action has yet been taken on these recommendations, will the Government be pleased to direct that early action be taken ?

The Honourable Sir William Vincent: As regards the recommendations mentioned in part (a) of the question and Recommendation No. 248, the attention of the Honourable Member is invited to paragraph 15 of the Home Department Circular letter, No. 104, dated the 4th April, 1921, a copy of which I laid on the table at the meeting of this Assembly on the 15th September, 1921. The Honourable Member would find a copy of this letter printed at page 272 of the report of that date.

As regards the Recommendations Nos. 127 and 150, the attention of the Honourable Member is drawn to paragraph 12 of the Home Department Circular letter, No. 307, of the 17th December, 1920, a copy of which will be found at page 261 of the report of the meeting of this Assembly of the 15th September 1921.

If the Honourable Member will refer to the correspondence in question, he will see that the attention of all Local Governments has been drawn to the recommendations mentioned in his question. The Government of India do not propose to take any further action as the recommendations in question deal with matters which are within the discretion and competence of Local Governments.

UNSTARRED QUESTIONS AND ANSWERS.

ABOLITION OF THE COMMISSIONERS OF DIVISIONS.

115. **Lala Girdharilal Agarwala** : In what Provinces and when was the question of the abolition of the Commissioners of Divisions considered and with what result ? Will the Government be pleased to lay on the table any correspondence they have received or sent on the subject ?

The Honourable Sir William Vincent : The Government of India have received no report from Local Governments nor have they had any correspondence on the subject.

ABOLITION OF BOARDS OF REVENUE.

116. **Lala Girdharilal Agarwala** : In what Provinces and when was the question of the abolition of the Boards of Revenue considered and with what result ?

The Honourable Sir William Vincent : The attention of the Honourable Member is drawn to my answers to questions asked by him on the same subject on September 5th and September 21st last. The Secretary of State has agreed to the principle that the functions of the Board of Revenue in the United Provinces should be confined to judicial appeals and that its executive functions should be transferred to the Local Government, but has requested that no steps should be taken to give effect to this transfer in respect of Courts of Wards matters until he has been fully informed of the details of the administrative method proposed in substitution of the Board's control and has approved them.

ABOLITION OF POSTS OF THE BOARDS OF REVENUE AND COMMISSIONERS OF DIVISIONS.

117. **Lala Girdharilal Agarwala** : Will the Government be pleased to lay on the table any correspondence which they have had with the Home Government regarding the abolition of the posts of the Boards of Revenue, and the Commissioners of Divisions ?

The Honourable Sir William Vincent : There has been no correspondence with the Secretary of State about the abolition of commissionerships of divisions. The Government of India are not prepared to lay on the table the correspondence about the abolition of Boards of Revenue.

COST OF CIVIL AND MILITARY ADMINISTRATION OF INDIA.

118. **Lala Girdharilal Agarwala** : Are the Government aware that there is a strong feeling in the country that the cost of civil and military administration of India is much higher than of any other country

in the civilized world and should be materially reduced? Will the Government be pleased to give comparative figures of expenditure of India and other countries if they have got any such figures?

The Honourable Sir Malcolm Hailey: Government are aware that such opinions have been advanced. They are at present contemplating an examination into the possibility of retrenchment of expenditure. The expenditure on the civil and military administration under the Central Government (excluding Commercial Departments like the Posts and Telegraphs, Railways, and Irrigation) is Rs. 99,22,42,000, *vide* pages 598—601 of Budget for 1921-22. The details are as follows:—

	Rs.
Direct demands on the Revenues	4,93,51,000
Debt Services	13,08,61,000
Civil administration	8,43,18,000
Currency, Mint and Exchange	4,18,80,000
Buildings, Roads and Miscellaneous Public Improvements	1,51,11,000
Miscellaneous	4,24,37,000
Net Military expenditure	62,20,00,000
Miscellaneous adjustments between the Central and Provincial Governments	62,84,000
TOTAL	99,22,42,000

Figures are not readily available for a comparison of the cost of administration in India and in other countries, and such comparisons are seldom reliable as the conditions which determine such expenditure vary enormously in different countries. A comparison such as that suggested depends on the basis adopted, *i.e.*, whether the basis be cost per head of population or the proportion of the revenues spent on the administration. Various other factors, such as the wealth of the country and its national debt, etc., have to be taken into account. I have given the cost of the civil administration of the Central Government only exclusive of Commercial Departments, and of the military expenditure, and the Honourable Member may find these useful in relation to any information he may be able to procure as regards other countries. In this connection I would refer the Honourable Member to figures given in the statistical memoranda of the International Financial Conference held at Brussels in 1920 which the Honourable Member may obtain from the Finance Department library. I regret I cannot undertake to collect and supply fuller information on so extensive and complicated a subject.

HARTAL IN INDIA DURING ROYAL VISIT.

119. **Lala Girdharilal Agarwala:** (a) Is it a fact that on the landing of His Royal Highness in India *Hartal* was observed in important towns of India and the masses boycotted the welcome to His Royal Highness and closed their shops and suspended business at the places and on the dates of the Royal visit within the British territory?

(b) In what places was the Royal visit not accompanied by any sort of *Hartal*?

The Honourable Sir William Vincent: The facts have been fully stated in the Press in published accounts of His Royal Highness's visit. I have nothing to add to these accounts.

REPRESENTATIONS AGAINST PRESENT REPRESSIVE POLICY.

120. **Lala Girdharilal Agarwala** : Will the Government be pleased to lay on the table all representations made by public bodies or individuals protesting against the present repressive policy of the Central and Provincial Governments?

The Honourable Sir William Vincent : Several representations have been received but the Government do not propose to lay copies of them on the table.

EMPLOYMENT OF EX-CONVICTS, ETC., ON INDIAN RAILWAYS.

121. **Lala Girdharilal Agarwala** : Are ex-convicts and persons of questionable character ever employed by the Indian Railways? If so, do the Government propose to issue orders preventing employment of such persons by Railways?

Colonel W. D. Waghorn : Railway Administrations in their own interests avoid employing if they can help it ex-convicts and questionable characters, and Government do not propose to issue any instructions on the subject.

THE RAILWAY KOSHT NIBARAK SAMITI, LUCKNOW.

122. **Lala Girdharilal Agarwala** : Will the Government be pleased to lay on the table all representations made to them by the Railway Kosht Nibarak Samiti, Lucknow, from July, 1921? What action has been taken thereon?

Colonel W. D. Waghorn : Laying on the table involves printing in the official report, and since the correspondence is very voluminous, the Government are not prepared to go to this expense. Wherever possible action on the suggestions has been taken and the Samiti replied to.

OFFICIAL VOTE IN THE INDIAN LEGISLATURE.

123. **Lala Girdharilal Agarwala** : Is an official member of the Indian Legislature free to vote in whatever way he likes?

The Honourable Sir William Vincent : The official members of the Indian Legislature, other than Members of the Executive Council of the Governor General, and officers of the Central Government, are free to vote as they like, save when Government thinks it necessary to require their support. If the Honourable Member will refer to the division lists, I think he will be able to satisfy himself that Government has very seldom, since the Assembly was constituted, imposed any restriction on the voting of official members.

SEARCHLIGHTS ON RAILWAY TRAINS.

124. **Lala Girdharilal Agarwala** : How long have searchlights been used on Kalka-Simla Railway at night and have they proved useful in averting danger? Do the Government propose to order that all railway trains when running at night shall carry powerful searchlights in front of the engine to ensure safety and convenience?

Colonel W. D. Waghorn: Electric head lights have been in use on the train Engines on the Kalka-Simla Railway since 1909 and have served the purpose for which they are intended.

The question of providing more powerful head lights on Engines running on railways generally is under consideration. The matter is, however, in the experimental stage at present, and Government do not propose to issue orders as suggested.

FENCING OF RAILWAY LINES.

125. **Lala Girdharilal Agarwala:** Do the Government propose to order that all railway lines shall be so fenced as to provide adequate safety to human beings and animals?

Colonel W. D. Waghorn: The experience of Railway Administrations so far has been that fencing does not afford the degree of safety anticipated. In view of this and the fact that the provision of adequate fencing throughout would involve very heavy expenditure, Government do not propose to take action at present to the extent advocated by the Honourable Member, especially as there are many other works which in their opinion have greater claims on the funds available.

The whole question however is again being considered in consultation with Railway administrations.

REPRESENTATIONS AGAINST BARSII LIGHT RAILWAY COMPANY.

126. **Mr. B. S. Kamat:** (a) Will Government be pleased to say if the Railway Board have received any representations or complaints from passengers regarding the pontage charged by the Barsii Light Railway Administration for crossing the Willingdon Bridge at Pandharpur in the Bombay Presidency on the ground that the pontage is excessive, especially for the 3rd class passengers?

(b) Will Government be pleased to quote what rates the Barsii Light Railway Company are charging to the passengers, together with the mileage for which the pontage is charged?

(c) Is it true that the said Railway Company is, under the terms of their contract with Government, entitled to charge the pontage only so long as their capital expenditure for constructing the bridge across the river *Bhina* is recouped from the proceeds of the pontage? If so, will Government please state how the Pontage Account stands at present, and when is the pontage likely to be discontinued by the said Railway Company?

(d) Have Government also received complaints against this Railway Administration on the ground that they do not stop all their trains at a station called Babhulgaon although it is very convenient for the Pandharpur pilgrims? Will Government please state what action, if any, they have taken to relieve the inconvenience?

(e) Is it true that this Railway Administration has introduced a Rail Motor Trolley Service for passengers, and that they run the Rail Motor at times at night although the rules are said to prohibit it?

Colonel W. D. Waghorn: (a) The reply is in the affirmative and the representation will be examined.

(b) Passenger fares on the Barsi Light Railway are as follows :—

1st class	24	pies per mile.
2nd class	12	" " "
3rd class	3	" " "

The pontage charge is equivalent to fares as for 20 miles.

(c) The reply to the first part of the question is in the negative and the point mentioned in the second part therefore does not arise.

(d) Government have received a complaint regarding the non-stoppage of all passenger trains at Babhulgaon. The matter is under inquiry.

(e) Government have sanctioned the introduction of a motor trolley service for the carriage of passengers on the Barsi Light Railway. The motor trolley is permitted to run at night subject to certain conditions.

DESPATCH RE FURTHER ADVANCE IN CONSTITUTIONAL REFORM.

127. **Mr. B. S. Kamat:** With reference to the undertaking given by Government in the September session of the Assembly to communicate to the Secretary of State for India the tenor of the debate on Mr. Majumdar's resolution for a further advance in Constitutional Reform, will Government be pleased to place on the table their despatch to the Secretary of State and his reply thereto?

The Honourable Sir William Vincent: The Honourable Member is referred to my reply to Mr. Raghubhir Sinha's question No. 99, dated 10th January, 1922, on the same subject. The resolution and the debates were forwarded to the Secretary of State with a formal covering letter.

ADVISORY RAILWAY COUNCILS.

128. **Raja Kushalpal Singh:** (a) Will the Government be pleased to state when the Advisory Railway Councils, recommended in paragraphs 139—142 of the Report of the Railway Committee, will be introduced, and state the local centres where the local councils are to be established?

(b) Have any rules been framed to regulate the business of the central and the local Advisory Railway Councils? If not, will the Government be pleased to lay them before this Assembly before bringing them into force?

Colonel W. D. Waghorn: The whole question is now being examined in consultation with Railway Administrations.

ADDITIONAL INFORMATION IN THE RAILWAY BOARD'S ADMINISTRATION REPORT.

129. **Raja Kushalpal Singh:** Do the Government propose to direct the Railway Board—

(a) to arrange to give the amount per month of the aggregate salaries and wages of railway servants of different races in the statement of numerical strength of railway servants published in the annual Administration Report?

(b) to restore the publication in the future issues of the annual Administration Report, the following information which used to be published before 1901:—

(i) Table of rates and fares on the Indian Railways.

(ii) Full contracts of Railway Companies?

Colonel W. D. Waghorn: As regards (a) the Government have examined the question whether the information can be supplied, but find that this cannot be done without a very great expenditure of time and labour. They do not propose to make the information a feature of the annual Administration Report.

With reference to (b) the attention of the Honourable Member is drawn to the Railway Board's publication entitled the 'History of Indian Railways constructed and in progress' which contains all particulars of interest regarding rates and fares and contracts in a summarised form. This publication is brought up to date every year, and copies of it are available in the Library of the Legislative Assembly.

SALE OF RULES AND REGULATIONS OF INDIAN RAILWAYS CONFERENCE ASSOCIATION.

130. **Raja Kushalpal Singh:** Do the Government propose to issue orders for the sale of the Rules and Regulations of the Indian Railways Conference Association to the public as they used to be sold before?

Colonel W. D. Waghorn: The rules and regulations of the Indian Railway Conference Association are intended for the guidance of railway officials only and do not, as a whole, concern the general public. Such portions of the regulations as are of interest to the public, e.g., those dealing with rates and concessions, are reproduced in the Coaching and Goods Tariffs issued by the Association, and these are available to the public.

Government do not propose to issue orders as suggested. In this connection it may be pointed out that the Rules of the English Railway Clearing House, a somewhat similar institution to the Indian Railway Conference Association, are not available to the public.

REVISION OF INDIAN RAILWAYS ACTS.

131. **Raja Kushalpal Singh:** Will the Government be pleased to state when they propose to revise the Indian Railways Acts to embody the recommendations of the Acworth Committee and other provisions to assimilate the Indian law with the railway law in England and America?

Colonel W. D. Waghorn: The question of the necessity of revising the Indian Railways Act is under consideration, but it cannot be stated at present when it will be possible to undertake the revision.

DETAILS OF EXPENDITURE ON STATE RAILWAYS IN FUTURE BUDGETS.

132. **Raja Kushalpal Singh:** Do the Government propose to arrange to give full details of the Establishment Rolls and working estimates for each of the State Railways in the future Budgets, so as to enable this Assembly to criticise the proposed expenditure?

Colonel W. D. Waghorn: The form in which the statements of demands for railway expenditure should be presented is under the consideration of the Government of India, and the suggestion made by the Honourable Member will be duly considered.

ASSAM-BENGAL RAILWAY.

133. **Raja Kushalpal Singh:** (a) Is it a fact that the Assam-Bengal Railway has been working at a loss for the last 25 years? If so, will the Government be pleased to state the total amount of the losses in interest, etc., incurred by Government through the operations of that Railway Company?

b. Is it a fact that the Company working that line has raised only about $\frac{1}{4}$ th of the capital instead of the $\frac{3}{11}$ th required under its contract? If so, will the Government be pleased to state why the terms of the contract have not been enforced?

(c) Will the Government be pleased to state whether any inquiries as to the financial success of this line were made before its construction was authorised? If not, why not? Why was the principle that the construction of railways from borrowed funds be limited to those schemes only which are estimated to yield an annual income equal to the interest on the capital expended in their construction, laid down by the Secretary of State in 1874 and repeated by the Parliamentary Committee of 1879, departed from in the case of the Assam-Bengal Railway?

Colonel W. D. Waghorn: (a) The reply is in the affirmative. The total losses to the end of 31st March, 1921, amounted to Rs. 8,78,15,739.

(b) The reply is in the negative. The Company have raised about $\frac{1}{4}$ th of the capital. Under the contract they are not required to raise any fixed proportion of capital. The ratio of $\frac{3}{11}$ th referred to by the Honourable Member is for purposes of calculating the amount of interest due to Government in respect of the capital laid out by them preliminary to the determination of surplus profits.

(c) Inquiries as to the financial prospects of this line were made before construction was commenced, and it was then estimated that a return of over 5 per cent. would be obtained on the capital outlay. Owing to the absence of statistics, however, these estimates were not reliable and indeed have proved much too optimistic.

TRAINING OF INDIANS FOR RAILWAY SERVICES.

134. **Raja Kushalpal Singh:** (a) Will the Government be pleased to state what action they propose to take upon the recommendations contained in paragraph 184 of the Report of the Indian Railway Committee, with regard to—

(i) technical training of Indians in the different provinces of India, both for the superior and the subordinate grades of the Railway services;

(ii) the system of selections and training of the young men appointed as probationers in the Traffic Department on Indian Railways?

(b) Do the Government contemplate the establishment in the near future of a Railway College in India for the training of young men for employment

in the Agency, Traffic, Audit, and Stores Departments of the Indian Railways?

Colonel W. D. Waghorn : I would remind the Honourable Member that it is not very long since the Report was received and that it contains numerous recommendations of great importance. I recognise the great importance of the question referred to by the Honourable Member, but all I can say at present is that it will receive careful and sympathetic consideration.

INDIA IN THE EMPIRE WIRELESS SCHEME.

135. M. K. Reddi Garu : (a) Will the Government be pleased to state their policy with regard to India's participation in the Empire Wireless Scheme?

(b) What were the views of India's representatives at the Imperial Conference?

(c) Will the Government be pleased to lay all the connected papers on the table?

Colonel Sir S. D'A. Crookshank : (a) From the purely Indian point of view, Government are in favour of the establishment of direct wireless communication between India and the United Kingdom and would prefer that the construction and working of the Indian station should be entrusted to a private agency under licence. But they are not yet aware whether it will be possible for them to participate on this basis in the Imperial Wireless Scheme. The matter is still under discussion between their representatives in England and the Imperial Communications Committee.

(b) India's representatives at the Imperial Conference were instructed to support generally the policy explained above.

(c) Government regret that they are unable to publish the correspondence on this subject at present.

INDIA'S ATTITUDE TO THE EMPIRE WIRELESS SCHEME.

136. M. K. Reddi Garu : (a) (1) Will the Government be pleased to state the names of India's representatives appointed to work in the Wireless Co-ordinating Committee, and (2) what are the terms of reference of this Committee?

(b) Is it a fact that India prefers private enterprise on account of the heavy cost of the new scheme; if so, will the Government be pleased to furnish necessary information and figures on this subject?

(c) In view of the present financial condition of India, do the Government propose to protest against any scheme of Empire Wireless, that may involve India in any additional expenditure on this account?

Colonel Sir S. D'A. Crookshank : (a) (1) The name of India's representative on the Imperial Wireless Co-ordinating Committee is Mr. C. R. Barker, C.I.E., Director-in-Chief, Indo-European Telegraph Department, with Mr. J. N. Parker, an officer of the Indian Telegraph Engineering Service, as his technical assistant.

(2) The object of this Committee is to keep the Wireless Telegraphy Commission, which is entrusted with planning out the general scheme of

Imperial Wireless Communications, in touch with the requirements of the various administrations which will be responsible for the actual construction and management of the stations.

(b) The reply to the first part is in the affirmative. It is estimated that the capital cost of a station in India capable of high speed communication direct with the United Kingdom would amount to £4,00,000 approximately.

(c) No expenditure can be incurred in instituting a wireless service between India and other parts of the British Empire, unless the funds are first voted by the Legislative Assembly. Government are not able at present to state what public expenditure on wireless communications overseas will be necessary. When the occasion arises the case will be submitted to the Assembly.

REPRESENTATIONS AGAINST RECENT REPRESSIVE POLICY OF GOVERNMENT.

137. **Lala Girdharilal Agarwala** : Will the Government be pleased to lay on the table copies of telegrams, letters, manifestoes and representations brought to the notice of the Government protesting against the recent repressive policy of the Government of India and of the Provinces ?

The Honourable Sir William Vincent : Communications have been received but Government do not propose to lay copies of them on the table. As regards manifestoes, the attention of the Honourable Member is invited to the daily newspapers in which several have been published.

PROPORTION OF INDIANS AND EUROPEANS ON GAZETTED STAFF OF GOVERNMENT OF INDIA SECRETARIAT.

138. **Lala Girdharilal Agarwala** : (a) What is the number of Indians and Europeans, respectively, in the personnel of the permanent Gazetted staff of the Government of India Secretariat as shown in column 1 of each of the two statements supplied to me in answer to my question No. 48 asked on 5th September, 1921 ; (b) how many Indians and Europeans, respectively, have been posted within the last six months on any of those posts ; (c) why more Indians have not been employed ?

The Honourable Sir William Vincent : (a) and (b). The Honourable Member's attention is invited to the replies given to him on the 10th January when he asked an almost identical question.

(c) Nationality is not the only criterion for selecting officers for the posts concerned. Indians are employed whenever possible, but if suitable Indian officers are not forthcoming, European officers have to be selected.

MEAT CONSUMED DURING LAST YEAR.

139. **Lala Girdharilal Agarwala** : (a) What is the quantity and price of meat consumed during the last year by (i) Indians, and (ii) British soldiers ?

(b) How much of it and of what values were beef and mutton, respectively and how much of the beef was consumed by the British troops only ?

(c) How much tinned meat and of what value was consumed by the British troops, and was any portion of tinned meat required for Indian troops ; if so, how much ?

Sir Godfrey Fell : (a), (b) and (c). Government regret that they are unable to furnish the information asked for by the Honourable Member without an expenditure of time and labour which would be out of all proportion to the value of the result.

MEAT FOR BRITISH TROOPS.

140. **Lala Girdharilal Agarwala :** Have the British troops refused to serve if they are supplied with mutton or any other sort of meat and not beef?

Sir Godfrey Fell : The answer is in the negative.

INDIANS IN SUPERIOR POSTS UNDER THE GOVERNMENT OF INDIA.

141. **Lala Girdharilal Agarwala :** How many persons have been appointed within the last six months to any of the posts mentioned in the statement printed at pages 1291 to 1295, Volume II of Legislative Assembly Debates, and how many of them were Indians?

The Honourable Sir Malcolm Hailey : The statement below gives the required information.

Department.	Number of persons appointed within the last six months.	Number of Indians.
Legislative Department	1	Nil.
Railway Department (Railway Board)	7	3
Department of Industries	1	Nil.
Army Department	Nil.	Nil.
Public Works Department	10	4
Foreign and Political Department	3	Nil.
Financial Adviser, Military Finance	1	Nil.
Department of Revenue and Agriculture	7	1
Department of Commerce	Nil.	Nil.
Department of Education and Health	Nil.	Nil.
Finance Department	1	Nil.
Home Department	6	1

INDIANISATION OF HIGHER SERVICES.

142. **Lala Girdharilal Agarwala :** Will the Government be pleased to lay on the table any correspondence which they may have had with the Home Government regarding Indianisation of higher services including the posts of

Governors, Chief Justices, and High Court Judges from 1st September, 1921, up to date?

The Honourable Sir William Vincent: Government are not prepared to lay the correspondence on the table.

SIR THOMAS HOLLAND'S AND LORD SINHA'S SUCCESSORS.

143. **Lala Girdharilal Agarwala:** What recommendations and suggestions have the Government made to the Home Government or to His Imperial Majesty the King-Emperor on the subject of appointments to fill the vacancies caused by the retirement of Sir Thomas Holland and the Right Honourable Lord Sinha of Raipur?

The Honourable Sir William Vincent: The attention of the Honourable Member is invited to the provisions of section 36 and section 46 (2) of the Government of India Act. No recommendations or suggestions are ever made by the Government of India in the case of appointments of Governors of provinces and of Members of the Executive Council of the Governor General.

EXCLUSION OF INDIANS FROM GOVERNMENT POSTS.

144. **Lala Girdharilal Agarwala:** Are there any class of posts in any department of the Government of India from which Indians are to be excluded in practice?

The Honourable Sir William Vincent: No.

TREATMENT OF CONGRESS OR KHILAFAT VOLUNTEERS.

145. **Lala Girdharilal Agarwala:** (a) Are persons convicted of being Congress or Khilafat volunteers kept in the same jails and similarly treated as those convicted for theft, dacoity or perjury? If not, what is the difference?

(b) Have the Government of India been asked anything by the Home Government on the subject? If so, will the Government be pleased to lay the question asked and the answer given, or proposed to be given, on the table?

The Honourable Sir William Vincent: (a) Such prisoners are confined in the same jails as ordinary criminals, but it is believed that in most provinces they receive differential treatment in the matter of labour, food, clothing, etc.

(b) Government do not propose at present to lay any papers on the table.

INDIAN AUTONOMY.

146. **Lala Girdharilal Agarwala:** Will the Government be pleased to lay on the table all correspondence which they might have had with the Home Government on the subject of Indian autonomy from 1st September, 1921?

The Honourable Sir William Vincent: Government are unable to accede to the Honourable Member's request.

WORKING HOURS IN GOVERNMENT OF INDIA SECRETARIAT.

147. **Lieutenant Nawab Mohammad Ibrahim Ali Khan:** (a) Will the Government be pleased to state the working hours of the several Departments of the Government of India and their subordinate offices?

(b) Is it a fact that there are no standard working hours and that some Departments of the Government of India have fixed their working hours so late that their clerical establishment does not get any time for evening exercise? If so, will the Government consider the advisability of issuing orders that every Department ordinarily closes at 4-30 P.M. during the Simla season and at 4 P.M. during the Delhi season? c.p. 2)

The Honourable Sir William Vincent: (a) and (b). The office hours are not uniform in all Departments and subordinate offices. They are ordinarily from 10-30 A.M. to 4-30 P.M. in most of the Departments and subordinate offices, while in some they are from 10-30 A.M. to 5 P.M. Saturdays are observed as half holidays. In one Department Wednesdays are also treated as half holidays.

Government do not consider it necessary to change the existing orders.

LATE HOURS AND ATTENDANCE ON HOLIDAYS IN GOVERNMENT OF INDIA SECRETARIAT.

148. **Lieutenant Nawab Mohammad Ibrahim Ali Khan:** (a) Is it a fact that some Departments of the Government of India have made it a rule to detain a part of their clerical establishment very late every evening irrespective of the consideration whether there is any pressing work or not? If so, will the Government consider the advisability of abolishing this rule?

(b) Is it a fact that in the various Departments of the Government of India a part of the clerical establishment is made to attend office on holidays? If so, does the establishment concerned receive any overtime remuneration?

The Honourable Sir William Vincent: (a) The question is too vague to allow of a reply being given to it.

(b) Members of the clerical establishment are required to attend office on holidays as the occasion may require. The answer to the second part of the question is in the negative.

INCREASED TRAVELLING ALLOWANCE TO GOVERNMENT SERVANTS.

149. **Lieutenant Nawab Mohammad Ibrahim Ali Khan:** In view of the present cost of living and increased labour wages and railway fares, do Government propose to make any increase in the present rate of travelling allowances granted to the servants of the Government of India; if not, why not?

The Honourable Sir Malcolm Hailey: (1) Servants of the Government of India travelling in provinces under Provincial Governments have been allowed to draw mileage and daily allowances at the increased rates sanctioned by the Provincial Governments for corresponding classes of officers under them.

(2) As regards areas under the Government of India, revised rates have been adopted in Rajputana, Central India, the Delhi Province, North-West Frontier Province and Baluchistan. Proposals for other areas are under consideration.

STAFF SELECTION BOARD'S EXAMINATIONS.

150. **Lieutenant Nawab Mohammad Ibrahim Ali Khan:** (a) Is it a fact that in the Staff Selection Board examination many graduates of three or four years' experience in Higher and Lower Division work got plucked, while many matriculates and non-matriculates just raw from college or school

with a few months' experience in office work passed the Board's examination of Lower or Higher Division ?

(b) If so, will Government be pleased to lay on the table a statement showing :

- (i) the number of such cases, and
- (ii) the nationality, and
- (iii) departments to which they belong ?

(c) Will Government be pleased to state the Board's criterion by which the candidates are judged and declared fit for the Higher and Lower Divisions ?

The Honourable Sir William Vincent: (a) and (b). The collection of the information would entail great labour which Government are not prepared to undertake.

(c) Ordinarily, the Board holds a paper and *vidé voce* examination. Successful candidates are passed for the Upper or Lower Division in accordance with the total number of marks they attain.

LICENCES FOR FIREARMS.

151. **Lieutenant Nawab Mohammad Ibrahim Ali Khan:** Will the Government be pleased to lay on the table a statement containing the information promised by Mr. S. P. O'Donnell on the 15th February, 1921, *re* Rai Bahadur Sarat Chandra Sen's question* relating to licences for firearms ?

The Honourable Sir William Vincent: The statement is laid on the table.

* Question No. 16, page 23, Legislative Assembly Debates, 1921, Volume I.

Statement giving information under certain heads as regards the number of licences for firearms issued to Europeans and Indians, respectively, in 1920, province by province.

Province.	Total number of applications for licence for firearms during the year 1920.	Total number of applications for licence for firearms made during 1920.		Total number of applications that were refused in the case of		Percentage of applicants who had to pay licence fees in the case of		Total amount of licence fees realised in		
		Europeans.	Indians.	Europeans.	Indians.	Europeans.	Indians.	1917.	1918.	1919.
Madras	33,820	2,320	31,500	2	9,511 (a)	85.36	93.88 b)	8,542 6	8,855 3	14,916 11
Bombay	15,976	3,188	12,808	8	2,620	87.66	78.07	4,183 0	4,416 4	5,764 12
[Figures for Ahmedabad and Kaira district not included, as not available.]										

(a) Almost all the Indians whose applications were rejected come outside the very wide limits prescribed by the Government of Bombay to cover persons 'entitled' to obtain licences without special inquiry, and only 9 of those who were refused licences belonged to the 'entitled' class.

(b) The low percentage is due to the fact that in some districts a large number of licences for the protection of crops are issued for which no fees are leviable.

Statement giving information under certain heads as regards the number of licences for firearms issued to Europeans and Indians, respectively, in 1920, province by province—contd.

Province:	Total number of applications for licence for firearms during the year 1920.	Total number of applications for licence for firearms made during 1920.		Total number of applications that were refused in the case of		Percentage of applicants who had to pay licence fees in the case of		Total amount of licence fees realised in		
		Europeans.	Indians.	Europeans.	Indians.	Europeans.	Indians.	1917.	1918.	1919.
								Rs. A.	Rs. A.	Rs. A.
Bengal	28,201 (including 21 of nationalities other than Europeans and Indians in Calcutta).	6,092	22,088	8	2,067	61.4	87.5	5,678 0	5,655 12	20,115 12
United Provinces.	29,993	4,164	25,769	47	6,472	74	89	13,074 14	14,094 4	20,487 12
Punjab	21,698	2,862	18,238	7	4,779	76.04	17.24	5,768 0	5,663 0	6,460 0
Burma	10,064 Europeans include Americans and Anglo-Indians. Indians include Burmans and other Asiatics.	3,873	6,191	179	747	72.39	83.60	510 0	618 12	665 4
Bihar and Orissa.	15,693	1,824	13,869	19	1,853	74.68	87.14	3,374 0	3,246 4	4,798 0
Central Provinces (including Berar).	14,898	937	13,691	...	3,904	60.10	76.27	1,671 6	1,764 14	1,890 5
Assam	17,546	2,603	14,943	5	1,148	77.56	21.71	424 4	439 8	2,765 12
North-West Frontier Province.	6,280	571	5,709	...	3,455	95	57	2,453 12	2,488 8	2,524 8
Coorg (c)	580	86	444	...	149	53.50	5.08	17 4	16 4	20 0
Delhi	1,418	780	638	...	107	84	69	178 8	179 0	182 8

(c) Every person of Coorg race and every jumma tenure holder in Coorg is exempt from the operation of the Arms Act.

MAXIMUM PAY OF SECOND DIVISION GOVERNMENT CLERKS.

152. **Lieutenant Nawab Mohammad Ibrahim Ali Khan**: Will Government be pleased to state the result of the consideration promised by Mr. S. P. O'Donnell on the 1st March, 1921, in regard to the question* of Mr. Ayyangar relating to the memorial of the Government of India clerks?

The Honourable Sir William Vincent: After very close and careful consideration, the Government of India have rejected the prayer alluded to, as it was found on examination that the memorialists had no genuine grievance.

STOCKING OF GRAIN BY ZAMINDARS.

153. **Lieutenant Nawab Mohammad Ibrahim Ali Khan**: Do the Government of India propose to introduce a Bill to check the stocking of grain by the Zamindars; if so, when?

Mr. J. Hullah: The answer is in the negative.

SUPERIOR STAFF OF RAILWAYS IN INDIA AND REVISED SCALE OF SALARIES.

154. **Dr. H. S. Gour**: (a) Will the Government be pleased to lay on the table a tabular statement showing the total strength of the superior and subordinate officers drawing a monthly salary of at least Rs. 300 per month in the various branches, such as Agency, Traffic, Engineering, Locomotive, Stores, Audit, Carriage and Wagon and Medical Departments of State Railways, East Indian Railway, Great Indian Peninsula Railway, and Bengal-Nagpur Railway?

(b) And also shewing how many of these are Europeans and Anglo-Indians and how many are Indians in the various branches of each of the abovementioned Railways?

(c) Will the Government be pleased to lay on the table a statement shewing in detail the revised scale of salaries and allowances sanctioned for the various departments of the Railways mentioned above?

Colonel W. D. Waghorn: A copy of the Classified List of State Railway Establishment is being sent to the Honourable Member. This gives full information as regards staff drawing over Rs. 250 a month in the various departments of State Railways.

2. The staff drawing Rs. 300 a month and over employed by the Company worked railways mentioned by the Honourable Member is approximately:

	Indians.	Europeans or Anglo-Indians.
East Indian Railway	66	1,003
Great Indian Peninsula Railway	135	866
Bengal-Nagpur Railway	53	370

Government do not know how this staff is distributed by departments.

The revised rates of salary sanctioned for State Railway staff are shown in the Classified List of State Railway Establishment being sent to the Honourable Member in response to his first question.

The rates paid on the East Indian, Great Indian Peninsula and Bengal-Nagpur Railways are similar to these.

INDIAN OFFICERS AS DISTRICT TRAFFIC SUPERINTENDENTS AND DISTRICT LOCOMOTIVE SUPERINTENDENTS.

155. **Dr. H. S. Gour:** Will the Government be pleased to state how many of the existing Indian officers have attained the ranks of District Traffic Superintendents and District Locomotive Superintendents and are in executive charge on (a) the State Railways, (b) East Indian Railway, (c) Great Indian Peninsula Railway, (d) Bengal-Nagpur Railway?

Colonel W. D. Waghorn: A copy of the Railway Board's Classified List and Distribution Return showing how the Indian officers serving on the several railways are employed is being sent to Honourable Member. There is no Indian District Locomotive Superintendent on any of the railways mentioned.

EQUAL BENEFITS FOR INDIANS AND EUROPEANS UNDER REVISED SCALE OF SALARIES IN RAILWAYS IN INDIA.

156. **Dr. H. S. Gour:** Have the Indian officers on the East Indian, Great Indian Peninsula, and Bengal-Nagpur Railways, borne on the permanent establishment of the Traffic and Locomotive and other departments on the date of introduction of the revised scale of salaries and allowances on the aforesaid Railways, been placed on an equal footing with the Europe-recruited contemporaneous officers as regards salaries and allowances, as has been done on the State Railways? If not, why not?

Colonel W. D. Waghorn: In the case of the East Indian Railway the reply is in the affirmative.

As regards the Great Indian Peninsula Railway, the Agent reports that the proposals in connection with individual officers' salaries have not yet been settled, but that the present intention is to follow the East Indian Railway procedure and to treat all officers in service alike. On the Bengal-Nagpur Railway, all Indian officers recruited in England on date of introduction of the revised scales have been placed on an equal footing with the Europe-recruited contemporaneous officers as regards salaries and allowances.

INDIAN SUBORDINATES ON RAILWAYS.

157. **Dr. H. S. Gour:** Is it a fact that the Indian subordinates on the East Indian Railway, Great Indian Peninsula Railway, and Bengal-Nagpur Railway, are on a lower grade than the European and Anglo-Indian subordinates?

Colonel W. D. Waghorn: All subordinate staff in the same grade are treated alike in the matter of pay, irrespective of nationality. Certain lower grades are limited to Indians only.

PROPORTION OF INDIANS ON STAFF OF RAILWAYS.

158. **Dr. H. S. Gour:** (i) Will the Government lay a statement on the table showing:

(a) How many Indian Traffic Inspectors, Locomotive Foremen and Inspectors, Head Train Examiners and Permanent Way Inspectors are there on the State Railways, East Indian Railway, Great Indian Peninsula Railway, and Bengal-Nagpur Railway?

(b) How many Indian Head Passenger Guards and Mail Drivers are there, respectively, on the abovementioned Railways?

(c) How many 1st class stations are in the hands of Indian Station Masters on each of the aforesaid Railways?

(ii) Will the Government be pleased to state what are the starting and the maximum salaries of (a) European and Anglo-Indian, (b) Indian Station Masters, Assistant Station Masters, Guards, Train Controllers, Ticket Collectors, Drivers, Permanent Way Inspectors and Audit Inspectors, on each of the aforesaid Railways? What is the cause of the disparity, if any, in the scale of salaries of European and Anglo-Indian subordinates and that of Indian subordinates?

Colonel W. D. Waghorn: The information is being obtained from the several railway administrations and will be sent to the Honourable Member.

GRADING OF EUROPEAN AND INDIAN STAFF ON RAILWAYS.

159. **Dr. H. S. Gour:** Will the Government be pleased to state what is the existing arrangement on the State Railways, East Indian Railway, Great Indian Peninsula Railway, and Bengal-Nagpur Railway, regarding the grading of European and Indian superior and subordinate staff?

Colonel W. D. Waghorn: I take it that the Honourable Member inquires what general principles govern the fixing of the pay of the European and Indian superior and subordinate railway staff. As regards the superior staff of State Railways, time-scale of pay have recently been sanctioned by the Secretary of State. These scales, in the case of technically-trained staff, comprise pay proper, technical pay, and overseas pay. 'Pay' is a scale common to all, irrespective of source and country of recruitment; 'technical pay' is admissible to Europe-trained and appointed officers; 'Overseas pay' is drawn by officers of non-Indian domicile. Similar scales are in force on the East Indian, Great Indian Peninsula, and Bengal-Nagpur Railways.

As regards the subordinate staff, the principle is that men in the same grade and with the same qualifications are paid the same rate of pay whatever their nationality.

FUTURE ADMINISTRATION OF ADEN.

160. **Mr. Mahomed Hajeebhoy:** (a) Has any decision been reached regarding the future administration of Aden?

(b) If the answer is in the negative, will the Government kindly give assurance that no decision shall be taken until the subject has been discussed in this Assembly?

Mr. Denys Bray: (a) No.

(b) The Government have no intention of arriving at a decision without giving the Assembly an opportunity for discussion.

QUESTIONS DISALLOWED IN LEGISLATIVE ASSEMBLY AND COUNCIL OF STATE IN 1921.

161. **Lala Girdharilal Agarwala:** (1) Will the Government be pleased to state how many questions were disallowed (i) wholly or (ii) in part, notice of which was given in 1921 by any Member of:

(a) the Legislative Assembly,

(b) the Council of State?

(2) How many questions or portions thereof were so disallowed :

- (i) under Rule 7 as relating to matters with which the Governor General in Council is not concerned ;
- (ii) under Rule 8 (1) i) and (ii) separately ;
- (iii) under Rule 9 ;
- (iv) for any other reason ?

The Honourable Dr. T. B. Sapru : Government is not prepared to collect the figures asked for, as the amount of labour that would be entailed would be quite out of proportion to the results obtained. The power of disallowance is vested in the President and not in the Government.

QUESTIONS REFERRED TO HIS EXCELLENCY THE GOVERNOR GENERAL.

162. **Lala Girdharilal Agarwala :** (a) Will the Government be pleased to state how many questions were referred to His Excellency the Governor General under Rule 8 (2) in the year 1921, and with what result ?

(b) Will the Government be pleased to publish the rulings of His Excellency the Governor General on those questions for guidance of the House ?

The Honourable Dr. T. B. Sapru : No question was referred to the Governor General under Rule 8 (2). Any decision of the Governor General under that rule would relate only to a particular case and would therefore not involve any general principle.

QUESTIONS IN INDIAN LEGISLATURE RELATING TO MATTERS IN DISPUTE BETWEEN GOVERNMENT OF INDIA AND SECRETARY OF STATE.

163. **Lala Girdharilal Agarwala :** (a) How many questions were put by the Members of the Indian Legislature relating to matters which are or have been the subject of controversy between the Governor General in Council and the Secretary of State or a Local Government ?

(b) Is it a fact that under Rule 9, the questioner was entitled to an answer confined to a statement of facts ?

(c) In how many such cases the statement of facts was withheld ?

The Honourable Dr. T. B. Sapru : (a) None. (b) Yes. (c) Does not arise.

EXPORT OF WHEAT, ETC.

164. **Mr. Mohammad Yamin Khan :** Do the Government propose to stop export of wheat, wheat flour and other grains for any further period extending after 31st of March, 1922 ?

Mr. J. Hullah : The Government have not yet arrived at any decision in the matter.

STATEMENTS OF MEMORIALS WITHHELD.

165. **Lala Girdharilal Agarwala :** (a) Will the Government be pleased to lay on the table copies received by them of statements of memorials addressed to the Government of India but withheld by any subordinate of the Government under memorial rules within the last two years ?

(b) In how many and what cases, if any, was the withheld memorial called for by the Government of India and suitable orders passed thereon ?

(c) What is the remedy, if any, of a memorialist whose memorial has been improperly withheld ?

(d) In how many and what cases, if any, were advance copies submitted by the memorialists and what action, if any, was taken thereon ?

166. **Lala Girdharilal Agarwala:** (a) Will the Government be pleased to lay on the table copies of statements of memorials addressed to the Secretary of State for India but withheld under memorial rules within the last two years ?

(b) In how many and what cases, if any, was the withheld memorial called for by the Secretary of State for India for suitable orders being passed ?

(c) What is the remedy, if any, of a memorialist whose memorial has been improperly withheld ?

(d) In how many and what cases, if any, were advance copies submitted by the memorialists and what action, if any, was taken thereon ?

167. **Lala Girdharilal Agarwala:** (a) Will the Government be pleased to lay on the table a statement of memorials addressed to the Secretary of State for India and another of those addressed to the Government of India presented through any local authority within the last two years showing all the details as given in the statements of withheld memorials and also showing which of the memorials have been rejected or accepted, and in the case of pending memorials which of them have been received by the Government of India or presented to the Secretary of State for India, as the case may be.

(b) In how many and what cases were advance copies of the memorials submitted direct and what action, if any, was taken thereon ?

The Honourable Sir William Vincent: The compilation of the statements asked for in these three questions would involve the expenditure of a great amount of time and labour, and Government are unable to see that it would serve any useful purpose. Government are not therefore prepared to take the action suggested.

With reference to part (c) of the first two questions, a memorialist who considers that his memorial has been improperly withheld can make a representation to that effect to the higher authority through the usual channel.

RELIEF AND MEASURES FOR PROTECTION IN MALABAR.

168. **Mr. Kavalappara Muppil Nair:** (a) Will the Government be pleased to state what specific relief the Government have given or propose to give to the distressed inhabitants in the Taluks affected by the Moplah outbreak in Malabar :

(1) in the way of compensation ;

(2) in the way of temporary help ;

(3) in the way of remission of Government dues ?

(b) Will the Government be pleased to state whether they propose to make any special arrangements for the safety of the people in the affected areas and to prevent similar outbreaks in future ; if so, what ?

The Honourable Sir William Vincent: It is understood that the points raised, which are primarily of provincial concern, are receiving the consideration of the Local Government.

A copy of the Honourable Member's question and of this answer will be sent to the Local Government.

TRANSFER OF VILLAGES FROM BIHAR AND ORISSA TO BENGAL.

169. Lala Girdharilal Agarwala: Have the Government of India received through the Government of Bihar and Orissa any memorial by the inhabitants of Rajmehal, etc., for transfer of certain villages from that Province to that of Bengal? If so, what action, if any, has been taken or is proposed to be taken thereon?

The Honourable Sir William Vincent: The attention of the Honourable Member is invited to the answer given on the 10th January to Mr. K. Ahmed's starred question No. 48 on the same subject.

DISPARITY BETWEEN SCALES OF PAY IN SECRETARIAT AND ATTACHED OFFICES.

170. Lala Girdharilal Agarwala: Is there any disparity between the scale of pay sanctioned for the Secretariat staff and that for the staff of the attached offices especially, with regard to (1) house-rent allowance, (2) stage on the new scale for starting, and (3) the date from which new scale was given effect to? If so, what and how is the difference justified?

The Honourable Sir William Vincent: (1) The staff of the Secretariat Offices receive house-rent allowance in Simla in view of the fact that their headquarters are not at Simla and they are therefore put to extra expense while residing there. Certain other offices and attached offices like the offices of the Private Secretary to His Excellency the Viceroy, Director General, Posts and Telegraphs, Military Secretary to His Excellency the Viceroy, Military Accountant General and Accountant General, Railways, whose headquarters are not at Simla, are also in receipt of house-rent allowance for the same reason.

(2) The pay of the Secretariat establishment was fixed with reference to the time-scale of pay laid down in the Home Department Resolution No. 1062, dated 27th May, 1920, the number of years' service in each case being taken into account.

The scale of pay for attached offices was fixed by a Departmental Committee and later by the Administrative Departments concerned in consultation with the Finance Department. The stage at which employees of the attached offices were to enter the new scale was fixed so as to provide to each man a certain percentage above the amount drawn by him under the old scale, in order to assure him of an immediate increase of pay, as the method adopted in the case of the Secretariat offices would have resulted in several instances in a reduction of emoluments, had not protection been afforded by the grant of personal allowances.

(3) The new scale of pay was given effect to, in the case of the Secretariat offices, from the 1st December, 1919. The date of introduction of the new scale in the attached offices was fixed in each case by the Administrative Department concerned.

The reason for the difference in treatment between Secretariat and attached offices, in addition to the reasons given above, is that the class of work required in attached offices is not the same as that required in the Secretariat.

DISCONTENT AMONG STAFF OF ATTACHED OFFICES.

171. **Lala Girdharilal Agarwala**: Is there any discontent felt by the clerks of the attached offices and have they formulated any summary of facts regarding the pay and prospects of the clerks of the attached offices of the Government of India? If so, will the Government be pleased to lay the same on the table?

The Honourable Sir William Vincent: Government believe that a certain amount of discontent exists, but no specific complaints of the nature referred to have reached Government.

PRINCIPLE OF EQUALITY OF REMUNERATION IN GOVERNMENT OFFICES.

172. **Lala Girdharilal Agarwala**: How far has the following principle been followed with regard to pay and allowances of clerks of the attached offices and also of the Government of India Secretariat in case of those who have served outside the Secretariat previously, and do the Government propose to give full effect to it in future:

Principle laid down by the Secretary of State for regulating the salary of establishment:

'It is highly desirable that the remuneration of all ministerial establishment employed at any particular station whether their salaries fall on the Military, the Imperial, Civil or Provincial budget, should be pitched, either directly or indirectly by means of allowance, as to give such equality of remuneration for similar labour as will prevent just cause of discontent.'

The Honourable Sir William Vincent: The principle that there should be equality of remuneration for similar labour has not been departed from. The class of work required in attached offices and in other local subordinate offices is not the same as that required in the Secretariat.

PARTICULARS OF CLERKS IN ATTACHED OFFICES.

173. **Lala Girdharilal Agarwala**: What is the total number of clerks in the attached offices of the Government of India, how many of them are Indians, and how are these Indians provincially divided?

The Honourable Sir William Vincent: The several Departments are being consulted and I will let the Honourable Member have a reply in due course.

HOUSE ALLOWANCE FOR MADRAS HIGH COURT JUDGES.

174. **Mr. Sambanda Mudaliar**: Will Government be pleased to state:

- (a) Whether they have recommended to the Secretary of State for India for grant of Rs. 500 as house allowance to the Honourable Judges of the High Court of Madras over and above their pay? If so, whether the said proposal was sanctioned?
- (b) Whether similar allowances are being paid to the Honourable Judges of the High Courts in the other Provinces? If not, the reasons why this special concession should be shown to the Honourable Judges of the Madras High Court alone?

The Honourable Sir William Vincent: The question is under the consideration of the Government of India and it is expected that the Secretary of State will be addressed in the matter shortly.

AMENDMENT OF RELIGIOUS ENDOWMENTS ACT.

175. **Mr. Sambanda Mudaliar:** Will Government be pleased to state:

Whether they have any idea of amending or modifying the Religious Endowments Act, and whether they are aware that there is considerable dissatisfaction among the Hindus in regard to the inadequacy of provisions in the Act for control and administration of temple properties, auditing of accounts and the duration of offices of the Members of the Committees, etc.?

The Honourable Sir William Vincent: Government do not propose to recommend an amendment or modification of the Act, but a private Member has given notice of a Bill to amend in one particular. As regards the portion of the question which relates to the administration of the subject, I invite the attention of the Honourable Member to the fact that the subject is a provincial transferred subject. I informed him of this in reply to a similar question on the 29th September, 1921, and suggest for his consideration that if there is dissatisfaction with the administration of the subject, inquiry should be directed to the Ministers responsible and not to the Central Government.

TRIAL BY JURY IN ALL MAJOR PROVINCES.

176. **Mr. Sambanda Mudaliar:** Will Government be pleased to state:

Whether there is any proposal of extending the trial by Jury in all major provinces of India and for all offences under the Penal Code triable by Sessions or Assistant Sessions Judges?

The Honourable Sir William Vincent: The matter is within the competence of Local Governments under section 269, sub-section (1) of the Code of Criminal Procedure, and the Government of India have no information regarding such a proposal.

OPERATIONS IN MALABAR.

177. **Mr. Sambanda Mudaliar:** Will Government be pleased to state:

- (a) How many infantries are operating in South Malabar from the commencement of the rebellion up to date?
- (b) Whether the military authorities were warned beforehand that there was a likelihood of serious outbreak in Malabar; if so, why there was a delay of a few days for the despatch of troops?
- (c) Whether it is a fact that records in some public offices have been destroyed?
- (d) If it is a fact that cavalry was sent to the scene of operation in Walluvanad Taluq despite the fact that the authorities were aware that Ernad was impracticable for cavalry operations; if so, who were responsible for such order and whether any action has been taken against them?

Sir Godfrey Fall : (a) The strength of the infantry in Malabar has varied from a minimum of $1\frac{1}{2}$ companies at the commencement of the rebellion, to a maximum of $5\frac{1}{2}$ battalions, of which a portion has already been withdrawn.

(b) The military authorities were informed that there was a likelihood of trouble in Malabar and, at the request of the civil authorities, despatched reinforcements to Calicut previous to the actual outbreak. At that time, however, they received no intimation that the outbreak was likely to be so serious as to require the reinforcements which it was later found necessary to despatch.

(c) Yes. The attention of the Honourable Member is invited to the statement laid on the table on the 28th September last in reply to unstarred question No. 73.

(d) One squadron of cavalry was sent to the Walluvanad Taluq as part of an organised column at the outbreak of the rebellion. They did valuable work in patrolling outwards from the railway and their moral effect was very great at a time when troops were scarce. Had the rebellion spread to the Podanur area, as was considered quite likely at the time, the cavalry would have been invaluable.

In view of the above reply, the latter part of the Honourable Member's question requires no answer.

DETAILS OF THE MOPLAH OUTBREAK.

178. **Mr. Sambanda Mudaliar :** Will Government be pleased to state :

Whether they would appoint a committee consisting of a majority of non-officials to enquire into and report upon :

- (1) the causes of the Moplah outbreak ;
- (2) the persons who are responsible for precipitating the outbreak ;
- (3) the amount of compensation to be granted to those who sustained losses at the hands of the rebels ;
- (4) the amount of public money looted from the public treasuries and offices ?

The Honourable Sir William Vincent : Government are not prepared to make any statement on this subject, which is primarily one for decision by the Local Government, at present.

METUR PROJECT (CAUVERI BRIDGE).

179. **Mr. Sambanda Mudaliar :** Will Government be pleased to state :

- (a) In what stage the Metur project (Cauveri Bridge) Madras Presidency is ?
- (b) Whether the investigation is complete and estimate submitted ?
- (c) Whether Government have accorded sanction to the said proposal ?

Colonel Sir S. D'A. Crookshank : The Honourable Member apparently refers to the Cauvery (Metur) Reservoir Project.

This project was submitted to the Government of India, for the purpose of obtaining the Secretary of State's sanction, in 1916. No action can, however, be taken upon it until a final decision is arrived at as to

the respective rights of the Government of Madras and the Mysore Darbar in the water of the Cauvery.

It is understood that the project has lately been revised and will be resubmitted by the Local Government as soon as the decision above referred to has been reached.

TREATMENT OF INDIAN POLITICAL OFFENDERS.

180. **Mr. Sambanda Mudaliar:** Will Government be pleased to state :
- (a) Whether they propose to introduce a uniform practice throughout India regarding the treatment of political offenders convicted for political offences ?
 - (b) If Government will be pleased to issue instructions to treat Indian political prisoners in the same way as European convicts are treated ?

The Honourable Sir William Vincent: The Honourable Member's attention is invited to the answer given to-day to a similar question asked by Pandit Jawahir Lal Bhargava.

INDIANS IN THE INDIAN MEDICAL SERVICE.

181. **Mr. Sambanda Mudaliar:** Will Government be pleased to state :
- (a) The total number of persons recruited for the Indian Medical Service for the year 1920-21 ; from 1921 up to date ?
 - (b) The total number of Indians holding temporary commissions in the Medical Service and whether they have been permanently appointed as vacancies occurred ?

Sir Godfrey Fell: (a) The total number of persons permanently recruited for the Indian Medical Service during the period 1st April, 1920, to the 31st March, 1921, is 67, and from the 1st April, 1921, up to the 12th January, 1922, the number is 4.

In addition, 12 Indian officers have recently been recommended for permanent commissions.

(b) The total number of Indians *at present* holding temporary commissions in the Indian Medical Service is 262. The reply to the latter part of this question is that a number of Indian officers, holding temporary commissions, who have applied for permanent commissions, have been selected for permanent appointment to the Indian Medical Service on the nomination of a Selection Board. All the Indian officers (except in one instance) so appointed in India since the beginning of the war have been holders of temporary commissions.

INDIANS AND GOVERNMENT APPOINTMENTS.

182. **Mr. Sambanda Mudaliar:** Will Government be pleased to state :
- (a) the number of Europeans and Indians who get pay from Rs. 500 up to Rs. 1,000 and from Rs. 1,000 and above in the various branches of Government service in India ;
 - (b) the number of appointments that have been set apart for Indians in the above two heads ;
 - (c) the time within which Indians would get the minimum number of appointments reserved for them ;

(d) how the said appointments are to be filled up, whether by nomination or selection by competitive examination?

The Honourable Sir William Vincent: The collection of the information asked for in (a), (b) and (d) of the question would involve an enormous amount of labour both on the Departments of the Government of India and on Local Governments, which Government are not prepared to undertake. As regards part (c) it is not possible to give any precise estimate, as the answer must depend upon uncertain factors, e.g., the date on which existing incumbents of appointments retire.

INCREASE IN SALARIES OF MEMBERS OF THE IMPERIAL SERVICES IN INDIA.

183. **Mr. Sambanda Mudaliar:** Will Government be pleased to state:

- (a) Whether they propose to increase the emoluments or the salaries of officers recruited in England for the various branches of the Imperial Service in India?
- (b) Whether the Secretary of State for India has approved of the proposed increase?
- (c) The amount of additional expenditure that may be incurred by the Government of India on account of the increase of such salaries?
- (d) If the proposals have not received the sanction of the Secretary of State, whether opportunities will be given to the members of the Legislative Assembly for discussing the propriety of such increase prior to final orders being passed by the Secretary of State?
- (e) If they would be pleased to lay on the table the correspondence between the Government of India and the Secretary of State in regard to this?

The Honourable Sir William Vincent: (a) The answer is in the negative. (b) to (e). These questions, therefore, do not arise.

FURTHER GRANT OF CONSTITUTIONAL REFORMS.

184. **Mr. Sambanda Mudaliar:** Will Government be pleased to state:

- (a) whether Mr. Majumdar's Resolution for the further grant of constitutional reforms moved and passed in the amended form by the Assembly, was communicated to the Secretary of State; and
- (b) whether any reply was received; if so, will Government be pleased to lay on the table the correspondence and the reply thereto?

The Honourable Sir William Vincent: The Honourable Member is referred to the reply given on the 10th January, 1922, to Beohar Raghuhir Sinha's question on the same subject.

RECOGNITION OF MEDICAL DIPLOMAS OF INDIAN UNIVERSITIES.

185. **Mr. Sambanda Mudaliar:** Will Government be pleased to state:

- (a) Whether any action was taken in regard to the Resolution moved by Rao Bahadur C. S. Subrahmanayam on 28th September last in regard to the letter of the 9th March, 1921, from the General Council of Medical Education and Registration of the United Kingdom to the Secretary of State for India on the subject of recognition of Medical Diplomas of the Indian Universities?

(b) If so, whether any reply was received from the General Council of Medical Education, and with what result?

Mr. H. Sharp: (a) The substance of the debate on the resolution referred to by the Honourable Member was communicated by the Government of India to the Secretary of State by telegram in October last. The Secretary of State was also subsequently supplied with a copy of the full proceedings of the Legislative Assembly relating to the resolution.

(b) In view of the representations of the Secretary of State and the Government of India, the Executive Committee of the Council have agreed to postpone consideration of the question of recognition from February next to a later date pending a further investigation of the conditions of midwifery training in India.

ADVISORY COMMITTEES OF ELECTED MEMBERS TO ASSIST MEMBERS OF EXECUTIVE COUNCIL.

186. **Mr. Sambanda Mudaliar:** Will Government be pleased to state:

Whether there are any proposals to appoint Standing Committees composed of the elected Members of the Assembly and the Council of State to advise the Honourable Executive Council Members of the Government of India in the various departments they are in charge of?

The Honourable Sir William Vincent: A Member of this Assembly has given notice of a resolution on the subject. That resolution has secured a place in the list of business for the 19th January, and when it is debated the attitude of Government towards the question will be explained.

FANS IN SECOND CLASS CARRIAGES IN BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

187. **Rai Bahadur Pandit J. L. Bhargava:** (a) Are the Government aware that there are no fans in the second class carriages on the Bombay, Baroda and Central India Railway?

(b) Do the Government propose to direct the Bombay, Baroda and Central India Railway authorities to arrange for fans in second class carriages before the next summer season?

Colonel W. D. Waghorn: (a) Most of the bogie and some four-wheeler second class carriages on the broad gauge section of the Bombay, Baroda and Central India Railway are fitted with fans; on the metre gauge section second class carriages are not so fitted. The work of fitting all second class carriages with fans has been reluctantly retarded owing to shortage of funds, but as soon as money is available for the purpose it will be taken in hand.

(b) In the circumstances, Government do not propose to direct the Bombay, Baroda and Central India Railway authorities as suggested.

DEFECTIVE WATER SUPPLY ON BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

188. **Rai Bahadur Pandit J. L. Bhargava:** (a) Are the Government aware that there is no arrangement on the Bombay, Baroda and

Central India Railway and some other railways to supply water to the latrines in the third class carriages, and a great inconvenience is felt by the third class passengers on account of this absence of water supply?

(b) Do the Government propose to direct the Bombay, Baroda and Central India Railway authorities and such other railway administrations as have not provided such facilities, to make arrangements for the supply of water to the latrines of the third class carriages?

(c) Are the Government aware that in spite of the fact that the matter has several times been brought to the notice of the railway authorities arrangements for the supply of drinking water on a very large number of stations are still very inadequate?

(d) Will the Government be pleased to direct the railway authorities to remove this complaint by making proper arrangements and among others by increasing the number of watermen wherever necessary?

Colonel W. D. Waghorn: (a) and (b). Government have no detailed information on the subject, but will bring the matter to the notice of railway administrations.

(c) If the Honourable Member would adduce specific instances, the attention of the railway administration will be drawn to the matter.

(d) Government Inspectors have recently been asked to report specially on this subject, and the point has been specially referred to railway administrations in connection with the preparation of their programmes of expenditure on the improvement of facilities generally for 3rd class passengers. Government do not propose, therefore, to take further action at present.

PROVISION OF INTERMEDIATE CLASS ACCOMMODATION.

189. **Rai Bahadur Pandit J. L. Bhargava:** (a) With reference to my question No. 465 asked in the meeting of the Assembly, held on 14th March, 1921, regarding intermediate class accommodation, will the Government be pleased to state if since then intermediate class accommodation has been provided on any railways?

(b) If so, on which?

(c) Will the Government be pleased to direct such railway administrations as have not yet provided intermediate class accommodation, to provide such accommodation within this year?

Colonel W. D. Waghorn: (a) The subject of the question referred to by the Honourable Member was brought to the notice of the railway administrations which did not already provide intermediate class accommodation on their trains, and they agreed that the matter would be given full consideration as new stock is being erected.

(b) Government have received an assurance from the Bombay, Baroda and Central India and South Indian Railways, the Railways concerned, that intermediate class accommodation will be provided as new stock is received and existing stock is rebuilt.

(c) Inquiry will be made from the railways concerned as to the progress already made and anticipated.

SPECIAL TREATMENT FOR POLITICAL PRISONERS WHO HAVE NOT COMMITTED VIOLENCE.

190. Rai Bahadur Pandit J. L. Bhargava: (a) Will the Government be pleased to state if any instructions for special treatment of such political prisoners (under-trial or convicts) as have not committed any act of violence have been issued by the Government of India to various Local Governments?

(b) If so, will the Government be pleased to lay on the table a copy of the instructions so issued?

(c) In case no such instructions have been issued, will the Government be pleased to consider the desirability of issuing instructions to Local Governments for the special treatment of such political prisoners as have not been proved to have used violence?

The Honourable Sir William Vincent: (a) The Government of India recently suggested to Local Governments that persons recently sentenced to rigorous imprisonment under Act XIV of 1908 or under the Seditious Meetings Act should receive differential treatment in jail in the matter of diet, clothing, labour, etc. They understand that orders to this effect are already in force in most provinces.

(b) and (c). No detailed instructions have been issued, but the question is under the consideration of the Government of India.

REVISED SCALE OF PAY OF THE KARACHI PREVENTIVE SERVICE.

191. Mr. Ali Buksh Muhammad Hussain: (a) How does the scale of pay of the Karachi Preventive Service of His Imperial Majesty's Customs, as recently revised, compare with the scale as last sanctioned for the service at Bombay?

(b) How does the scale of pay of the Karachi Preventive Service compare with the pay proposed for the Appraising Department?

(c) Is it a fact that a portion of the appraising is done by the Preventive Service?

The Honourable Mr. C. A. Innes: (a) The scale of pay for Preventive Officers is Rs. 120-10-300 at Karachi and Rs. 200-10-400 at Bombay.

(b) Proposals for the revision of the pay and prospects of the Appraising Department at Karachi are still under the consideration of the Government of India.

(c) The Government of India have no information.

FREE QUARTERS AND THE KARACHI PREVENTIVE SERVICE.

192. Mr. Ali Buksh Muhammad Hussain: (a) Is Government aware that the rent of the quarters supplied to the members of the Preventive Service at Karachi is taken into consideration while fixing their pay?

(b) Is Government aware that their scale of pay was fixed lower than that at Bombay by reason of the fact that the Karachi service was given free quarters while the Bombay service was not?

(c) Is Government aware that the rent of these quarters was taken at Rs. 150 each, while fixing the scale at Bombay?

(d) Is Government aware that some Inspectors and Preventive Officers in Bombay occupy rent-free quarters, and this was not taken into consideration when fixing their scale of pay?

(e) Are all members of the service at Karachi given residential quarters?

The Honourable Mr. C. A. Innes : (a) to (d). The Honourable Member's information is not correct.

(e) Not at present.

FREE QUARTERS FOR GOVERNMENT OFFICERS.

193. Mr. Ali Buksh Muhammad Hussain : (a) Is it a fact that it is the policy of the Government to supply free quarters to officers of such departments as are constantly required for day and night duty so as to live near their work and be available at all times in the interest of the service?

(b) If so, is it the policy of the Government not to take into account rent of such quarters while fixing their pay?

The Honourable Sir William Vincent : The question is too general in its terms to admit of a satisfactory reply being given. Moreover, the question is one which appears to concern Local Governments more than the Government of India. I note, however, that the general rules regarding the provision of residential accommodation for Government servants are now embodied in Fundamental Rule 45, a copy of which will be supplied to the Honourable Member by the Home Department, if he desires one.

DIFFICULT CONDITIONS AT KARACHI.

194. Mr. Ali Buksh Muhammad Hussain : (a) Is Government aware that the cost of living at Karachi is higher than at Bombay?

(b) Is the Government aware that such officers as live at Keamari have to incur extra cost for living than at Karachi?

(c) Is Government aware that servants at Keamari demand more wages than at Karachi?

(d) Is Government aware that officers living at Keamari have to send their children to Karachi at extra cost?

(e) Is Government aware that the only Medical Officer at Keamari is debarred from private practice, and such officers who require such aid for themselves or their families have to procure the same from Karachi at much heavier cost than at Karachi?

(f) Is Government aware that there are no schools worth the name at Keamari?

(g) Were these factors taken into account while fixing their scale of pay?

The Honourable Mr. C. A. Innes : The Government of India have no information on the subject.

STATEMENT LAID ON THE TABLE.

The Honourable Dr. T. B. Sapru : Sir, I beg to lay on the table the information promised in reply to a question by Mr. K. B. L. Agnihotri, on the 22nd September, 1921, regarding the Resolutions passed by the Council of State and the Legislative Assembly during the Delhi Session, 1921.

Statement showing Resolutions adopted by the Council of State during Delhi Session 1921 and action of Government taken thereon.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.		
1	14th February, 1921.	The Honourable Sir Maneekji Byramji Dadabhoj.	Re circulation of speeches by His Royal Highness the Duke of Connaught and His Excellency the Viceroy in the vernaculars.	Home Department .	Given effect to in full.		
2	Do.	The Right Honourable V. S. Sastri.	Re repeal of repressive laws .	Do.	Given effect to in full.		
3	21st February, 1921.	The Honourable Mr. A. C. Chatterjee.	Re Washington Conference—Hours of work in industrial undertaking.	} Department of Industries.	The Bill to amend the Indian Factories Act introduced in the Legislative Assembly in March, 1921, which was intended to give effect to these Resolutions, has been passed in the Assembly.		
4	Do.	Do.	Re disinfection of wool				
5	Do.	Do.	Re lead poisoning				
6	Do.	Do.	Re minimum age of children				
7	Do.	Do.	Re creation of employment agencies and provision of advisory boards representative of employers and workers.				
8	Do.	Do.	Re recommendation concerning unemployment.			Do.	The matter is under the consideration of the Government of India and Local Governments have been addressed on the subject.
9	Do.	Do.	Re Government Health Service			Do.	The matter is under consideration of the Government of India and Local Governments have been consulted.
10	23rd February, 1921.	The Honourable Sir Maneekji Byramji Dadabhoj.	Re Government stocks	Finance Department.	Two Committees were appointed in order to consider how best to give effect to the Resolution. The Reports of the Committees were published with a communiqué on the 19th September, 1921. As the Resolution referred to Government's future policy it is not yet possible to say how far it has been acted on in full or part.		

Statement showing Resolutions adopted by the Council of State during Delhi Session 1921 and action of Government taken thereon—contd.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
11	28rd February, 1921	The Honourable Mr. Lalubhai Samaldas.	Re Fiscal autonomy	Department of Commerce.	Given effect to in full.
12	28th February, 1921	The Honourable Maung Po Bye.	Re Burma Reforms Scheme	Home Department.	Action is being taken to give effect to the Resolution. A Committee has been appointed to work out details of the scheme and their report is awaited.
13	3rd March, 1921	The Honourable Sir Zulfiqar Ali Khan.	Re religious susceptibilities of His Majesty's subjects.	Do.	The Resolution was withdrawn, but a copy of the debate and a telegraphic abstract were communicated to the Secretary of State in accordance with the undertaking given by the Honourable the Home Member.
14	Do.	The Right Honourable V. S. Sastri.	Re amendment of certain enactments in regard to use of firearms.	Do.	A Bill to give effect to those parts of the Resolution which were adopted has been passed by the Council of State. It has still to be considered by the Legislative Assembly.
15	9th March, 1921	The Honourable Sardar Jogendra Singh.	Re export of food-grains	Department of Revenue and Agriculture.	Partial effect has been given by the removal of all restrictions on the export of rice from Burma.
16	26th March, 1921	The Honourable Mr. Vaman Govind Kale.	Re indemnities and reparations from Germany.	Legislative Department.	Given effect to in full.
17	Do.	The Honourable Lala Bakhir Sinha.	Re exemption of magistrates and Members of the Indian Legislature from the operation of the Arms Act.	Home Department.	Local Governments have been addressed in accordance with the undertaking given by the Honourable the Home Member. Replies from Local Governments are not yet complete.

Statement showing Resolutions adopted by the Legislative Assembly during Delhi Session 1921 and action of Government taken thereon.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
1	15th February, 1921	Mr. Jamnadas Dwarkadas	Re Martial Law Administration in the Punjab.	Home Department.	Given effect to in full.
2	17th February, 1921	Mr. W. M. Hussanally	Re Listed Posts in the Indian Civil Service.	Do.	Local Governments have been asked to consider whether the number of listed posts cannot be increased.
3	Do.	Rao Bahadur T. Rangachariar.	Re Third Class Passengers	Railway Department.	Has been adopted with slight modifications by the more important railways wherever considered necessary.
4	Do.	Sir P. S. Sivaswamy Aiyer	Re Army in India	Army Department.	A copy of the Resolution together with a copy of the Resolution as adopted by the Assembly was forwarded to the Secretary of State for his information.
5	19th February, 1921	Sir T. Holland	Re Hours of work on the draft Convention of the Washington Labour Conference.	Department of Industries.	The Bill to amend the Indian Factories Act introduced in the Legislative Assembly in March, 1921, which was intended to give effect to these Resolutions, has been passed in the Assembly.
6	Do.	Do.	Re Disinfection of wool and protection of women and children from lead poisoning.	Do.	
7	Do.	Do.	Re Minimum age of admission of children in Industrial employment.	Do.	
8	Do.	Do.	Re Washington Labour Conference Employment Agencies and unemployment.	Do.	
9	Do.	Do.	Re Establishment of Health Service.	Do.	
					The matter is under the consideration of the Government of India and Local Governments have been addressed on the subject.
					The matter is under the consideration of the Government of India and the Local Governments have been consulted.

Statement showing Resolutions adopted by the Legislative Assembly during Delhi Session 1921 and action of Government taken thereon—contd.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
10.	22nd February, 1921	Mr. S. P. O'Donnell . . .	Re Press Legislations . . .	Home Department.	Given effect to in full.
11	24th February, 1921	Munshi Iswar Saran . . .	Re Creation of an Indian Bar . . .	Do.	Local Governments and public bodies have been consulted. Replies are being received.
12	Do.	Mr. B. S. Kamat . . .	Re Reports of Commissions and Committees.	Do.	Given effect to in full.
13	1st March, 1921 . . .	Mr. N. M. Joshi . . .	Re Legislation for Registration of Trade Unions.	Department of Industries.	The matter is under consideration and Local Governments have been addressed.
14	2nd March, 1921 . . .	Dr. Nand Lal . . .	Re Export of Cattle . . .	Revenue and Agriculture Department.	Local Governments were addressed with regard to the step which should be taken to give effect to the Resolution and their replies are now under consideration and it is hoped that a decision will be reached very shortly.
15	Do.	Rai Jadu Nath Majumdar, Bahadur.	Re Equality of Status of two Chambers.	Home Department.	Given effect to with modifications.
16	5th March, 1921 . . .	Babu Braja Sundar Das	Re Bihar and Orissa Executive Council.	Do.	The question of giving effect to this Resolution will be considered on the retirement of the Honourable Sir Havilland Lefeburier.
17	7th March, 1921 . . .	Qandhari Shahab-ud-Din . . .	Re Select Committee on Esher Committee's Report.	Army Department.	A Select Committee considered the Esher Committee's Report and their recommendations were communicated to the Secretary of State.
18	23rd March, 1921 . . .	Mr. J. K. N. Kabraji . . .	Re Execution of the Programme of New Delhi Works.	Public Works Department.	Given effect to in full so far as the year 1921 is concerned.

19	23rd March, 1921	Dr. Nand Lal
20	26th March, 1921	Dr. H. S. Gour
21-34	28th March, 1921	Sir P. S. Sivaswamy Aiyer

Re Repressive Measures . . .	Home Department .	Given effect to in full.
Re Ultimate Court of Appeal in India.	Do. .	Local Governments, High Courts, etc., have been addressed and their opinions are now being received.
14. Resolutions re Esher Committee's Report.	Army Department .	.....
Re Equipment and organisation of the Indian Army.	Do. .	A copy of the Resolution was communicated to the Secretary of State for India. Every effort is being made to equip and organize the Indian Army in the same manner as the British Army.
Re employment of Army in India for service outside the external frontiers of India.	Do. .	The Resolution was communicated to the Secretary of State.
Re the appointment of a Surveyor-General of Supply.	Do. .	The matter has been referred to the Secretary of State for India.
Re the appointment of Commander-in-Chief and Senior Staff Officers in India.	Do. .	The matter has been referred to the Secretary of State for India.
Re the Commander-in-Chief's right to correspond with the Chief of the Imperial General Staff.	Do. .	This has been approved by the Secretary of State for India.
Re the admission of Indian subjects to all arms of His Majesty's military, naval and air forces in India.	Do. .	The matter has been referred to the Secretary of State for India.
Re the establishment of a Royal Military College in India.	Do. .	The Secretary of State has sanctioned the establishment of a Military College at Dehra Dun which will be shortly opened.

Statement showing Resolutions adopted by the Legislative Assembly during Delhi Session 1921 and action of Government taken thereon—concl'd.

1908

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
			Re the fixation of the pay of all commissioned ranks in all branches of the army with an overseas allowance.	Army Department .	The matter is under the consideration of the Government of India.
			Re the formation of a Territorial Force, etc.	Do.	The Resolution has been given effect to by the Government.
			Re the grant of the rank of 2nd-Lieutenant, Lieutenant or higher rank to the officers in the Indian Territorial Force.	Do.	The matter is under consideration by the Government of India and the Secretary of State.
			Re the interchange of officers between British and Indian Services.	Do.	The matter has been referred to the Secretary of State for India.
			Re the reduction of the administrative staff at Army Headquarters.	Do.	The Resolution will be given effect to as soon as conditions will permit of it.
			Re the appointment of a Committee for the purpose of examining and reporting upon the best method of giving effect to the natural rights and aspirations of the people of India for the attainment of full responsible Government.	Do.	All the points in the Resolution were discussed by the Military Requirements Committee.
			Re the inclusion of 'Anglo-Indians' in the terms of 'Indian subjects' or 'Indians.'	Do.	Not given effect to.

LEGISLATIVE ASSEMBLY.

[16TH JAN. 1922

ADDRESS OF WELCOME TO H. R. H. THE PRINCE OF WALES.

Sir Jamsetjee Jejeebhoy (Bombay City: Non-Muhammadan Urban) : Mr. President, the proposition* which stands in my name needs no words in support of it, and I will ask your indulgence, Sir, to take the draft address which has been circulated as read. The Royal House of Windsor has solid claims not only on the loyalty and fealty of the people of this country but also on their esteem and gratitude. The Crown has always been to them the bulwark of their hopes and aspirations and in the hour of India's need, her august sovereigns have always endeavoured to promote the best interests of the country. One of the examples of such Royal solicitude during one of the greatest crises in the history of India has been referred to in the draft address. I mean the reference to the gracious Proclamation of 1858 in the promulgation of which Queen Victoria of revered memory had a direct hand. Similarly, during the general unrest that supervened the days of the great war our beloved Sovereign who has done us the honour of visiting our country on two memorable occasions, took the keenest and most sympathetic interest in the aspirations of the people and did his best to consolidate the bonds of union between India and Great Britain. Little do we, indeed, yet know how much His Gracious Majesty did behind the scenes for the formulation of Reforms calculated to place His Majesty's Indian subjects firmly on the path of Self-government.

The heir-apparent to the Throne may, therefore, be always assured of India's heart-felt devotion and loyal welcome. Apart, however, from his hereditary claims on our loyalty and gratitude, His Royal Highness has special personal claims on our esteem and admiration. His is a charming personality that captivates the hearts of all wherever he goes. With the natural gifts with which he is endowed by nature, his noble mien, his charming simplicity and winning smile, his silver tongue, his kindly eyes of sympathy, and his gentleness of bearing—he combines the chivalry of a sportsman, the valour of a soldier, the wisdom of an ambassador, and the discernment of a statesman. (Cheers.) No wonder that people of all parts of the Empire vie with one another in honouring and idolising him. Will India lag behind in this healthy rivalry? She has not so far and we feel sure she will not. In connexion with the reception of His Royal Highness it is distressing to have to refer to, but we cannot ignore the fact that there is a section of our countrymen who have chosen to stand aloof and to refrain from participating in the celebrations of the Royal visit. It is however a great consolation to us that even this non-co-operating section of the population has given repeated assurances that it is constrained to take up this attitude with a view merely to making a demonstration of its political views and that it is not its intention to show the slightest disrespect to His Royal Highness for whom personally it has great esteem and regard.

This is not the occasion to enter into a discussion of the causes of the discontent of the party of non-co-operators. Nor is it the occasion to analyse the present situation. The draft address has, however, discreetly given expression to the legitimate aspirations of the people that India should soon take her proper place as an equal partner in the British Commonwealth of

* That the Address of Welcome to His Royal Highness the Prince of Wales be adopted.

[Sir Jamsetjee Jejeebhoy.]

Nations and that she should be a Self-governing Dominion under the æges of the British Crown. That is the goal which all of us have in view, the Government as well as the people, the co-operators as well as the non-co-operators. The difference is only one of ways and means, and it is to be only devoutly wished that all that statesmanship can devise and all that sagacity on the part of the leaders of the people can accomplish will be done to remove these differences on what are after all matters of minor importance and that peace and harmony will be restored in the country before His Royal Highness leaves her shores. (Cheers.)

Mr. President: The question is:

'That the Address of Welcome to His Royal Highness the Prince of Wales be accepted.'

The motion was adopted.

SELECT COMMITTEE ON STANDING ORDERS.

Mr. President: The Assembly will now proceed to the election of Members to serve on the Select Committee on Standing Orders. Thirteen Members have been nominated and the ballot paper has been prepared which will now be circulated to all Members. I wish to draw the attention of the Members to the fact that the ballot is held under the system known as the single transferable vote and that Members must place figure (1) as against the candidate for whom they may express their first preference, figure (2) opposite the next one and so on. Under the rules the number to be elected is seven. The total number of the Committee is nine. The rules provide that *ex-officio* the President and the Deputy President shall be Members and it now remains to elect the other seven.

(The election then commenced.)

Mr. President: The result of the election will be announced at the close of to-day's proceedings this evening, or, if the proceedings are brought to an end early, at the beginning of to-morrow's proceedings.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member): Sir, when I moved the motion* regarding this Bill in the Assembly on the 30th September two very pertinent points were raised by my Honourable friend, Dr. Gour. We have examined those points and the difficulties which he pointed out, and we do not think that they are in any way insuperable.

At the same time we think that it would be advisable to have the Bill carefully examined by a small committee, a Select Committee of this Assembly, on which the legal profession should be adequately represented. I do not therefore propose to press my motion that the Bill should be taken into further consideration, and hope that the Assembly will accept the motion

* 'That the Bill further to amend the Code of Criminal Procedure, 1898, by providing for the issue by Courts in British India of commissions for the examination of witnesses to such Courts of Princes and Chiefs in India as are notified in this behalf, and for the execution by Courts in British India of commissions issued by such Courts, as passed by the Council of State, be taken into consideration'.

which will be made by my Honourable colleague, Dr. Sapru, to refer the Bill to a Select Committee where these difficulties can be very much better examined in detail.

The Honourable Dr. T. B. Sapru (Law Member) : Sir, I beg to move :

'That the Bill be referred to a Select Committee consisting of the Honourable Sir William Vincent, Dr. H. S. Gour, Rao Bahadur C. Krishnaswamy Rao, Mr. K. C. Neogy, Mr. P. P. Ginwala, Sir D. P. Sarvadhikary and the Mover.'

I have taken the consent of all.

Mr. President : Amendment moved :

'That the Bill be referred to a Select Committee consisting of the Honourable Sir William Vincent, Dr. H. S. Gour, Rao Bahadur C. Krishnaswamy Rao, Mr. K. C. Neogy, Mr. P. P. Ginwala, Sir D. P. Sarvadhikary, and the Honourable Dr. T. B. Sapru.'

The question I have to put is :

'That that amendment be made in the original motion.'

The motion was adopted.

Mr. President : The question is that the amended motion be carried.

The motion was adopted.

THE DELHI UNIVERSITY BILL.

Mr. H. Sharp (Education Secretary) : Sir, I beg to move for leave to introduce :

'A Bill to establish and incorporate a unitary teaching and residential University at Delhi.'

The principle underlying this Bill needs, I think, very little recommendation from me. The idea of a unitary university of this nature is familiar to us. It was put forward as an important point of policy in the Government of India's Resolution on Education of February 1913. It was supported by the Calcutta University Commission, and was regarded by them as possibly the ultimate solution of the problem of higher education in Bengal. It is an obvious policy to pursue in India, where, speaking of British India alone, we have 250 million inhabitants, and at present only 11 universities. I think, Sir, that I may say that it is also obvious that Delhi is a suitable centre for a university of this nature. We have here in this north-west portion of India three provinces with 30 million inhabitants, and one university to cater for them all. We have in Delhi itself already four colleges. Again, whatever proposals may be in contemplation by the University of the Punjab in view of the recommendations of the Calcutta University Commission, surely those proposals will be facilitated by the formation of a university here, because the problem will thereby be simplified. Last but not least, it is, I think impossible to conceive of this great capital city of India, this Imperial City, without the necessary adjunct of a university.

Nor, Sir, is this proposal for a university at Delhi by any means a new one. The importance of higher education in this city was an integral part of the original scheme for the removal of the Capital to Delhi, and from the beginning land was set apart in the New City for this purpose. The first proposal was for the establishment of a Government college. But the Government of India held their hand in this matter, partly because they awaited the recommendations of the Calcutta University Commission, and partly because they could

not be oblivious of the fact that privately-managed Colleges in Delhi were increasing both in number and also in strength, and it would hardly have been fair to leave them out of consideration in a scheme of improvement. When the recommendations of that Commission appeared, we held a conference of the representatives of the local colleges in Delhi at the beginning of December, 1919, and I think I may say that this idea of a unitary university for Delhi was accepted not only with unanimity but also with enthusiasm. Since then a small sub-committee has been working out the details.

This is not the time to consider the details of the Bill. All I need say is that it follows, generally speaking, the provisions of the Dacca and Lucknow Acts, with certain changes to suit local conditions and requirements.

There is only one matter to which I need draw attention and that is clause 45 of the Bill. This is the usual clause which is now inserted in all university measures, for the removal of those difficulties, which are experienced while a university is beginning, so to speak, to get under way. In the present instance it has been drawn rather wider than usual. The reason is that we have here colleges in existence which are working in their own way; and the intention is not to force them suddenly, prematurely, and in a manner that would dislocate their work, into the new organization of a university. We should prefer, and they, I am sure, would also prefer, to see this made a gradual process. Furthermore, some delay is inevitable in getting the university to work, so to speak, at full steam. The buildings will have to be erected, and money will have to be provided. It is proposed therefore to pursue in the immediate future a transitory scheme, a provisional scheme, which will gradually lead up to the full ideal of this university as set forth in the other provisions of the measure. In due course, in order to realise this modest beginning, a modest demand will be placed before this Assembly which will enable such a beginning to be made, so that the colleges can gradually adapt themselves to the conditions ultimately laid down for them. If I may borrow a metaphor from the automobile we propose in fact that the university should begin with its gears in first speed.

Mr. President : The question is :

‘ That leave be given to introduce a Bill to establish and incorporate a unitary teaching and residential University at Delhi ’.

The motion was adopted.

Mr. H. Sharp : Sir, I introduce the Bill.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 17th January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 17th JANUARY, 1922

Vol. II—No. 17

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY,

Tuesday, 17th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

UNSTARRED QUESTIONS AND ANSWERS.

WAITING ROOMS AT MAHESHKHUNT.

195. **Rai Bahadur Lachmi Prasad Sinha:** (a) With reference to my Question No. 488,* dated the 21st September, 1921, will the Government be pleased to furnish me with the necessary information if available by this time?

(b) Will the Government be further pleased to state if any action has yet been taken in connection with the construction of a waiting room at Maheshkhunt, Bengal and North-Western Railway station, in consideration of the growing inconvenience to the public?

Colonel W. D. Waghorn: (a) There is no first and second class waiting room at the Maheshkhunt station. It is recognised that they would be a convenience to the travelling public, but owing to shortage of funds it has not so far been found possible to provide them. The Agent has been asked to keep the matter in view.

A statement is being sent to the Honourable Member which gives the information relating to the number of first and second class tickets issued and collected at the stations between Katihar and Barauni Junctions during the period October, 1920, to September, 1921.

(b) The Honourable Member is referred to the reply given to part (a) above.

STRIKE ON EAST INDIAN RAILWAY.

196. **Rai Bahadur Lachmi Prasad Sinha:** (a) Is the Government aware of a general strike of the drivers and other employés of the East Indian Railway on the Loop and Chord Lines in December last?

(b) Is the Government aware of a cessation of train services on those lines causing great inconvenience and hardship to the general public?

* *Vide* Legislative Assembly Debates, Volume II, page 681.

(c) Has the Government instituted any inquiry into the nature and origin of the said strike ?

(d) And, if so, will the Government be pleased to lay on the table a full statement connected therewith ?

Colonel W. D. Waghorn : (a) The strike was reported. It was not a general strike, only the Indian Locomotive running and menial staff at certain stations ceased work.

(b) The Government is aware that the number of trains from the coal area had to be reduced and the night running between Sahebgunj and Bhagalpur was suspended for a time owing to the discovery at two places of attempts at Sabotage. The strikers have since resumed work at all stations and the normal working of trains including goods trains over the Grand Chord Line, has been introduced.

(c) and (d). The original cause of the trouble at Jhajha was due to a rumour that an Indian fireman, who, according to the information at the disposal of the Railway Board, met his death by striking his head against an overbridge while shovelling coal, had been murdered. The strike was prolonged by a dispute whether it should constitute a break in service and sympathetic strikes followed. The terms of settlement were that inquiry should be held into the alleged grievances by a Committee composed of Railway officers and representatives of employees. This inquiry is being held.

REDUCTION IN TRAIN SERVICES ON BENGAL AND NORTH-WESTERN RAILWAY.

197. **Rai Bahadur Lachmi Prasad Sinha :** (a) Is the Government aware of a reduction in the number of train services on the Bengal and North-Western Railway since December last ?

(b) If so, has the Government taken cognisance of the great inconvenience caused thereby to the general public ?

(c) Is it a fact that the said reduction in the number of train services has been mainly due to the shortage of coal store ?

(d) Do Government propose issuing instructions to the said Company with a view to the avoidance of such state of affairs in future ?

Colonel W. D. Waghorn : The answers to items (a), (b) and (c) are in the affirmative.

(d) Steps have been taken to improve the coal supplies to the Bengal and North-Western Railway and it is hoped that a situation similar to that which forms the subject of the question will not arise again.

SELECT COMMITTEE ON STANDING ORDERS.

Mr. President : I have to announce that as the result of the election held on the 16th January, 1922, the following Members have been

electd to serve on the Select Committee on the amendment of Standing Orders :

1. The Honourable Sir William Vincent.
2. Mr. G. G. Sim.
3. The Honourable Dr. T. B. Sapru.
4. Mr. P. P. Ginwala.
5. Rao Bahadur C. S. Subrahmanayam.
6. Mr. Pyari Lal Misra.
7. Maulvi Abul Kasem.

THE CIVIL MARRIAGE (AMENDMENT) BILL.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I rise to move :

'That the Bill further to amend Act III of 1872 be referred to a Select Committee consisting of :

The Honourable Dr. T. B. Sapru,
 The Honourable Sir William Vincent,
 Mr. P. E. Percival,
 Mr. J. P. Cotelingam,
 Mr. N. M. Joshi,
 Chaudhri Shahab-ud-Din, and the Mover.'

I wish, Sir, with your permission, to add the names of the following gentlemen, whose permission I have taken, to the list already published :

Rao Bahadur T. Rangachariar,
 Mr. J. N. Mukherjee,
 Rai Bahadur Pandit Jawahir Lal Bhargava,
 Rai Bahadur S. P. Bajpai,
 Babu Baidyanath Prashad Singh,
 Khan Bahadur Saiyid Muhammad Ismail,
 Mr. Wali Mahomed Hussanally,
 Sir Jamsetjee Jejeebhoy,
 Rai Girish Chandra Nag Bahadur,
 Mr. N. M. Samarth,
 Munshi Iswar Saran,
 Mr. M. K. Reddi, and
 Mr. P. P. Ginwala.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : I rise to a point of order. May I know whether this motion to refer the Bill to a Select Committee commits the Assembly to the principle of the Bill, because on that depends my attitude upon the matter.

Mr. President : I will first put the motion as it appears on the paper before the House :

The question is :

'That the Bill further to amend Act III of 1872 be referred to a Select Committee consisting of the Honourable Dr. T. B. Sapru, the Honourable Sir William Vincent, Mr. Percival, Mr. Cotelingam, Mr. Joshi, Chaudhri Shahab-ud-Din and the Mover.'

Rao Bahadur T. Rangachariar : I wish to know, Sir, whether by referring this Bill to the Select Committee the Assembly is committed to the principle of the Bill.

Mr. President : In the case of this motion, as in the case of the motion that the Bill be now considered, the Assembly must be held to be committed to the principle of the Bill. As the Honourable Member is aware, I have now drawn a distinction between these two motions and the motion to circulate for eliciting opinion. In the latter case the Assembly is not held to be committed to the principle, but in the two former cases it is clear that the intention of the Standing Orders is that the Assembly shall be committed, if and when a motion of this character is passed.

Rao Bahadur T. Rangachariar : That being the conclusion to which the Assembly will be committed in the event of this motion being carried, I beg to oppose this motion. Sir, I may confess to a feeling of instinctive dislike to this measure which is now before the House. In these matters, affecting the society of my countrymen, whether they be Hindus or Mussalmans or Parsis or the other communities whom this Bill seeks to affect, one cannot be too careful in proposing measures which are likely to affect those ancient civilizations. Sir, marriage with us, Hindus, is a sacrament; we look upon it as a sacred religious tie. It is an indissoluble tie. By taking a wife you take a partner in your religious ceremonies. Who does not remember the saying of Janaka to Rama when he gave Sita to Rama :

'Eam Seeta mama suta saha-dharma-chari taba.'

She becomes the *Saha-dharma-chari*, one who partakes in the religious ceremonies which are enjoined on the everyday life of the Hindu. It is not right that any attempt should be made to make marriage with the Hindus, Mussalmans or Parsis a mere mockery. Sir, to allow this Bill to pass into law would convert marriage into a mere figure of speech, into a mere mockery. It would be degrading that sacred institution, dragging it down from the high pedestal which it now occupies in our society, dragging it down to degraded depths. Sir, I fail to see how any person who professes to believe in the ancient religious faiths of this land, can come forward and say that you can have a marriage in the way in which this Bill proposes to make it. Sir, the history of this measure is too well-known. It was to give liberty to persons who did not believe in the various religious faiths enumerated in the Act of 1872, in order to contract a valid marriage that the Act of 1872 was passed. Sir, Dr. Gour, in a very learned, exhaustive and able address, which he has prepared and circulated to the Members, has let the cat out of the bag. If you turn to page 27 of this pamphlet which he has circulated to us,—in dealing with the objections taken to the measure, he points out that the first objection on every lip is that the Bill is opposed to the Hindu Dharma, and that in the first place the Bill is primarily intended for those who have renounced these Dharmas. Sir, if really this Bill is intended for the benefit of persons who have renounced the Hindu Dharma, what necessity is there for a measure of this sort? It is for them the existing Act was passed. He confuses the issues by saying that in an altogether different matter the Privy Council held that Brahmos did not cease to be Hindus simply because they became Brahmos. That is quite true. But they certainly ceased to belong to the Hindu religion. To belong to the Hindu community is one thing; to belong to the Hindu religion is altogether

a different thing. Marriage is part of the religion of every Hindu. Now, the object of this measure is to take away the very circumstances for which the Act of 1872 was passed, *i.e.*, it was passed merely for persons who did not profess the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh or Jaina religion, and to legalise certain marriages the validity of which was doubtful. Those religious faiths were excluded, because according to each of those religious faiths they had particular forms of marriage to which the religion attached great consequence, and that was why the legislature of those days took care to say :

'We shall not travel beyond the recognised forms of marriage; we can only provide a form of marriage for those people who have not got any established form of marriage.'

Sir, it has been said that if you do not provide liberty of action to individuals who seek to enjoy liberty it will not be acting rightly. Liberty is one thing; licence is altogether a different thing. Sir, if you want to belong to a society, if you believe in a religion to which you are attached, surely liberty does not and cannot be converted into licence. You have to conform to the essential tenets which are laid down for your guidance. What is the objection? The objection taken is that those who want to resort to this Act have to make a declaration before the Registrar that they do not profess any of the faiths mentioned therein, and they say 'we have to tell a lie, or rather tell that which is not true, in making that declaration.' Is that so? Are you really telling an untruth? Are you really telling a thing that is not true when you say that you do not believe in that religion, and that you do not belong to that religion? What is religion? What is the Hindu religion or the Muhammadan religion? If you take the case of the Hindus for instance, what is it that the wife is taken for? It is not merely for the association of man and woman; she is taken for the purposes of being a partner in his every day religious life. She has to prepare the *Agni* or fire in the House. Sir, on the marriage day the *Agni* or fire is lit and it is carefully prepared and preserved and kept, and she represents that fire.

I quite sympathise with those who do not believe in it. I do not want to fetter their liberty of action. But, Sir, those of us who believe in it, cannot own them as persons belonging to the Hindu faith if they do not believe in these essentials. There are essentials and non-essentials, and this is essential, and therefore we consider this measure will greatly interfere with our religion. All that one has to do, according to the proposed measure, is to go and appear before a Registrar and sign a declaration to the effect: 'I take you as my wife, and you take me as your husband', and the marriage is over, and we are to take them into our house-holds! Well, Sir, we have got a joint family system, we have got to worship a common God, where we have got to worship a family *Devasthan* or *Dharmasthan*, where we have got peculiar laws of inheritance, where my sons will be entitled to inherit to my brother or my remote cousins; they not only inherit my property, but the property of my brother or some remote ancestor of mine. He becomes a member of the joint family; he is entitled to take part in the family worship. Not only that, Sir, this woman who is so taken as wife is to associate with me in all the religious ceremonies and in the *shraddhas* to be performed by me in honour of my ancestors. I certainly think it is ridiculous. It is simply trying to force the hands of society in the

[Rao Bahadur T. Rangachariar.]

name of liberty. Sir, I really think this is a dangerous measure. No doubt, the legislature has intervened wherever the customary laws are such that do not appeal to a feeling or sense of humanity such as for instance, in the case of widow re-marriage, the abolition of Sati and such other cases, where no doubt although these customs may have been based upon religious sentiment, they were not based upon really essential matters of religion. The legislature has chosen to intervene, and has intervened, but there is a limit to legislative interference in matters affecting the religion of the people, and this has been carefully recognised by the British legislature all along. Sir, one of the reasons why the British Government, although it is a foreign Government, made itself popular in this country, was because it carefully abstained from interfering with the religious habits, usages, customs and essential sentiments of the people. Therefore, I really see no need for this measure. Where is the evil, what is the great crying evil for which you are making provision by this measure? Has there been a demand? What is this neo-Hinduism which is now being started? If it is a new religion, by all means let it come into existence, let a custom grow up, and by custom you can recognise the validity of such marriages. Sir, for a handful of people who want to enjoy licence in the name of liberty, legislature should not intervene, it should not make inroads like this. It is said, Sir, this measure is purely optional. Now what is option? Marriage is optional as a matter of fact, although no doubt it is compulsory amongst us, but this sacrament is not imposed upon all people. Unless you wish to become a *Sanyasi* or lead the life of *Brahmacharya* all your life, this sacrament is imposed upon all people. It is a compulsory sacrament in the case of women and in the case of Sudras. Sir, this is not option at all with us. To go through a marriage is an essential thing, and if you attempt to interfere with the existing state of things you will be introducing a stranger into the joint family, you will be introducing complications in the laws of inheritance, and you will be disturbing the peace and harmony which now prevails in the Hindu families. Already, Sir, there are various other matters which tend to create the disruption of the joint family system, but they are all outside influences; so why make these influences work inside the family by giving the status of membership in the family to a person who does not become really a member of it, and it will be a very dangerous step indeed. Sir, with us the wife, after the religious ceremonies, obtains the *gotra* of the husband. Till her marriage she retains the *gotra* of the father, but after marriage she gets the *gotra* of the husband. Now, Sir, are we to believe that this woman so taken before a Registrar— he may be a Muhammadan Registrar for the matter of that, or he may be a Christian Registrar,—without any religious ceremonies at all obtains the *gotra* of her husband? Do you believe in *gotras* or not? If you do, then how do you make this transference? Is it by a mere word of mouth of the Registrar? The whole thing is ludicrous. Sir, I am really advocating the cause from the point of view of a Hindu who believes in his religion, and not from the point of view of a man who does not believe in his religion. There are people who no doubt do not believe in their religion. But, Sir, you are making this law which will introduce numerous complications in the joint Hindu families. Now-a-days youngsters lose their respect for their elders, even for their parents, and if you make marriage an option, then what will happen? An impressionable youth will take a fancy for a woman and go through this formality of marriage and the next day

he comes into the family and says 'Here is my wife, Papa.' Is my wife to treat that woman as her daughter-in-law? Are my sisters to treat her as a member of the household? Is she to enter my household and take part in the religious ceremonies? All these will follow, and that woman will come and take part in the *Shradhas* which I shall perform for the benefit of my ancestors, and she may obtain a decree for mandamus or injunction from courts enforcing her rights. Surely, Sir, I cannot give my vote to such a measure. I may be blind, but, Sir, in these matters one has to be blind. You cannot be too careful in these matters. I cannot afford to see our homes invaded by these foreign ideas. Let us keep them out. Let us not be tempted into these things, for these will be the thin end of the wedge. After all, I quite realise that if really there is a necessity for such a measure as this, I will be only too glad to join hands with my friends. But surely our forms of marriage have adapted themselves to the customs prevailing in the various provinces. Different communities have adopted different forms. In my province, the Marawa has got his own form of marriage, the Malayalees or the west coast people have got their own forms of marriage. Every community has got some form of marriage or other which always takes the part of a religious ceremony. Sir, to make marriage merely a matter of form, to go before a Registrar as if you register a document, is ridiculous, for we are taking a partner, a religious partner, for our every day ceremonies to be a member of our household. I do not think, Sir, it is necessary to labour the point. No doubt, it may be convenient for persons who believe in modern ideas and who do not believe in the religion to which they really belong, but it will not mean taking a *saha-dharma*, it is merely taking a woman for a man. For these reasons, Sir, I oppose this measure.

The Honourable Sir William Vincent (Home Member) : Sir, I will not detain this Assembly for more than a few moments as I only wish to explain what the attitude of the Government of India *vis-a-vis* this measure is. The Bill was very carefully considered both before and after the receipt of the opinions of the Local Governments on it, and the Government of India, fully realising the danger of weighing down either one side of the balance or the other by the official vote, have decided to follow the policy which I understand is approved by the last speaker and to be absolutely neutral in a matter which really affects the non-official Members of this Assembly more directly than it does the Members of the Government. The fact is that in a matter of this kind by which religious sentiment is largely affected, Government cannot be too careful of its attitude.

It should not use any influence it may have in this Assembly on one side or the other. There is already a large non-official majority in this Assembly, and there are many Members fully capable of expressing the views both of Hindus and Muhammadans. This attitude of Government is the more necessary, I think, in view of the considerable opposition which this Bill has received from certain sections of the community. I do not mean to say that the opinions received have been uniform and all of them hostile, because that would be an inaccurate representation of the facts. I have now seen three Bills of this character introduced into this Assembly and its predecessor and in my judgment—purely a personal opinion—the opposition to this Bill is distinctly less marked than it was in the case, say, of Mr. Basu's Bill or even in the case of Mr. Patel's Bill. At the same time, there is this feeling among the orthodox

[Sir William Vincent.]

Hindus against it so well represented by that radical in politics and conservative in social matters, the last speaker (Mr. Rangachariar). There is also a great feeling of opposition, as I understand, from certain orthodox Muhammadans on this point. But there are many here far more competent to speak on that subject than I am. Apart from these questions I must say, that if this Bill is referred to a Select Committee, I myself foresee considerable difficulties—I do not suggest that they are insuperable difficulties—in regard to questions of inheritance and other enactments already on the Statute Book, for instance the Indian Christian Marriage Act, the provisions of which I think the Honourable Mover will admit would certainly have to be examined in conjunction with the provisions of this Bill. It is not, however, for this reason, but on the general grounds to which I have referred that Government has decided, whatever be the personal views of individual Members of the Government, that the Members of the Executive Council should observe absolute neutrality in the discussion of this Bill.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : What about the official Members ?

The Honourable Sir William Vincent : If the Honourable Member had let me finish, I was just going to tell him that official Members, other than Members of the Executive Council, will have complete freedom to speak and vote as they like (Hear, hear). The Members of the Viceroy's Executive Council will however not take any part in this debate or in any division for the reasons which I have already given.

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, it was a matter of great disappointment and surprise to me that an Honourable Member of this House, who is generally so reasonable, should have confessed that in this matter he shuts his ears to any arguments but insists upon being blind and depends only upon faith. Sir, let us in a few remarks see what objections he made against this Bill. In the first place he talked a good deal about the Hindu religion, the tenets of the Hindu religion and the essentials of the Hindu religion. But he did not mention which are the essentials of Hindu religion, and what is absolutely necessary to make a man a Hindu. I have not yet heard from any one a definition of the essentials of the Hindu religion. Let any one do that. Personally, I believe any man who calls himself a Hindu is a Hindu, and must be considered a Hindu. Beyond this I do not see any practical limit to be placed upon the liberty of a man in his religious tenets. I know something about the Hindu religion. I have read something of the Vedas, the Puranas and the Smritis. But are they followed to-day in practice by any one? Are people following the tenets of the Vedas, the tenets of the Smritis and the Puranas as regards their profession? What was the profession of a Brahman? Is he still following his profession? He calls himself a Hindu and a Brahman all the same. Therefore, it is so very difficult to find out which are the essentials of Hindu religion. My Honourable friend referred also to the status of marriage in the eyes of Hindu religion. He said it was a sacrament, something holy. Sir, I consider marriage to be holy—very holy—the holiest of the holies. But I cannot see the difference between an oath taken before a Registrar and an oath taken before a priest. What is, after all, the Hindu form of marriage? What do they say there? As far as I know, they say the same thing, *vis.*, 'we take

each other as husband and wife and we shall be faithful to each other'. That is all. I do not see the difference between the oath taken before a Registrar and that taken before a priest. Sir, this is as regards the marriage itself.

Then he brought forward several arguments regarding the disturbance of the Hindu society. I should like the Honourable Members who are against this Bill to tell me in clear words how they can stop inroads of the other civilisations upon Hindu society, how they can stop marriages between Hindus and Christians, Hindus and Parsees, and Hindus and Muhammadans. Have they stopped these marriages? Hundreds of these marriages have taken place. Sir, if my Honourable friend will take a census of Hindus, Muhammadans and Parsees who have married Christians, I am quite sure their number can be counted by hundreds. (*Several Honourable Members*: 'No, no'.) Sir, it is a matter of fact, and we need not say here, 'No, no'. Let any one come forward with a census report and prove that I am wrong. (*An Honourable Member*: You do it.) I have made my statement. Those who contradict me, it is their business to show by census report that I am wrong. (*Mr. W. M. Hussanally*: You show by census report that you are right.) It is not my duty. I know myself several dozens of people who have married English girls, and there is no difficulty in showing that there are several hundreds of people in India who have married outside the Hindu religion. (*Rao Bahadur T. Rangachariar*: Are they happy?) Sir, my Honourable friend asks me: 'Are they happy?' I ask him in return: 'Are all the Hindus who have married in the orthodox style happy?' (*Rao Bahadur T. Rangachariar*: 'Yes'.) I say: 'No'. I contradict your statement. I have seen husbands suing their wives in courts. It is a fact which cannot be denied. I have seen wives also suing their husbands. Sir, these are facts. Can my Honourable friend who is a lawyer, say that there are no suits in the law courts in India by wives against their husbands and by husbands against their wives? (*Rao Bahadur T. Rangachariar*: 'No'.)

I am surprised to hear the Honourable Member say that there have been no suits. Sir, these suits are heard of several times in the law courts. We cannot say that all orthodox marriages are happy: and if anyone makes that statement, let him stand before the public with that statement. The chief question in my opinion is not whether the marriage is happy or is not happy. The chief question is this. If a young man wants to marry a girl whom he likes and loves, whether the society is going to allow him to marry that girl or not. As a matter of fact, if society does not approve his marriage, he marries the girl: and if he has any spirit, he ought to marry, in spite of all the legal difficulties. Sir, the marriage is not prevented in my opinion. The marriage does take place, but what happens according to the present law is that certain people who believe in the Hindu religion, and who want to call themselves Hindus, have to say on a particular day that they are not Hindus. That is all. These people move amongst Hindu society all the same without any difficulty. I have seen it. But on a particular day they have to say that they are not Hindus. That is the only difference: and what this Bill really seeks is to modify this. If a man wants to call himself a Hindu and still to marry outside the Hindu religion, let him be allowed to marry. There is nothing in the Bill beyond this. We do not as a matter of fact want encouragement by the law in these cases. As I have said, marriages are not pre-

[Mr. N. M. Joshi.]

vented by the present law. We only seek an amendment of the law to enable the man to say that he is a Hindu. I therefore feel that the objections which have been raised against this Bill are merely the outcome of prejudice and blindness, as my Honourable friend admitted. He talked several things about liberty and license. He said, if a Hindu marries a Christian, it is license. I do not believe it is so. I do not think any people in the world will believe that if a Hindu young man and a Christian girl live together as husband and wife in faithful wedlock, they can be called by the world 'licentious'. It was certainly very bold and very hardy of my Honourable friend to have applied that word to a marriage of that kind. Then, Sir, he talked of several things,—being a lawyer, he talked of succession and other similar things. There are difficulties about succession, but they can be overcome, as the Honourable Home Member said; they are not insuperable, and they can be considered. He said, suppose a Hindu marries a Christian, then the Christian girl will come into the family and will insist upon being a member of that family and being called a daughter-in-law or a daughter. Is it really so? Can the girl compel the mother-in-law to call her a daughter-in-law or a daughter? She cannot. You can sue for partition, and I am quite sure you will secure a partition. Nobody can force other people to call them by particular names or to treat them as sons and daughters. It is a matter of love and affection, not of compulsion at all. Then as regards their being members of Hindu society and joining in ceremonies, Sir, I for one do not object to the Hindu society or any other society boycotting and ostracising all those people who do not follow the orthodox tenets of their religion. They are at liberty to do so. Those who believe in reform are not afraid of boycotts, are not afraid of ostracism. They are prepared for it. But what they seek is this,—do not place in their way legal difficulties; do not make it impossible for them honestly to marry in their own way. That is what they expect. That is what they want from the law, and this is what this present measure seeks. Sir, there is another thing. If some people think that it is very difficult to secure such marriages in India, it is not so. I have already mentioned that marriages between Hindus and non-Hindus do take place without Dr. Gour's Bill. Moreover, as the Honourable Mover of this Bill has said in his pamphlet, there are two States in this country where such marriages are legalized, Baroda and Indore. How can you prevent inroads on your society when there are two States in the country ready to legalize such marriages? A man can run to Baroda or Indore, stay there for a fortnight, and get the marriage legalized. (*A voice*: He need not stay there at all.) Therefore, the argument that inroads on society are to be prevented by opposing this Bill really holds no water. You cannot prevent inroads of other civilizations upon your society. What you can do is to oppress a few individuals. I agree with the Honourable Mover that this Bill is intended only for a few people. I agree with him entirely. I am quite sure, that society, as it is constituted to-day, will not go in for marriages of this kind in very large numbers, but is it wrong of the Legislature to do justice to a few people,—even to one man? That is the question I want to ask. Why should a few people be tyrannized, why should they be oppressed, if we can prevent their being oppressed? Sir, as regards the attitude of Government, I am also very much surprised. The Government in the country is there to protect the subjects, be they a few individuals or large numbers, from any kind of difficulties in their way, from any kind of oppression and

tyranny, whether from society or from any other organisation. If a few individuals holding reformed views on social matters want their liberty of action to be safeguarded, is it not the duty of Government to do it? Is it really right for them to say, we shall adopt a neutral attitude, we shall stand aloof? Is it really right for Government? Is Government going to function only in those matters in which their own interests are concerned? Let us have a clear definition of the policy of Government. I do not think this attitude of being neutral is *really* a neutral attitude. It clearly means that they want to oppose this reform. They do not want to give this opportunity to those individuals who want it. Otherwise I cannot see, I cannot understand a Government, that has to take its share in the legislation, saying that they cannot take part as Members of the Legislature. The Executive Government is a part of the Legislature. They ought to take sides on every occasion. If they say: 'we shall not speak on particular subjects', I think they fail in their duty. I will not mind their opposing this Bill. Let them oppose it if they have the conscience and the courage to oppose, but I cannot understand a Government which is an integral part of the constitution saying that they stand neutral.

Lastly, Sir, I hope the Members of this Assembly will not follow the example of my Honourable friend from Madras and shut their ears to all arguments in this matter. Let them hear the debate and decide the matter on its own merits. //

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I have listened with some care to the arguments that have been advanced by my Honourable friend, Mr. Joshi, in support of the measure of Dr. Gour. I have also listened carefully to what has been stated by my Honourable friend, Rao Bahadur Rangachariar. I am sorry, my friend, Mr. Joshi, has gone the length of speaking of Rao Bahadur Rangachariar as blindly adhering to his faith in his opposition to this measure. I would ask my Honourable friend, Mr. Joshi, to consider whether or not it behoves him, as also the Government and the other Members of the Assembly,—to consider whether it behoves any one who marries a girl from love—a girl not belonging to his community and not belonging to his religion—to inflict his presence and the presence of his wife upon the members of his family; if it is right on his part to lead his wife to his family residence—if it is right on his part to insist upon his or his children inheriting to the members of his family or to his *gotra*: for instance from an uncle who dies without issue—from a maternal or paternal uncle who dies without issue. Any measure that is devised should be comprehensive enough to take cognizance of these important collateral considerations. Dr. Gour has been very clever in putting forth this measure. Probably he has gone on the principle of asking for more than can be granted on the assumption that what you grant will be conceded in a reasonable measure. I have just learnt from the Honourable the President of the Assembly that the Assembly will stand committed to the principle of this Bill if it is referred to a Select Committee. On the considerations which I have just now suggested, I would respectfully request all the Members of the Assembly to reject the measure at once and to insist upon the deviser of this measure taking into consideration all the collateral results of a measure such as this. I have no objection to an Indian being allowed—and perhaps he should be allowed—to marry any girl that he fancies. It is not reasonable on the part of the Legislature to insist upon his coming forward to tell a lie and say that he is

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not a member of any particular faith and that therefore he should be allowed to take advantage of Act III of 1872. The existing law is undesirable and ought certainly to be changed; some kind of liberty should be granted to people who want to marry girls of their own choice. We belong to a cosmopolitan society. We have been in contact with Muhammadans in the first instance and are in contact with Christians now; and, if we are really to constitute one Empire, reasonable opportunities for marrying, for instance, members of other communities ought to be granted to us. I am therefore not in principle opposed to the measure at all. I like the measure. A measure such as this ought to find favour with the Assembly. I only wish that precautions—necessary precautions—should be taken. To say that it is blindness on the part of anybody to come forward and say that the Hindu family, strictly as such, should be organised according to the essentials of the Hindu religion: or to come forward and say that the Hindu religion has no essentials, is I think to show perverseness of judgment.

Mr. N. M. Joshi: Tell us what they are.

Mr. S. C. Shahani: Certainly I can mention one or two of the essentials of the Hindu religion. He is not a Hindu who does not believe in the transmigration of the human soul; he is not a Hindu who does not believe in the law of *Karma*. Any one who comes forward to say that these are not some of the essentials of Hindu religion is altogether ignorant,—and this ignorance is crass ignorance—of the essentials of the Hindu faith. One cannot pose as a reformer without bending one's mind to the consideration of the essentials of the Hindu religion. I am a Hindu. If I do believe that I hold a particular relationship with my God and with kindred spirits in nature: if I do not confine myself merely to my physical existence: if I feel that I have had a previous existence and that my future existence will depend upon the present exercise of my will: that is merely the doctrine of free will as believed in by Hindus, and I think it is worthy of some special consideration. I believe that I have been given a free will and it is by virtue of that free will that I have created my present *Karma*; my present arises out of my past: and the manner in which I exercise my free will at the present time will be responsible for my future. It is not a Hindu belief that it is by chance that a Hindu is born in a particular family: his belief is that one's situation in a family is the result of the relationships that he has held in the past: and a great deal of sanctity does attach to the Hindu ideal of family life. Rao Bahadur Rangachariar is perfectly right when he says that ancient civilizations should not be invaded or encroached upon. But individuals might reasonably be allowed to exercise their will as they feel inclined to do; but if they do that, they should be cut off legally from the families to which they have belonged. Any individual so exercising his will should not be entitled to claim what would otherwise have been his share in the family property; he cannot then rightly inherit to those members who do not recognise as good his exercise of will in this matter of marriage. Marriage is a very important tie, a relationship which ought not to be considered so lightly as it has been considered by my Honourable friend, Mr. Joshi. He seeks to pour ridicule on all those who take opposite views; but I am afraid he only shows shortsightedness, which is in itself worthy of ridicule.

I had one other objection also to this measure that has been put forward, namely, that only those were selected in the first instance for the Select Committee who probably were expected to sympathise with Dr. Gour's view. He has come to be wiser now and has extended the number proposed for the Select Committee. If he will also withdraw the measure and provide for all the necessary safeguards in his Bill to which allusion has been made, I shall be the first to come forward and support his measure.

Mr. P. P. Ginwala (Burma: Non-European): Sir, when my Honourable friend from Madras (Mr. Rangachariar) asked you whether the House would be committing itself to the principles of the Bill, if it was referred to a Select Committee I understood him to imply that if he was not committing himself to anything at all, he would accept the motion moved by my Honourable friend, Dr. Gour. I do not know whether I am more surprised at the orthodoxy of my Honourable friend from Madras, or at the astuteness with which he has thrown this red herring across the track. As regards his committing himself to the principle of the Bill, what does his objection amount to, unless he means that the House hereafter will not have the power to reject the whole Bill? But this he can scarcely mean because we shall have at least two more occasions on which the Bill will come before the House. After the Select Committee finishes its report, the first occasion will arise when the motion is made that that report be taken into consideration. My Honourable friend can then get up and move its rejection or that it should not be taken into consideration. He can again move its rejection at a later stage—when the Bill after amendment has to be passed by the House. If his arguments are powerful enough he may even then succeed in getting the Bill thrown out.

That being the position, Sir, what is the meaning of this orthodoxy?

12 Noon.

That orthodoxy is ready even to go to this extent that it is unwilling that a minority should have its claims examined in Select Committee; for that is what it really comes to. No doubt, Sir, the previous Bills were thrown out because they were defective, and I am sorry to see that the Honourable Mover of this Resolution, has not, in exactly copying Mr. Basu's Bill, taken sufficient care to get over these same difficulties which were pointed out when that Bill was discussed in Council. Nor does the Bill as it stands take account of the objections that were then raised. But for these reasons are we justified in rejecting it altogether? Supposing the Select Committee was able to provide that all the susceptibilities of the most orthodox Hindus would be safeguarded, that no questions of succession would arise involving any religious rites or ceremonies, that no one would suffer by the provisions of the Bill and at the same time that this minority would be helped—would my Honourable friend still object? He must say that he would if he opposes this Bill at this stage. That, I submit, is carrying orthodoxy to I don't know what extent: it simply amounts to fanaticism of some sort which refuses to a minority the right to get its claims examined.

Now, Sir, coming to the merits, what are his objections? First of all, he takes the religious objection and says: supposing my son goes and marries somebody who is not a Hindu and he brings his wife home and says: 'Papa, this is my wife'. Well, if the papa knows his business, he will say: 'that is your wife, but this is my houst and out you go.' Then my Honourable friend says she will noe

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be able to perform the rites and ceremonies which are required by the Hindu religion. Well, Sir, what does it matter to my Honourable friend? If rites are not observed, if no religious observances are followed, the personal consequences attach to the offender and not to my Honourable friend at all. No doubt his son, by offending against the dictates of his religion, may not go to heaven but that is his business. My Honourable friend, surely, is not going to quarrel with his son because he chooses his own destination after this life, for that is what it really comes to.

Then, Sir, a political objection has been raised. No doubt the Government has so far abstained from taking any active part in questions of this kind, but I submit that by doing so the Government run the same risk as by joining hands with one party or the other. Let me put the question in this form. Supposing those critics of Government who are always bent upon mischief wanted to use this opportunity of creating mischief, is it not possible for them to do so? They will say: 'Look at the Government; here we have been trying our best to bring about unity between the different races of India, to bring about Hindu-Moslem unity; we have been trying to raise the depressed classes and to improve their conditions; but the Government, when we get a chance, a real chance, of fulfilling these objects, interfere from behind with our work of reform.' If people want to create mischief they can create mischief either way, so that I do not think the Government have done wisely by abstaining altogether from taking any part in the passage of this Bill.

There are one or two other points I should like to refer to. I would draw the attention of my Honourable friend from Madras to one particular aspect of the case. Has he examined the Indian Christian Marriage Act? For, if he has, I ask him: has he so much partiality for Christianity that he will allow his son to be legally married to a Christian under that Act, but he will prevent his son from marrying outside his own caste? That is the legal position at the present moment. According to that Act, if one of the parties is a Christian, they can be married under the Civil law before a Registrar. What will my Honourable friend do if a disobedient son were to marry under this Act? He is legally married, and he won't be able to do anything at all. And yet, if his son were to marry another Indian professing the same religion but belonging to another caste, he would raise his voice against the marriage?

Now, let us examine the alternatives. First, immorality; this may be immediately dismissed. Or the parties going to Baroda, Indore or Europe and getting themselves married there. Or, the commission of perjury by the parties declaring that they did not profess any of these religions or in the last resort chartering a ship and getting married outside the territorial limits of India according to English law. Sir, these are the various alternatives, and every one open to objection which a man may adopt to get over the obstacles that we seek to place in his way, or any that even the ingenuity of my Honourable and learned friend can suggest. Therefore, why not take this opportunity which has been offered to us after 10 years of going into the whole question, looking at it from every point of view and devising means by which the Honourable Member's prejudices can be safeguarded while the claims of the minority are looked into.

There is one other point, Sir, and I have done. My Honourable friends in this House and outside have been crying for a Self-governing India. I ask them, does a Self-governing India mean that the minorities, however small they may be, are not at liberty to follow any religion that they like and to marry when they like? Are they not to have any rights? If not, they must confess that they have been talking very loudly about a Self-governing India but that when it comes to a question of principle which puts them to the test, they prove to be utter failures.

Mr. W. M. Hussanally : Sir, I rise to oppose this motion on behalf of the Muhammadans of India. I know, Sir, that my friend, Dr. Gour, has put my name down for the Select Committee in the amended list of names which he suggested just now. In the first instance Dr. Gour did not suggest my name, probably because he knew very well my attitude towards the Bill.

Sir, so far as the Muhammadans of India are concerned, I believe not a single Muhammadan favours this Bill at all, because under the Koranic law they can marry only Muhammadans, Christians or Jews and no one else.

I know, Sir, that the Honourable Mover will tell me, as he has said in his pamphlet, that Mr. Ameer Ali is in favour of marriages outside the Koranic law. But I do not think that any Muhammadan would take Syed Ameer Ali as our law-giver. Our law is settled by the Koran and we can only marry in accordance with the tenets of the Koran and in no other way. Therefore the difficulties, so far as Dr. Gour and his friends are concerned chiefly, those English-returned gentlemen who wish to marry European or Christian wives—do not affect us, Muhammadans. But the consequences of this measure, if passed, will be very far-reaching so far as Muhammadan marriages are concerned. For instance, a disobedient son, as Mr. Ginwala calls him, may go one day and marry a prostitute and bring her into the family. Will that be in accordance with the tastes or inclinations of any parent? On the other hand, Sir, if an unfortunate girl, belonging to a respectable family, takes a fancy to a bearer or a *chamar* or a servant, will that be liked by any parent? I think that if this Bill is passed, it will encourage elopements because, as Indian society stands at present, neither Hindu nor Muhammadan education is far advanced, and young men and women cannot decide under the present circumstances of society and education what is to their good. I understand, Sir, that a law should be for the greatest good of the greatest number; and, may I ask, Sir, if that is aimed at by this measure which has been brought forward by my learned friend, Dr. Gour? He himself admits that this will apply only to a few individuals and perhaps an infinitesimal minority. So far as these gentlemen are concerned, if they wish to renounce the Muhammadan religion they are free to do so and they could then marry any person of their choice. But, Sir, is it right and proper that a Muhammadan should marry against the law of the Koran, and yet insist upon remaining within our fold and the law permit him to do so? That is an impossible situation that a man who calls himself a Mussalman should act directly against the laws of the Koran and yet insist upon remaining a Mussalman.

Mr. N. M. Samarth (Bombay : Nominated Un-Official) : What about Akbar?

Mr. W. M. Hussanally : I was just going to say a few words, Sir, with regard to Akbar. Akbar is said to have married Hindu ladies, but it has been questioned whether he was a Muhammadan. If he was, he was a Royal Prince and an Emperor, and we Mussalmans cannot take him as our law-giver. If he chose to do anything against the principles of the Koran, surely we cannot take him as a law-giver. Our law is settled by the Koran and there it is and we cannot go behind it.

Then, Sir, my friend, Mr. Joshi, said that if a Hindu married outside his caste he should have the remedy of separation and the family should kick him out of their fold, thereby suggesting that a disruption in the family would be brought about by his particular act; Mr. Joshi would thus have a disruption of families rather than keep these young men within bounds. If Baroda and other States have passed a law of this kind enabling anybody to marry anybody, then where is the difficulty? I cannot see any difficulty. Dr. Gour's friends could easily run up to Baroda for a day, get married there and come back the next day into their homes bringing their wives with them. That will solve the difficulty by itself without having recourse to any fresh legislation. Sir, in a matter like this, the Honourable the Home Member tells us that the Government Nominated Official Members, excluding the Members of the Executive Council, are free to vote as they like. I think, Sir, that is not the right attitude which should be adopted by Government. They are nominated by Government, they are officials, and they ought to be neutral in a matter like this along with the Members of Government, because this is purely a case which affects the religion, social customs and manners of the Indians, with which they should have nothing to do.

Then, Sir, one more request that I would make in connection with this matter is, that this proposition be split up into two. First of all, whether this measure should be referred to a Select Committee at all; and, if that is carried, then, the names of the Committee ought to be proposed. I do not know whether you are going to permit the Honourable Mover to add the names that he has now proposed to the list already sent in by him. If not, there is my amendment and another amendment of my friend, Khan Babadur Muhammad Ismail, which has to be proposed instead. Therefore, the best course would be, first of all, to put the motion that the Bill be referred to a Select Committee; and, if it is carried, then the names ought to be proposed.

Mr. Pyari Lal (Meerut Division : Non-Muhammadan Rural) : Unfortunately, Sir, I have also to oppose this Bill. Whatever my own personal opinions in the matter may be, I feel it my duty to voice forth the views of my constituency on this subject. All the different communities and classes of persons that I have come across look upon this measure with dismay. They consider that a measure like this will disintegrate the whole of our social organism as it exists to-day and that it will take away the peace of our homes in villages and towns. The fierce light of the West is beating already very strongly against our cherished institutions, but this might prove to be the proverbial last straw. The reasons advanced by Sir James Stephen in 1868 as regards a measure like this still hold good. The religious feelings and social instincts of the people have not come to that pitch yet when a measure like this could be well put through.

Marriage, as has been observed by Mr. Rangachariar, is a sacrament amongst Hindus, and it has been a potent factor in preserving our

individuality as a community hitherto, and Dr. Gour, and people of his way of thinking, should not cut at the root of this cherished institution. I know the Bill is an enabling one only, and not compulsory, but, knowing as I do the prejudices and the radical views of our young men to-day, it will be no less than a calamity if the younger generation are allowed to have their way and send their parents and elders to an early grave. All reforms must grow and not be manufactured as hot-house plants. First, let us have inter-marriages amongst the members of the same caste and its various divisions, and then it will be time enough to extend the reform to the whole community and to all other castes; and then, last of all, to all the religions of the world. You will require at least 50 years to educate the people to this pitch at the present rate of progress amongst us. Some gentlemen have alluded to the existence of such a law in Baroda and Indore. With all respect to those States, I submit that any social rules passed by a handful of people cannot be accepted by people in British India, for we know that the State Council in Indore consists of half a dozen State officials, and if they choose to pass a law for the whole of that State, I do not think it will hold good, particularly for British India, and I do not think it will be obeyed or respected, and, as has been suggested by the last speaker, I think the best thing for those young men, who are so very anxious to be free and take liberty with their institutions, will be to go and live and get married in Indore itself. I doubt very much whether they will be legally entitled to possess the same status here as in that State. Anyhow, on behalf of the Hindu community, I strongly oppose this Bill.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhammadan Urban) : Sir, had it not been for the abnormal political conditions in the country to-day, this motion of my Honourable friend, Dr. Gour, would have excited considerable interest in the country. I am in sympathy with Dr. Gour's motion, but not for his reasons. I am afraid Dr. Gour has made a tactical blunder in delivering a frontal attack on orthodox Hindus, and he need not be surprised if orthodox Hindus are up in arms against him.

Sir, it has been said by the last speaker that 'young men want this measure. I hope he will not consider me young, but I also want this measure to be passed. Might I tell him that not only I, but men much older than myself, are in favour of the motion that this anomaly should be removed and that this reform should be brought about as soon as possible. Sir, might I be permitted to say that I am an orthodox Hindu, and I do hold that the most precious possession of Hindus is their religion. I should be sorry, I should resist, with all the strength I possess, any inroads into Hindu religion. But, Sir, let me tell my friends, with all respect, that to always cry 'religion in danger', is a great mistake. To oppose all reform in the name of religion is really to retard the progress of our own community. What is Hinduism is a question which has been put. I must confess, Sir, at once that it is difficult to give a definition which will be acceptable to people of all shades of opinion in the Hindu community. The Hindu community comprises within its fold a *Sanyasi*, who rises above the considerations of Mine and Thine, and, at the same time, it comprises within its fold a man who worships a stone and who worships a tree. Both are called Hindus, both would fight if you said that they did not belong to this fold. One Honourable Member has tried to give a definition that Hinduism consists in the belief of the law of *Karma* and in the law of the

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transmigration of soul. I submit, Sir, that if he will kindly take into account the various sections of Hindus, not only in one part of the country, but all over, he will find that this definition will not hold good. Sir, it has been said, and it has been said with great force, especially by my Honourable friend from Madras, that these changes the Hindu society cannot accept. Might I tell him that the one reason why Hindu society and the Hindu community have withstood the inroads of ages is the reason that the Hindu society and community, from time to time, have been changing themselves in order to adapt themselves to their changed environments. If the environments change and if you remain unchanged, the result is nothing, but destruction and annihilation. Look at the history of the Hindu community itself. Can you say whether our institutions and customs have remained unaltered, unchanged, unmoved and immovable from times of yore? Look at the book of the Hindu law which I have got in front of me. Custom after custom has come and gone, and it is, I say with great respect, a mistake to suppose that the custom of marriage which we find amongst us to-day is the custom which was with our ancestors, which is hidden from view and about which perhaps there is no recorded history. I say to my Honourable friends; let us not make this system so inelastic, so immovable, that they might break under the strain of changed and changing conditions. Sir, take the actual facts as you find them. There has been a great deal of fling at England-returned people. Sir, happily for myself, my dream of going to England has not been realised, and I hope my friends will not accuse me of being an England-returned Hindu myself. May I cite to them the instance of Nepal, which cannot be said to be under the influence very much of English civilization? What do you find in Nepal? Even to-day a Brahmin can marry a Kshatriya, a Brahmin can marry a Sudra. What have our friends got to say to that? Go to Nepal to-day and you will find a Brahmin who has got a Kshatriya wife. What is that now? It is allowed, it is recognised. Was there any such institution before us, any such custom amongst us in times gone by? If we look carefully into the history of the Hindu community, we find that there were customs like these amongst us before.

Sir, about the changes that are coming into Hindu society, I shall ask my friends to remember the days when a man who went to England was outcasted, every door was banged against him, and he was looked upon as a veritable pariah. What is the condition to-day? People go to England, and when they come back, no objection is raised against them. In fact, you find Association after Association calling upon the community to encourage foreign travel. I am old enough to remember all the subtle, metaphysical, religious arguments that used to be advanced in those days against men who had been abroad, had taken forbidden food, and had lived in forbidden company, coming back and taking part in our religious ceremonies. What is the condition to-day? Men who go to England and come back become respected members of society. You find people going to Railway stations to offer them welcome. You find—and Members of the Government of India will bear testimony to this—appeals, pressing appeals, for scholarships to enable deserving Hindus to go to England. Their parents, their guardians and their relations, all press—I suppose more particularly my Honourable friend, Sir Muhammad Shafi that scholarships should be given to their young hopefuls in order that they might qualify themselves for some of the higher examinations

in England. Whenever a reform, a much needed reform, a relief is asked for, there are some people amongst us, for whom I have great respect, and against whom I do not wish to say a word either in anger or in resentment, who are in the habit of shouting from the house tops 'Religion in danger'. Some time after, their opposition vanishes, and, from being opponents of that particular change, they come to be its warm friends and supporters. Sir, what is the condition to-day? We have been told, especially by elderly gentlemen, of the need for keeping our young men under control. As a father myself, I should like to have all my children under my thumb. But such is the sin of this *Kali Yuga* that youngsters receive education and then decline to be ordered about by their elders. If people are anxious to keep their paternal authority intact, let them go up to Sir Muhammad Shafi and ask him to use his influence with the Government of India to abolish all schools and colleges, so that these young people may remain under the perpetual domination of their parents. But, Sir, having seen this spirit of rebellion, having discovered this spirit of insubordination, such is our foolhardiness that we have started giving education to our girls. Had it not been a provincial subject, Sir Muhammad Shafi would have found it very difficult to satisfy our demands for more girls' schools and girls' colleges throughout the country. If this is going on, I ask you whether you believe that you will be able to dictate to your daughters: 'you shall not marry against my orders. Your choice will depend on my will.' Of course these girl graduates will not be false to their tradition, to their home influence and to the entire civilisation to which they belong. But let me say quite distinctly that we have to revise our notions about paternal authority, and the sooner we do it the better. What is the position then? Our young men are being educated, our young women are being educated. If you keep intact all these bars, the result is that if they want to marry, they will go out of the pale of Hindu society. I ask these Honourable Members: 'Is Hindu society to retain the policy of exclusion or is the policy of inclusion to be the watchword of Hindu society in times to come?' A man goes to England. Let him be outcasted. A Brahmin marries a Kshatriya. Let him be outcasted. Are we to continue our caste scruples or are we to make such modifications in our customs and manners as to suit the changed condition of things? Sir, we are told about marriage being a sacrament. I can assure my Honourable friend, Mr. Rangachariar, that I do not yield even to him in my great respect and admiration for the institution of marriage that we find prevailing amongst us. It will be a very unfortunate day indeed if we change that institution. But I ask him: 'Is it something outrageous that a man should wish to marry according to his own ideas and according to his own tastes? Let Hindu Society say: If you marry, you go out of your caste; you should not expect any social relations with others. But I ask you, in the name of fairness, not to call his children, children born of lawful wedlock, bastards in the eye of law. What you say is this: 'If you want to marry a European, become a Christian; if you want to marry a Muhammadan, become a Muhammadan; but if you remain a Hindu, then we shall deny you the wish of your heart.' My Honourable friend asks: 'How many people want it?' It is true, and I am free to confess it, that a great many people are not clamouring for this reform. But there is most certainly a minority, a minority which is increasing every day, and is it right that you, who are in the majority, should withhold from the minority the relief that I submit it is most clearly entitled to? I, therefore, submit, Sir,

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that in the name of Hindu religion itself it is necessary that some relief should be given to Hindus in the matter of religion. I agree with my Honourable friend, Professor Shahani, that this Bill will have to be very carefully looked into and many modifications will have to be introduced. But I do earnestly beg the Honourable Members present here not to throw out this Bill at this stage. Let them meet, let them consider, let them introduce as many modifications as they please, but let them not deprive themselves of the chance of considering a very important question at this stage.

Mr. S. C. Shahani: How are we to ensure modifications being introduced?

Munshi Iswar Saran: I should have thought that it was open to the Select Committee, if I am not mistaken, to introduce such modifications in the provisions of the Bill as commended it to the Members of the Select Committee itself.

Sir, one word more, and I have done. As a Hindu, I cannot presume to speak either about Muhammadans or Christians, but I wish certainly to speak about the Hindus. Hindu society, I sincerely hope and trust, is not to be in future the kind of society that it was in the past. Look at the thousands and tens of thousands of Hindus who are going to various colonies. Look at the people who are going to foreign countries. Look at those Hindus, who are settling in other countries. I submit that if you take into consideration all these changed conditions, for the preservation of the Hindu society itself, it is necessary that you should introduce some change in the marriage laws as they exist to-day. I shall only once more appeal to my Honourable colleagues here not to throw out this Bill at this stage. Let them introduce as many modifications as they please. Let them make the Bill as modest as they wish it to be, but to throw the Bill out at this stage would be wrong, and they would be depriving this Assembly of the final chance of expressing its opinion on the Bill as it will emerge from the Select Committee.

Rai Bahadur Pandit J. L. Bhargava (Ambala Division: Non-Muhamadan): Sir, when I was asked this morning by Dr. Gour whether I was willing to have my name added to the Select Committee which he was going to propose, I expressed my opinion that I was opposed to the Bill. But, on his pointing out to me that his desire was that Members of all shades of opinion should constitute the Committee, so that the Bill might be discussed in all its aspects there, I gave my consent to serve on the Committee. But now, as your ruling is that the adoption of this motion would be tantamount to the acceptance of the principle of the Bill, I think I must express my opposition to the Bill, itself. I need not reiterate the grounds which have been given by Rao Bahadur T. Rangachariar, but it will be sufficient to say that he has given very cogent and sound reasons, that are convincing to anyone who cares to be convinced. It will be found that general Hindu public opinion is against this Bill, as the Hindu religion looks upon marriage not as a civil contract but as a sacrament, and an indissoluble tie between husband and wife. Mr. Joshi remarked that there were cases of suits between husband and wife for a judicial separation. I wish to point out that amongst Hindus no suit is entertainable for the dissolution of such a tie. Any encroachment or inroad on the institution of marriage in the way contemplated by the Bill is

bound, in spite of the wise and discreet attitude of Government, to create resentment and give rise to misgivings in the mind of a large section of the people, Hindu and Muhammadan, which, I should say, should be scrupulously avoided, as far as possible, in these days of political excitement. Besides, this Bill, if passed into law, is sure to create complications on questions of succession, and very difficult questions will arise which it will not be easy to solve. Taking all the circumstances into consideration, I would suggest that the Assembly would be acting wisely in not accepting this motion.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, representing as I do a class of the Hindu community, I should like to place before this Assembly my views on the subject now before it: and I will say at once that I stand up with a view to oppose this Bill with all my heart. I have given Dr. Gour my reasons for my attitude, but I should like that the Assembly should also know something about them before coming to a conclusion on the point. Now, Sir, various things have been suggested in the course of the debate, and various propositions have been placed before this Assembly. Now, the first point that strikes me is, what should be the attitude of Government in a matter of this kind? It has been conceded that the Bill does not come from the general mass of the Hindu or Muhammadan population,—that it has emanated, if not from an individual Member of the House, at most from a class which represents, as the Honourable Mover himself admits, a very very small minority, indeed, of the community. The House knows very well that there are various Acts of Parliament which forbid the Indian Legislature, among other matters, to enact laws which interfere with matters of succession, etc., according to the Hindu and Muhammadan religious systems. The effect of a Bill like the present, however, would be to interfere with various matters which, I may say, were kept out of the operation of the Indian Legislature, obviously, for good reasons. This Assembly, as the House knows, does not represent the great mass of the people. The House cannot forget that there are people, literate or illiterate, who in large numbers still choose to be governed by the Hindu faith, having their faith in the principles of their *Shastras* as also a vast number of Mussalmans who have a firm faith in the injunctions of the Koran. Now, these are not generally speaking the vocal sections of the community: and the first question that presented itself to me was, have we the right, constituted as we are, to come forward with a Bill of this kind, forcing the will of the small minority upon the vast majority? Are we so vain as to think that we have outgrown all the forms of our religion which are observed by the great mass of the people? Have we the right to impose our will upon them? That is the question which we ought to consider. Then, Sir, reference has been made to the excited condition of the country at the present moment. The Assembly knows that there are lots of people who are simply waiting for an opportunity to pounce upon this Assembly, to pounce upon the reforms, and to take them to pieces. They say, you do not represent the people, you do not represent even the great men, the leaders who now pose as the leaders of non-co-operation; they say, you do not represent the great mass of the people. Now, in the Assembly constituted as it is, if a Bill of the character now before it, be passed now, that in all likelihood will give another handle to persons of the intransigent and hostile kind, and they are sure to use it as an argument against the Government, against the legislature, and against the entire system of administration. Therefore, I submit, that inasmuch as the Government had the power to oppose this Bill by not allowing it to be introduced, especially in

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these troublous times, they should have used that power. Of course, we are grateful to Government for the attitude they have adopted, still I think it would have been better if this Bill had been kept out of the Assembly at the very outset of its career. Then, Sir, as to the question of the oppression of the minority, of course, people who have no settled convictions of their own as regards the essential principles of the Hindu faith will not find much difficulty in driving a coach and four through the Hindu system of social laws, or their religious sentiments and things of that kind. But those who have some conviction will certainly stop to think over the effect that a Bill of this kind will produce upon the community itself. If the matter of the Bill stood as a detached question, and if the Bill did not in its operation affect the constitution of the Hindu, Muhammadan and other communities things would be different. I have no right to speak, however, about the Muhammadan community, because I know very little about Muhammadan sentiment and about Muhammadan canonical laws. But I know it for a fact that there have been many meetings of the orthodox Hindu community all over the country protesting against the Bill. Copies of the proceedings of some of these meetings have been forwarded to me—I hold some of them in my hand as for instance those from Benares and from Calcutta. In Delhi itself there has been one or more meetings and the persons concerned have sent me copies of their Resolutions also, and all of them look upon this Bill with deep concern, and are frightened at its possible consequences. It is certainly not a question of the minority being prevented from proceeding along its old line of action if the Bill be not passed into law. Such a supposition would be an evident mistake, because the Civil Marriage Act (III of 1872), as it stands, gives complete liberty of action to those who wish to marry just as they like. There is therefore no question of oppression at all. It is a misconception to think that the minority have been prevented by the existing law from marrying according to their choice; the only thing they have been asked to do by the present Act is that they should cease to call themselves Hindus, and cease to come under the operation of the Hindu Law, as regards succession, divorce, and certain other matters before they can marry under the Act. In that direction only some necessary restrictions have been imposed upon them, for obvious reasons. Those reasons were stated when Act III of 1872 was passed; they have also been given out from time to time from the official benches in this House as well as from the side of the non-officials whenever this subject of inter-communal civil marriage was brought up for consideration before it. The reason is that social laws and customs are the growth of centuries, and they are a natural growth. In order that a custom or a social law of this kind may be changed, the movement for the change must come from within, and not from without. In other words, in affecting a change in the social laws of a community, the major portion of the community, governed by such laws must come forward and signify expressly or by implication, their assent to, and agreement with the new law which is proposed to be made. That is the point. By the present Bill, it is proposed to introduce principles which are entirely different from those upon which Hindu Law is based. Must we not therefore consider the feelings of the great mass of the people in the matter? Because for certain reasons of our own, we happen to entertain certain views—we may call them advanced views—have we a right to thrust our opinions by force on the mass of the people, and compel them to see things exactly as we see them? It must not be forgotten that if the law of the Bill be passed, it will be Hindu or Muhammadan Law, affecting all Hindus alike.

whether reformed or unreformed : all Muhammadans alike, whether reformed or unreformed. As to whether the Koran can be changed or not by statute law, I am told by my Honourable colleague on my right that it cannot be so changed. Such is the mental attitude of the great mass of the people towards their religious ordinances and the social customs with which they are intertwined. The question has been asked in this House, 'Well, will custom never be changed?' My reply is that that is not the point. All authorities on Hindu Law say, yes there must be change; but the change must be slow so that it must have time to adjust itself to environments, so that there may be no sudden disruption or evolution in the growth of custom : the change must be evolutionary, and not revolutionary. That is what we must not forget. Therefore if the time ever comes when the great masses of the people are prepared to accept certain new rules in course of time, as part of their customary law, and offer their allegiance thereto, the change will certainly come about. There is no question that this is how all customary law has grown, and at times subsequently figured as written law. These are the processes, by which the entire civilized world, or for the matter of that, the uncivilized world also has got on. Therefore, Sir, my submission is that there is no question of oppression of the minority in the present case at all. There are, however, practical difficulties which arise in a case of this kind resulting from the conduct of the minority in its bearing upon the majority. But no question of a humanitarian character comes up for consideration at all. A man can marry anybody he likes under the Civil Marriage Act. All that he has got to say in such cases is that he is neither a Hindu, nor a Muhammadan, nor a Buddhist, nor a Sikh, nor a Jain : that is to say, that he does not own allegiance to the body of the communal laws by which those particular religious bodies are governed, so that he may not attract the operation of those laws to himself. That is all he has got to do, to be able to act freely in the matter of his marriage, and it is not very much, if his religious convictions do not stand in his way. The next question which crops up is, is marriage an institution which vitally affects the constitution of the Hindu family ?

The answer is that it is. I will confine myself to the Hindu community for the present. Is the institution of marriage of such vital importance to the family and the community so vitally associated with them, and interdependent with each other that it cannot be detached from the great body of the communal rules by which Hindu society is governed, and does it go to the very root of Hindu social life ?

My Honourable friend, Mr. Shahanī, in defining Hinduism in answer to a challenge, has been kind enough to enunciate some of the distinguishing principles of the Hindu faith upon which Hindu communal life is based. He has referred to two such principles, *viz.*, the law of *Karma* and the transmigration of the soul. Of course, every community tries to do its best for itself, both from the moral as well as from the physical and other points of view. A Hindu wants to build up his society on the basis of his religious conceptions. It has what we may call a religious constitution; he wants to leave every strata of his community with his particular religious beliefs and sentiments. He believes in the transmigration of the soul and in the law of *Karma* : that is to say, he believes that through these processes of the law, the human soul gradually rises to a higher and higher status, and he tried to organize his community keeping in view these primary conceptions. Now, having regard to this fundamental

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conception of the Hindu mind, and primary idea of Hindu society being a culture helpful towards such an end, the whole point is whether a mere contractual marriage which has no reference to any allegiance to the common central conceptions of the Hindu religion itself, can be said to be of a non-essential and separate character. The Honourable Mover of this Bill is quite at liberty, so far as he himself and persons of his way of thinking are concerned, to do just as he likes, but why should he be anxious to inflict, by reason of his own personal views on the matter, and by legalizing conduct of a type incompatible with the central conceptions of Hindu social life, a change in the body of the law—Hindu Law? That is the question which people professing the orthodox faith do not understand. I need not say that it has been decided by the highest court, the Privy Council, that before a man can take advantage of Act III of 1872, the Civil Marriage Act, he must give up his allegiance to one or other of the religions which are mentioned in the Act: that is to say, he must deny that he is a Hindu, a Muhammadan, a Sikh, a Christian, a Jain or a Parsee: that is the list in the Act, so far as I can recollect. The House will now understand what will be the effect of this Bill upon the constitution of Hindu society itself. I do not think I need labour the point any further. It will be enough for my purposes if I refer to the questions that incidentally arise under Act III of 1872, in its relation to the Bill. The question of succession according to that Act, is governed by the Indian Succession Act. Succession under the Hindu Law, however, is governed by laws of its own making. Muhammadan Law of Succession is similarly governed by

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Muhammadan Law. Now what will be the position? If a man being a Hindu, a Muhammadan, a Parsee or a Christian marries under this Act, it cannot be said that the question of succession in such circumstances is a mere side-issue, which can be considered by a Select Committee and the necessary changes introduced in that behalf by that body in course of its deliberations. It is not so. The question of succession is a fundamental question. A change of such a character in the law means that the whole body of Hindu Law has to be changed. The Hindu Law of Succession, it is true at the same time, is somewhat different in different parts of India—it is regulated on the Bombay side, for instance, by the *Mayukha* School, in Bengal by the *Dayabhaga* School of law and so forth;—the whole of that will have to be changed. Now can any Member of this House think that the consideration of a question like this comes rightly within the scope of the functions of a Select Committee? Or is not such a question a fundamental question which has to be given the widest publicity, considered by the entire body of the public going to be affected by it and then and then only a decision on it should be arrived at? I leave it to the House to form its own conclusions on this point.

Similarly, we may take up the question of divorce. Dr. Gour's Bill does not touch that question at all. Hindu Law does not recognise divorce. Muhammadan Law has a divorce law of its own. Now is it the Indian Divorce Act which will operate in the case of Muhammadans if the Bill be passed? Surely Muhammadans will repudiate any such suggestion. That is also a very fundamental question, I should say. That is certainly not a question which ought to be considered by Committees and decided by them in a hole and corner fashion. The House will now be in a position to understand to some extent, at any rate, the gravity of the situation. It is not to

be faced lightly. Constituted as the Assembly is, does it take upon itself the responsibility of changing the law of the orthodox communities of the country without knowing what particular views the great masses of the people have on this point? Now, the House knows that when a Bill is circulated for opinion, only registered associations, prominent political bodies, and other similar associations are alone approached by Government. These are the vocal sections of the community. Other social units which are not organised in a similar manner or which are not important enough to attract the notice of Government as also religious bodies, etc., are never consulted at all. Their views, I suppose, do not reach this Assembly or the Government in the way they ought to. So that any attempt to come to a conclusion on the subject upon the opinion that is already to hand, will not, I submit, be a wise thing to do. And even the opinions which have been collected so far, are not all on one side. That opinion is certainly divided. It is said that the division is not so well marked as it was when Mr. Patel's Bill was introduced, or when Mr. Bhupendra Nath Basu's Bill was introduced, on the subject. There may be many reasons for that. One reason has been given by some Honourable Members of this House, namely, that the country is so agitated by political feeling at the present moment, that the public are not in a position properly to examine the effect of the Bill or inclined at the moment to ventilate their views upon a question like this. But even then the divergence as it is, in the opinions so far collected by Government, cannot be very lightly ignored. The point, therefore, at the present moment is not that all these questions as to succession, etc., are going to be considered afterwards in Select Committee, but whether we should waste so much time unnecessarily by asking a Select Committee to go into these questions incidentally. There are many Members here who hold that the Bill ought not to go to a Select Committee at all. We wanted to press this view at the very outset when the Bill was introduced, but the ruling of the Chair was that that was not the time when all these matters could be gone into, and that these might be gone into at a later stage of the Bill. Let us consider how this Assembly is constituted? We have in it representatives from various communities—Hindus, Muhammadans, Parsees, Christians and so forth, who, by a majority of votes will decide the fate of the Bill, and not Hindus alone to decide the Hindu aspect of the question, Muhammadans alone for the Muhammadan side of the question and so forth. Now what is going to happen is that this Assembly without any move on the part of the great masses of the people—this Assembly, constituted of Members of different communities, of whom the Hindu forms only a small fraction—such an Assembly is going to effect changes in Hindu religion and communal laws, so far as the Hindu community is concerned, when the initiative in the matter has been taken by an individual member, not particularly obsessed by the Hindu conception of things in the manner in which we know it has been taken. It would be the height of absurdity for a body composed as the Legislative Assembly is, to decide on a quasi-religious question like the present from the different communal points of view. So that, if the House considers all these points carefully it will do well to stop the further progress of the Bill at the present stage, and not to allow it to go at all to the Select Committee. With these observations, Sir, I oppose the motion for reference of the present Bill to a Select Committee.

Kai D. C. Barua Bahadur (Assam Valley : Non-Muhammadan) :
 Sir, I am glad—and I am very thankful to the Mover—that this Bill was

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introduced in the last Delhi Session. For the matter of that, I had occasion to consult some sections of my constituency as to what opinion or what vote I should record in connection with this Bill. I found that most of them were opposed to the Bill. We have come to this Assembly, Sir, to record not our own individual views but the views of our constituencies. So I beg to submit that when I vote for my constituency, I must, I am in duty bound and compelled to, vote against the introduction of this Bill. Personally speaking, I am also opposed to it, because as far as I can see, the debate has been confined to the Hindu point of view, although there was one gentleman from the Muhammadan community who opposed the Bill. He is the only person so far who represents his community from whom we have found that his community is opposed to it. The various other speakers who have so far spoken have confined themselves mainly to questions of Hindu Law. Now here, in this matter, we have not come to record our views or to make alterations in the law with regard to Hindus alone, nor have we come to vote for Hindus alone. We have come here to vote for all-India, and although I am a Hindu or returned by a Hindu or non-Muhammadan constituency, it is my duty to vote for the whole people of India, and to look to the greatest good of the greatest number. Considering the Bill, therefore, from that point of view also, I find that we should not make any amendment in the law or any alteration in the law which would only affect the Hindus. Now, even supposing that it should be confined to Hindus alone, we find that marriage is after all a sacrament, and if the nature of the law is changed, then the Hindu religion, and Hindu society, will be transformed. It is not something in the nature of an evolution in Hindu society, but rather a revolution which is proposed in Hindu society, for which none of us are here.

At the same time, Sir, I beg to submit that if this change in society is brought about, the society will be landed in chaos and anarchy; there will be enticements and elopements, from time to time, amongst the young people of both sexes and that will lead to rioting and sometimes even to murder. We can ill-afford to spare for such a contingency. The country is already full of turmoils, and, if we introduce this reform, it will be adding another instalment to the elements of destruction. I notice that some Members advocated that in Hindu society Brahmins are allowed to marry Kshatriyas or Vaisyas or even Sudras. Of course these are not new things for Hindu society; they are relics of an ancient civilisation, even now practised without much detriment to society. But a Sudra is not allowed to marry a Brahmin lady; so, if a Sudra goes to marry or take away or entice away a Brahmin girl to-morrow, there will be regular disturbance, rioting and even murders, and there will be a disturbance in society. From that point of view, I think, the Executive Government of India should not turn a deaf ear to the proposed reform in this law; because they are interested at least in the observance and continuance of peace and order. At least this is not a proper time when this reform should be introduced, because only a minority, an educated minority, is interested in it. The country is not prepared for the reform; the bulk of the population is not for it; rather there will be disturbances, as I have already submitted, of a criminal nature, and there will be feuds between different tribes and different villages and different sections of the community; and so considering all these things, it is not desirable that this reform should be

introduced at this time. On this consideration and on other considerations also, I beg to oppose this motion.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I take as much pride in calling myself a Hindu as either of my Honourable friends, Mr. Rangachariar or Mr. Jogendra Nath Mukherjee, and I may say also that I am as keen on preserving the purity of Brahminical blood which runs in my veins and which would run in the veins of my children as any Member of this House; but I say this much, that we here profess to be very democratic in our politics and we are much more so outside, but when it comes to a question of individual liberty we are all very autocratic. I shall show in a few words that Hindu society has nothing to apprehend from a Bill of this kind or legislation on these lines. It is meant for the protection of a minority and it does not, and will not, trench upon the Hindu religion or Hindu social custom in any way. There is a good deal of misapprehension in the minds of even my lawyer friends in this respect. What the Bill proposes is only that Hindu dissenters should be allowed to marry as they like. There is no question of inheritance or succession involved; and I am sorry that my friends, Mr. Rangachariar and Mr. J. N. Mukherjee, who are much abler lawyers than myself, have gone absolutely wrong in bringing in questions of succession in connection with the Bill. They are aware that the Act called the *Lex Loci Act*, an Act of 1850, which is, in other words, called the Freedom of Religions Act, grants a guarantee that no person shall be deprived of his right or property by reason of any change of faith or religion. That would settle the question of succession of dissenters from the Hindu religion, and I need only remind them of the recent Privy Council decision in Khunni Lal's case. The Privy Council, only a few years ago, decided that a renegade from Hindu society, in this case a Muhammadan, had a claim on the property of a Hindu ancestor. The Privy Council decided that as a reversioner, although he had become a Muhammadan and although his descendants were Muhammadans, he was entitled to succeed according to the *Mitakshara Law*. That is the law to-day. A Hindu may adopt the Christian religion or the Muhammadan religion and after his conversion, not only he but his children are entitled to inherit property in accordance with the *Dayabhaga Law* or to succeed if he belongs to the *Mitakshara School*. This decision is based on the interpretation of the provisions of the Freedom of Religions Act which first came into existence in the year 1832 and which was re-enacted in the year 1850. It has settled that question for good and it is too late in the day to quibble over it now. As there has been a lot of random talk in connection with this Bill, I mention these facts to correct my friends' misapprehensions.

Now I must also say that the position taken up by my Hindu friends is contrary to the spirit and culture of the Hindu nation and Hindu religion. One of the most valued and prized principles of Hinduism is absolute toleration, and we find that the spirit in which my Hindu friends are opposing this Bill which seeks to secure individual liberty to certain persons is absolute intolerance. If we go back to the history of our *Shastras*, we find that both *Manu* and *Yajnavalkya* allowed such marriages, and it is because these marriages were permissible that all the different castes in India have grown up. Now the reason why the practice is discontinued in this country is this. With the advent of the British in this country, the Judges were timid in administering the law as was to be found in the *Shastras* of which they knew

[Mr. J. Chaudhuri.]

nothing. They took to interpreting it according to the advice of some Brahmin Pundits, and the doctrine that custom overrules the law has thus come into existence and that is why the Judges have been always reluctant now-a-days to interpret the law according to the *Shastras*. Now what is the law? It is this. There is no bar with regard to inter-marriages between the sub-castes of the same caste. Only there is a bar with regard to inter-marriages between the Brahmin and the other *Dwijas*, that is, the twice-born, such as the Kshatriyas, the Vaishyas and the Sudras. The present law is that the Brahmins of all sects may marry amongst themselves. So may the Kshatriyas and Vaishyas. Barring the *Dwijas* or twice-born castes, all are classed as Sudras, and all sub-castes of Sudras may inter-marry among themselves. The High Courts in India have so held and the Judicial Committee of the Privy Council has decided accordingly. Now the necessity for this legislation arises in this way. If a Hindu wants to go outside his community and marry and still call himself a Hindu, there is no reason why the Hindus should object to it. They have every right to ostracise him, and deny him the privilege of social intercourse. If a man goes outside the Brahmin community and marries a non-Brahmin, a Brahmin is quite at liberty to ostracise him socially; but why should he trench upon his individual liberty to marry a woman of a different caste if he chooses?

Now it has been said that Government should be absolutely neutral with regard to this matter, or rather that they ought to interfere in the matter and in no way lend their support to this Bill. But I maintain that it is the duty of Government to protect the minorities. It will be quite consistent with their policy of religious toleration. What is happening now is, that influential communities are coercing individuals or smaller communities and preventing them from exercising their obvious right of individual liberty. If a man wishes to go outside his own community and marry, the members of the community to which he belonged are at liberty to ostracise him from his own community, but why should the State come in and coerce him? When you have sent him out of your own society, he is an outsider, and so there is no reason why, when a man marries a woman of a different community solemnly, the State should visit him with the greatest civil punishment, namely, that the woman whom he has solemnly taken as his wife before God and man should not be declared as his lawful wife, and, what is worse, that the children born of such parents should not be recognised as legitimate. I think it would be the worst form of intolerance on the part of Government not to protect the honour, the status, the rights and liberties of such men, women and children.

Now, Sir, I shall say only one word with regard to custom. Custom is a very vague term. How can a custom grow up unless the State or the law courts or the community at a large are prepared to help individuals in exercising their own individual liberty in such matters? If this is made legal, then custom will grow up, and we have such instances in Bengal. What has happened in recent times? I am not referring to ancient times. Our friends are surely aware of the very important class of dissenters known as Vaishnavas? Chaitanya, who was the founder of the Vaishnava cult, was himself a Brahmin. These Vaishnavas have their own system of marriage. Within the last 300 years that custom has grown up, and they have always been recognised as Hindus.

It is, therefore, a matter of great surprise, and no less regret, to me that such a spirit of intolerance should prevail amongst a section of our community who profess advanced political views. I would appeal to them to withdraw their unreasoned opposition. I maintain that it is the duty of the Legislature, reformed as it is now styled, to allow dissenters every liberty of action according to their own principles which are in no way inconsistent with public morals. If this sort of legislation is blocked, the result will be to bar all legitimate reform in the society. I therefore support the principle of the Bill, and I consider it but fair that this Assembly of educated and cultured representatives of the country who are anxious to advance the political progress should also show some toleration

Mr. W. M. Hussanally : I am not tolerant.

Mr. J. Chaudhuri : To those who differ from their views. My friend Mr. Hussanally says that he is not tolerant. If he is not tolerant, I do not take any account of his views. With regard to such Muhammadan opposition, I would say only one word, and that is, that we have in tolerant Mr. Hussanally on the one side, but we have the Right Honourable Mr. Ameer Ali on the other who is admittedly opposed to his views. Besides that we have the outstanding fact that not only did Akbar marry a Hindu Princess but that, three of his greatest descendants, the Mogul Emperors of India, namely, Jehangir, Shah Jehan, and Aurangzeb, all of them had Hindu mothers and Hindu blood in their veins. So it is too late in the day to say that the union between Hindus and Muhammadans is unlawful or prohibited by the Koran. With these remarks, I support the motion that this Bill be referred to a Select Committee.

Mr. President : I think that there are some more speeches to be made and there is the Mover's right of reply. It will therefore be best to take the adjournment now for one hour.

Mr. B. A. Spence (Bombay : European) : May I ask for a point of information, Sir? Will the adjournment of the House take place to-day at the ordinary time, *viz.*, 4 O'clock, or in view of the length of time that this particular Bill has taken, will an opportunity be given for the discussion of the other Bills after 4 O'clock? I ask you for this information, Sir, because we should know when to order our conveyances. If we are to get through the business, we shall probably have to sit after 4 O'clock. If we are to adjourn at 4 O'clock, we shall probably not get beyond the second Bill on this programme.

Mr. President : So far as my information goes, this is the only substantial controversial item in the List of Business. I am not sure whether, when we come to the motion standing in the name of the Honourable Member from Bengal (Maulvi Abul Kasem), we shall not hear from him that he proposes to take a course which will raise no controversy, and, therefore, I imagine that we shall be able to rise at 4 O'clock, if not before it.

Mr. Abul Kasem (Dacca Division : Muhammadan Rural) : Sir, I will have to ask for permission to postpone the consideration of the motion standing in my name.

Mr. President: Just as I thought.

MESSAGE FROM THE COUNCIL OF STATE.

Mr. President: A Message has been received from the Council of State which the Secretary will now read.

Secretary of the Assembly: Sir, I have received the following Message from the Secretary of the Council of State:

'Sir, I am directed to inform you that the draft Address of Welcome to His Royal Highness the Prince of Wales, as drafted by the Committee appointed by Resolution of both Chambers in September last was approved and adopted by the Council of State at its meeting of the 17th of January.'

Mr. President: This House now stands adjourned till Twenty Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Three of the Clock. Mr. President was in the Chair.

THE CIVIL MARRIAGE (AMENDMENT) BILL.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): Sir, I support the motion that the Bill should go before a Select Committee, and, by doing so, I believe I surprise a number of my friends. But I take my stand on history. India was not the home of Islam. The Mussalman invaders, Afghans, Turkomans, Arabs and Mughals came to this land and did not bring their wives with them. They found their wives here among the Hindus. The present-day Mussalmans mostly are children of fathers and mothers born of such wedlocks. If these marriages were not proper, as one of my friends has said, then what is the position of the Mussalmans in India at the present day? Are they all born of illegitimate fathers and mothers? Certainly not. As such marriages have taken place before, they may take place as well now. Hence I support the Bill wholeheartedly, as to do otherwise means to question the legitimacy of a large number of Mussalmans. Not only during the time of the three chief Mughal Emperors, Akbar, Jehangir and Shah Jahan, did such marriages take place, but such marriages used to take place long before those times among the Mussalman population. It was only during the times of those Emperors that the Moslem Royalty as well began to have Hindu wives. Emperor Aurangzeb stopped such marriages, and may I ask what happened to the Mughal Empire after his time?

Hindus and Mussalmans talk of Hindu-Moslem unity, but, when a concrete proposal comes forward, both frown and separate and look daggers at one another, which proves that the Hindu-Moslem unity is a lip arrangement and not in fact, as I have always contended. I say this is the only way in which the Hindus and Mussalmans can be made one people, if they like to be one people, and in my opinion we are highly indebted to the Honourable Dr. Gour for bringing forward such a Bill.

Rai G. C. Nag Bahadur (Surma Valley *cum* Shillong: Non-Muhamadan): Sir, I had little desire to take part in to-day's debate on this Bill. But having regard to the strong opinion expressed against it by some of the Honourable Members in this House, I feel that I shall be failing in my duty if I do not place before the House one aspect of the question which does not seem to have been touched by anyone yet. There are 876 tea-

gardens in Assam alone employing a labour population of nearly 6 lakhs. Add to it their dependents, and the population becomes a huge one. Now, who are these people? The coolies are recruited from various parts of India. In a coolie-line are to be found Madrasis, Santals, Oriyas, Mundas, Oraons, Assamese, Chamars from Behar, the United Provinces and the Central Provinces, low-caste Bengalees, and hill men—a motley crew in different stages of physical and moral development. Almost all are completely out of touch with their original homes. They have no place to go to. The ray of religion does not penetrate the coolie lines. Education is unknown. Instinct governs their conduct of life, chastened by the rules and regulations of the tea gardens. But they all profess to be Hindus and would strongly resent being called by any other name. They form marital connections with one another without any thought whether such connections are sanctioned by the usages or customs of the castes to which they belong. An Oriya, for instance, may take an Oraon, a Munda a Madrassi, and a Bengalee a hill woman, and so on. It is not always the coolies who arrange these matches, but oftener than not, they are arranged for them by their employer, the *Sahēb*. If there is a girl of marriageable age of striking appearance, the manager of the garden has by her the means of attracting a coolie from outside to come and settle down with that girl as wife, no matter to whatever castes the parties might belong. Issues are born of such connections, and the fusion of races goes on apace. Now, should there not be some law to legalise such connections as real marriage connections, so that the parties may, by declaring themselves before a marriage registrar, have some tangible proof of their marriage? At present if the wife is abducted away, the husband finds difficulty in punishing the abductor under the criminal law as he cannot prove the marriage according to any recognized caste rule. They cannot avail themselves of the present Act III because, under it, they will have to declare that they are not Hindus, which they would refuse to do. Where is the law now which can govern such alliances and legalise the issues? The *Dayabhaga* and the *Mitakshara* laws are in the melting pot on a tea garden. Those who are apt to raise the cry 'religion is in danger', must answer the question. Hinduism is said to be a religion of toleration, but it is tolerant only in a way. It does not trouble itself with people following other religions. But in it there is no place for people like the Assam tea-garden coolies. Unfortunately the coolies, although they form such a considerable part of the population of India, have no one truly and faithfully to represent their case in this House. But I do hope that Honourable Members, while voting one way or the other, will bear in mind that there should be on the Statute Book some law, to govern people such as these and people who do not find it possible, on grounds of conscience or otherwise, to follow the caste rules of the Hindus. When a society like the Hindu society wants to be progressive, the practices of the people cannot remain stationary, and freedom, while allowed in all other matters cannot in reason be denied in the case of such a vitally important event in a person's life as marriage. It is consistent neither with public policy nor with social morality that persons marrying from conscientious motives outside the strict rules of orthodoxy should be denied the right of placing their family relations on the firm foundation of law. There are crying needs for social reform in India. Tradition is all very well, but tradition should not be raised to the rank of a Deity. We should always remember Tennyson's lines ending with:

'Lest one good custom should corrupt the world'.

[Rai G. C. Nag Bahadur.]

One word more. My friend, Mr. Barua from Assam, has said that the majority of his constituency are opposed to the Bill. But I may say that this is somewhat incorrect. The '*Assam Times*', which is the exponent of a large body of conscientious opinion in the province, is whole-heartedly in favour of this Bill.

With these words, Sir, I support this Bill.

Sir Jamsetjee Jejeebhoy (Bombay City : Non-Muhammadan Urban) : Sir, I rise to oppose the Bill, as you have said, Sir, that we would be committed to the principle of the Bill if we agreed to serve on the Committee, and I would ask the Honourable Mover to remove my name from his list. My reasons for opposing his Bill are that the Parsis regard marriage as a sacrament, and that we are governed by the Parsi Marriage Act, and also, as a consequence of that, we have got a Divorce Act of our own based more or less on the English Law, and also a Parsi Succession Act. I would put before the House a concrete case of a Parsi widower having married a Parsi wife and then taking, under the provisions of the suggested amended Act, another lady from another community and having children.

May I ask anyone to enlighten me how, in the event of his death and not leaving a will behind him, are his children entitled to his property? Under the Parsi Succession Act, I should not think they are entitled, because the children of his second marriage would not be considered to be Parsi according to the judgment of the High Court.

Well, Sir, these are the practical difficulties in the way, and if the Bill is passed, I do not know how many Acts will have to be passed as a consequence of that, and the whole question is teeming with difficulties. With these few words, I strongly oppose this Bill.

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : Sir, I am in full sympathy with the Bill moved by my friend, the Honourable Dr. Gour. However, there have been two or three things referred to by some of the Honourable Members of this House which require very serious consideration. The first point, which was raised by a Muhammadan gentleman, was that Muhammadans are not allowed to intermarry with other communities. I cannot see the correctness of that statement. Muhammadan men are allowed to marry a Christian or a Jewish wife, and this has been upheld by many doctors of Muhammadan Law, and this practice was upheld because they think that these are the only other revealed religions. Islam allows any man to marry a woman who belongs to a revealed religion. This is a question of fact. Some people believe that only Christianity and Judaism are the other revealed religions, but of course this was based on the great association which Muhammadans in the early period of their history had with these two religions. When the Muhammadans migrated to India, to China and other places, they stuck to these theories which had been based on their social relations with the Jews and the Christians in Arabia and Syria. But some people doubt whether this is correct. The view which is held at present by every man who has studied other religions, and which is generally the view of all educated people. I am glad to say, that the Hindus have also got a revealed religion, as well as the other communities to which I have referred. Muhammadans also believe that the Parsis have a revealed religion, because some Muhammadan doctors think that what the Persian prophet Zoroaster taught was also revealed religion. So that, as I have pointed out, this is only a question of

fact, and if anyone believes that such and such a lady belongs to a revealed religion, he can marry that lady and the marriage will be a legal marriage, whatever prejudices might prevail in the minds of certain people who may hold different views. If a man really and sincerely believes, I do not see why he should not be allowed to marry a lady who comes, in his opinion, into the category of communities who have a revealed religion.

Then, Sir, there was another point made by some people for instance by Mr. Mukherjee, to the effect that the Koran prohibits all such marriages. I do not see what authority he has for that assertion and to which passage of the Koran he refers. There is only one passage on which this sanction to marriage is based, and that is the passage allowing every Muhammadan to marry a lady who belongs to a revealed religion. That is the only provision. The second part of that passage prohibits a Muhammadan lady to intermarry with anyone who is not a Muhammadan. Probably my friend, Mr. Mukherjee, has taken the last portion of the above passage, which only prohibits a Muhammadan lady from marrying a person who is not a believer in Islam. While I do not wish to enter into the principles which led at that time to the framing of this law, it is certain that there must have been some reason on which it was based, and that reason was probably the fact that in the early days of Islam it might have been feared by the true Muhammadans that if a Muhammadan lady married a person who was not a Muhammadan, she might be persecuted by her husband. This idea might possibly have led to the adoption of this principle. I do not feel myself competent to go deeper into that question, but anyhow, so far as the portion of the passage goes which permits a Muhammadan man to marry according to his conscience a lady who belongs to the Christian or Jewish religion, that marriage must be regarded as valid.

Then, Sir, there is a question of history which is rather a serious one. Are we to declare here in this House that the actions of the Emperor Akbar, of Jehangir and of Shah Jehan were illegal? They received a *fatwa* from the Doctors of Law of that age which specifically validated their marriages with Hindu ladies; and, as a matter of fact, those marriages were considered valid by the whole community at that time in India. That fact is obvious from the fact that Jehangir was hailed as the true son of the Emperor Akbar, and after him, Shah Jehan and Aurungzeb were regarded as legitimate Emperors. After these historical examples I do not see how this Assembly can say that those actions of the Emperors were illegal

(A voice: They were not religious actions.)

Whatever they were, at any rate they were considered to be legitimate children and they were upheld by the religion of the Muhammadans at that time. Now, Sir, we all believe that the Emperor Akbar was one of the first nation builders, and he foresaw in the beginning that unless the social ties which separated the different communities in India were done away with, the development of the nation could not proceed, and that is why perhaps he set the example himself.

I think that this point of view is very sound, that in order to make progress along that line, such marriages should be allowed to be legal marriages. But that is only the political aspect and I do not wish to enter into that while the religious aspect has been so much talked about in this Assembly. I only wish to deal with the matter from

[Mr. Muhammad Yamin Khan.]

the social and from the religious point of view of different communities. There might be a certain bar among the Hindu gentlemen when they intermarry with people of other castes ; but at the present time, we find that lots of Hindu gentlemen are visiting Europe and, of course, some of them are dissatisfied with their own manner of living or one takes a fancy to, or gets united to, a European girl—why should he be disallowed from marrying her, if he can only be happy with that particular woman? There is no reason why he should be debarred simply, on account of this, that he belongs to a Hindu caste. At the same time he does not want to change his religion. The Act of 1872 gives him free licence to marry, if he declares that he belongs to no religion, but, if he really believes and sincerely believes in his religion of Hinduism, why should he not remain at the same time a Hindu and marry the woman whom he loves. Then he is allowed to marry in England. The law in England does not prohibit this. If he gets his marriage registered in England, a Hindu gentleman's marriage in such circumstances is quite valid and legal in England, but, as soon as he comes back to India, that marriage and the issues are considered as illegitimate. This is a great hardship on that girl. Either the man must give up his religion, and say, that he belongs to no religion at all, or he must give up his wife. He is between two difficulties and must choose the lesser of two evils, which are both equally disagreeable to him, if he really loves the girl and truly believes in his religion.

Then, Sir, the only thing that the Hindu Law says is that if children are born to a Hindu with a woman who is not of his caste, the children belong to the inferior caste, taking the caste of their mother in this case. They do not become illegitimate children, but those children take up the caste of their mother and remain legitimate. The question of inheritance, which has been referred to so much, is not so difficult. We can have different legislation. There can be a safeguard from the point of view of Hindus, if they do not—that is if cognates do not want their property to go to a reversioner who is born of a woman who does not belong to the same caste. But why disallow this marriage? This marriage may remain valid and the children may inherit all the property of their father, though they might be debarred from receiving property from their cognates. This could be easily done in Select Committee.

Then, Sir, in India there are other castes among the Hindus—for instance, the Sudra classes, like the Jats. A Jat may take a woman of any caste, and, as soon as she puts her hair up, she becomes a Jat woman (it does not matter what caste she belongs to), and all the children are considered to be Jats. We have a great number of Jats living in the Punjab and in the United Provinces. Well, their marriage is quite valid if it is contracted with a woman who does not belong to her husband's caste or to any religion. But, as soon as she puts her hair up, she becomes a Jat woman. So I think, Sir, there are other Sudra classes, in great numbers, who do not think that the caste system need be so rigid, and this enabling measure represents the views of those people. There might be a few other gentlemen who do not believe in this, but an enabling measure gives the option to a man who wants to stick to his religion and yet marry a woman who does not belong to his caste. It does in no way force a man to adopt this principle if he does not believe in it. There are some people in this country who on account of their education and of their

social circumstances believe that such a distinction should not exist, and I do not see why this Assembly should refuse a measure enabling their marriage only. There is no such thing as anybody's religion being interfered with. This is another thing altogether. I have myself sent in an amendment in my name a long time ago, and I suppose it is because amendments are not to be considered at this stage of the Bill that it has not found a place on the agenda to-day, and my amendment could be easily dealt with in Select Committee. With these few remarks I think that this Bill should be referred to the Select Committee and that my amendment which is standing should be dealt with in the Select Committee.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muhamadan Rural) : Sir, as might be expected on a subject of such vital importance to society as the institution of marriage, very divergent views have found expression in the course of this debate. We have been told, on the one hand, that the system of Hindu society is in danger. On the other hand, this allegation has been denied. We have been asked by Mr. Joshi to define what Hinduism is. I hope the Assembly will not embark upon any such adventure of defining what Hinduism is. I do not propose to deal with the question from the point of view of the requirements of Hindu religion, or from any other highly interesting, but erudite, point of view. I should rather like to deal with it from the point of view of a lawyer and recognise the plain facts of the situation.

If you ask whether the mass of public opinion in the country, whether the opinion of the people at large is behind this measure, I do not think it will be possible for us to say that the Bill is so supported. But that does not conclude the matter. This is a case of conflict of rights : On the one hand, the right of the individual to his liberty ; on the other hand, the right of society to protect itself as a living organism against any attacks endangering its existence. We have to make a compromise and provide for the due exercise of both these rights. It is somewhat unfortunate that Dr. Gour's Bill has not tried to meet the reasonable apprehensions entertained by people who are afraid that this measure may imperil the stability of Hindu society. We have been warned by Mr. Chaudhuri that we should not introduce questions of inheritance and that inheritance has nothing to do with this subject. I am afraid I cannot follow him there. The subject is undoubtedly bound up with questions of inheritance and we cannot help considering those questions. Now, with the desire of Dr. Gour to protect individual liberty and the right of the individual to marry the person of his choice, I think we must be in agreement and sympathy. But in recognising the right of the individual to contract one of the most sacred and solemn of human relationships according to his own free will and pleasure, we must also take care that in the exercise of that right, the interests of the society to which he belongs are in no way affected, and that, if there is any danger of such interests being affected, due safeguards are provided. Now, let me point out briefly the various ways in which the rights of the members of society may be affected. If a Hindu, for instance, marries a Christian or Muhamadan woman, he will have his rights of succession ; he will have his rights of residence in the joint family property, and he will be in a position to exercise all the rights which he formerly possessed. It may be said that the Caste Disabilities Act of 1850 has already made an inroad upon the Hindu Law and that the rights of inheritance which a man possesses cannot be possibly

[Sir P. S. Sivaswamy Aiyer.]

affected by his exclusion from caste or by his renunciation of his religion. That is true. But what exactly is the limit to which that Act has gone has been the subject of controversy. It has been a moot point whether that Act does or does not affect the rights of succession to collaterals. It has been a moot point whether that Act affects the rights of inheritance of the offspring of the person who renounces his caste or religion. There are various questions which are still unsettled. Now, you can easily conceive that if a Hindu marries a person belonging to an entirely different religion and if you also admit that the social habits and usages of members professing the various creeds in this country are very radically different, it will be a great hardship to the family to which this person belongs if he insists, for instance, upon residing in the joint family house. If there is an orthodox father or orthodox brother, and the Hindu who has married a Mussalman or Christian woman insists upon living in the joint family house with his Muhammadan or Christian wife, you can imagine it will be a source of great annoyance and great persecution to the other members of the family. You must provide against cases of that sort by a provision that the person who contracts a marriage of this sort shall not be able to insist upon his right of residence in the joint family house. Again, how do we stand with regard to the question of succession to collaterals? The Hindu system of succession is bound up closely with the Hindu religion and it proceeds upon the assumption that the inheritance goes to persons who are Hindus in the ordinary sense of the word. If a person lives in a manner which is utterly repugnant to the sentiments and the usages of the Hindu community and if he openly acts in contravention of Hindu usages, in defiance of Hindu sentiment, it will be regarded as justly imperilling the safety of the social fabric if he is allowed to claim rights of succession to collaterals. That again is a point in regard to which some safeguard ought to be provided. While a person who contracts this marriage should not incur any forfeiture of property at all and should not incur any forfeiture of any vested rights, he should not be in a position to claim rights of succession to collateral members of the family. It may be said that if he should be disqualified from claiming collateral succession those collaterals also should be disqualified from claiming succession to him or his heirs. Of course it goes without saying that any provision of that sort ought to be perfectly reciprocal. These are matters for which I think safeguards should have been provided. Then, again, there are other difficult questions arising with regard to the laws of inheritance which would be applicable to the offspring of this person. Suppose a Hindu marries a Muhammadan or a Christian. What is to be the status of the offspring? Is the offspring to be governed by the Hindu Law or by the Indian Succession Act or by the Muhammadan Law? Those are points upon which it would be difficult to come to any immediate decision, but upon which some provision ought to be made for the purpose of meeting the various difficulties which are bound to arise in course of practice. The law by which the offspring would be governed should also be laid down in any measure of this kind. If Dr. Gour had tried to meet the reasonable apprehensions of people with regard to the effects of this measure and had tried to introduce some safeguards for the purpose of protecting the interests of society, I think his Bill would have met with much less opposition than it has actually received. I think it was his duty to have anticipated these

cases and introduced some provisions in his Bill instead of merely amending just one or two sections of this special Act of 1872 and skipping so lightly over the subject. If he had provided for these various difficulties, I am sure he would have met with more support than he has received. Personally I should find myself unable to support the Bill in its present form, but, if Dr. Gour will give an undertaking that safeguards of this kind will be provided in the Select Committee, I for one would not object to the Bill going to the Committee.

Now, there is one other point which I ought perhaps to have mentioned. It has been stated by some of the preceding speakers that society is at liberty to act in any way it pleases, by ostracising persons who act contrary to its received usages. Now, you must make it clear that by any law of this kind, you are not interfering with the right of society to organise itself and to protect itself in any manner it likes with the usual weapons and resources in its armoury. For instance, every society has got a right to exclude members from its communion if they behave in a manner disapproved of by the members of the society at large. Now, you must make it clear that you do not propose to touch the right of society to defend itself in the customary manner. If you safeguard the rights of society to protect itself, if you safeguard the rights of the other members of the family, if you guard against any collateral succession, and if you also provide for the system of law which is to govern the offspring, if you introduce all these provisions, I, for one, do not see that Hindu society is in any danger of disruption. But, if you do not introduce these safeguards, undoubtedly society is in danger of disruption, and I think people are entitled to object that this innocent-looking Bill, which professes to amend two or three sections, does really strike a blow at Hindu society. Dr. Gour in his memorandum has said that there have been several blows struck for individual liberty and this is only one more in the cause of human liberty. Now, I am in entire sympathy with the cause of human liberty and with the right of the individual to freedom in regard to marriage, as in other respects. But it does not follow from that, that we are bound to go much further than the Caste Disabilities Act itself has done or that we are bound to ignore the annoyance and the hardship that may be caused to other members of the family or to the relations of the person contracting this marriage, or to society. If the individual requires protection at the hands of the Legislature, society is as much entitled, if not more, to protection against the attempts of individuals to break up its fabric. I would, therefore, appeal to Dr. Gour either to withdraw this Bill, which, I am afraid, must be characterised as a crude measure, and re-introduce it with all the necessary safeguards or to give a distinct undertaking to the Assembly that in the Select Committee, all these matters will be introduced and dealt with in a spirit of fairness and justice. So far as I can judge from the composition of this Committee, it seems to consist entirely of those who are pledged to support this measure. I do not see any representatives of a different shade of opinion on it. If Dr. Gour is prepared to give an undertaking of that sort, the composition of the Select Committee would have to be altered.

Dr. H. S. Gour: May I ask the Honourable Member who spoke last (Sir Sivaswamy Aiyer), if I am prepared to give that undertaking, is he equally prepared to give an undertaking that this motion of mine shall not be opposed to-day?

Mr. N. M. Joshi : He will not oppose you.

Dr. H. S. Gour : I take it, Sir, that the Honourable Member was speaking for himself and was not voicing the feelings of any of the Members in the opposition. In view of the fact that this raises an extremely important question, I ask you, Sir, to adjourn the debate to a future date, when it will give the supporters and opponents of the Bill time to consider over the suggestion made and to come to some undersanding, if possible. Otherwise, the debate will take its normal course and will be continued.

Mr. President : The question is that this debate be now adjourned.

The Assembly divided as follows :

AYES—30.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Abdul Rahim Khan, Mr.
Abul Kasem, Maulvi.
Akram Hussain, Prince A. M. M.
Chaudhuri, Mr. J.
Cotelingam, Mr. J. P.
Crookshank, Sir Sydney.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Gidney, Lieutenant-Colonel H. A. J.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Hajeebhoy, Mr. Mahomed.
Iswar Saran, Munshi.

Joshi, Mr. N. M.
Kabraji, Mr. J. K. N.
Keith, Mr. W. J.
McCarthy, Mr. F.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Nag, Mr. G. C.
Percival, Mr. P. E.
Reddi, Mr. M. K.
Samarth, Mr. N. M.
Sinha, Babu L. P.
Yamin Khan, Mr. M.
Zahiruddin Ahmed, Mr.

NOES—28.

Agarwala, Lala G. L.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Das, Pandit R. K.
Gajjan Singh, Sardar Bahadur.
Habibullah, Mr. Muhammad.
Hullah, Mr. J.
Hussanally, Mr. W. M.
Ibrahim Ali Khan, Lieutenant Nawab M.
Jatkar, Mr. B. H. R.
Jejeebhoy, Sir Jamsetjee.
Lakshmi Narayan Lal, Mr.
Man Singh, Bhai.

Mitter, Mr. K. N.
Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Rangachariar, Mr. T.
Sarfaraz Hussain Khan, Mr.
Shahani, Mr. S. C.
Singh, Babu B. P.
Singh, Raja K. P.
Singh, Rana U. B.
Sircar, Mr. N. C.
Subrahmanayam, Mr. C. S.
Way, Mr. T. A. H.

The motion was adopted.

THE MUSSALMAN WAQFS REGISTRATION BILL.

Mr. Abul Kasem (Dacca Division : Muhammadan Rural) : Sir, I ask for permission that the motion standing in my name may be postponed to a future date. I understand that the Government of India have circulated the Bill to the Local Governments for opinion and that all the replies have not

* That the Bill to provide for the registration of Waqf Estates and the proper rendering of accounts by the Mutwallis of such Estates in British India, be referred to a Select Committee consisting of the Honourable Dr. T. B. Saprú, the Honourable Sir William Vincent, Mr. Percival, Mr. Sharp, Munshi Iswar Saran, Mr. W. M. Hussanally, Khan Bahadur Saiyid Muhammad Ismail, Haji Wajih-ud-din, Mr. Syed Nabi Hadi, Rao Bahadur T. Rangachariar, Mr. Muhammad Yamin Khan and the Mover.

yet been received. Therefore it is not desirable to refer it, or to ask for reference to a Select Committee before the receipt of these replies. I therefore hope the House will give me permission to postpone my motion for consideration until some future date.

The Honourable Sir William Vincent (Home Member): Sir, the position is that three Local Governments only have replied giving their views on this Bill and the replies from other Local Governments are still awaited. The question, as I explained on a previous occasion, is one with which the Governor and Ministers deal, and in these circumstances, the Government would also be glad if the House would accede to the request of the Honourable Member.

Mr. President: The motion was :

That the Bill to provide for the registration of Waqf Estates and the proper rendering of accounts by the Mutwallis of such Estates in British India, be referred to a Select Committee consisting of the Honourable Dr. T. B. Sapru, the Honourable Sir William Vincent, Mr. Percival, Mr. Sharp, Munshi Iswar Saran, Mr. W. M. Hussanally, Khan Bahadur Saiyid Muhammad Ismail, Haji Wajih-ud-din, Mr. Syed Nabi Hadi, Rao Bahadur T. Rangachariar, Mr. Muhamad Yamin Khan and the Mover.

Since which it has been moved that the consideration of this motion be postponed.

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban): Sir, I beg for leave to introduce :

'A Bill further to amend a certain section of the Code of Criminal Procedure, 1908.'

The section which I wish to have amended is section 491 dealing with the nature of a *Habeas Corpus* enabling the three High Courts in the Presidency Towns of Fort William, Madras and Bombay, whenever they think fit to direct that a person illegally or improperly detained within the original jurisdiction of these Courts may be set at liberty.

The object of this amendment is twofold. I wish to give power to all the High Courts and not only those in the Presidency towns. I wish to give power to the High Courts, including Allahabad, Patna, Lahore and others. That is one object. The other object is to enable the Court to deal with such cases not only in the case of persons illegally detained within the original jurisdiction of the Court but also persons who are illegally detained within the appellate jurisdiction of the Court. This will be bringing the provisions of section 491 into conformity with section 456, which gives the right to a European British subject. So far as these are concerned, section 456 corresponding to section 81 of the Code of 1872, the High Court has got power to call up all cases of European British subjects who are illegally detained wherever it may be, and all High Courts, not only the three Presidency town Courts, have also got the power. Therefore, it is bringing section 491 into line with section 456, thereby removing the racial distinction that may exist. It will also enable the Courts to deal with all cases because that sort of case not only arises in Presidency towns but also within the appellate jurisdiction, and it is the only way in which the judiciary can control the executive. The very existence of such a power is considered an effective safeguard against abuse

[Rao Bahadur T. Rangachariar.]

and misuse of the administrative powers, and that being so, it is necessary to provide against it, and that is the reason why I wish to introduce this amendment.

Mr. President: The question is :

' That leave be given to introduce a Bill further to amend a certain section of the Code of Criminal Procedure, 1908.'

The motion was adopted.

Rao Bahadur T. Rangachariar : I introduce the Bill, Sir.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) :
Sir, I beg to move for leave to introduce :

' A Bill further to amend the Code of Civil Procedure, 1908 (Amendment of rule 4 of Order XXXII in Schedule I).'

Under Order XXXII, rule 3 of the Code of Civil Procedure it is provided : that where the defendant is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, and rule 4 of the same provides that no order shall be made on any application under this rule except upon notice to the minor and to any guardian of the minor appointed or declared by an authority competent in that behalf, or, where there is no such guardian, upon notice to the father or other natural guardian of the minor, or where there is no father or other natural guardian, to the person in whose care the minor is, and after hearing an objection which may be urged on behalf of any person served with notice under this sub-rule.

Now rule 4 provides that any person who is of sound mind and has attained majority may act as next friend of a minor or as his guardian for the suit :

Provided that the interest of such person is not adverse to that of the minor and that he is not, in the case of a next friend, a defendant, or in the case of a guardian for the suit, a plaintiff.

Now, sub-rule 4 provides that :

' Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian, and may direct that the costs to be incurred by such officer in the performance of his duties as such guardian shall be borne either by the parties or by any one or more of the parties to the suit, or out of any fund in Court in which the minor is interested, and may give directions for the repayment or allowance of such costs as justice and the circumstances of the case may require.'

Now, Sir, during my practice at the bar for the last 22 years, I have seen that it is not uncommon when pleaders are occasionally appointed guardians under rule 3, but rule 4 says that if there is no other proper person available, then an officer of the Court may be appointed. Under that rule a discretion is given to the Court to arrange for costs for defending the suit or appeal as the case may be. In many cases it has happened that where pleaders have been appointed guardians, requests have been made to the Court to provide for costs of the defence, but the Courts have found it impossible under the existing law to grant such requests. There was recently a similar case in the Allahabad High Court, but the High Court was unable to accede to the request, and the result was that the guardian, who was appointed, had to refuse to act, and in that case, which is still pending, not less than three gentlemen were appointed

and all of them have one after another refused to act as guardians upon this very ground. Therefore, I submit that the amendment which I wish to move would enable the Courts to arrange for the costs of defence in cases where pleaders are appointed as guardians. Now the amendment which is proposed to be made is :

'That in sub-rule 4) of Rule 4 of Order XXXII in the First Schedule in the Code of Civil Procedure, 1908, after the words 'its officer,' the words 'or any pleader' and after the words 'such officer,' the words 'or pleader' shall be inserted'.

So this is simply to obviate the difficulty which I have just explained, and that is the reason why I have brought forward this motion before this House.

The Honourable Dr. T. B. Sapru (Law Member) : Sir, I regret that I am unable to support the motion of my Honourable friend, Lala Girdharilal Agarwala, and I must offer opposition on behalf of Government. In the first place, my friend, Mr. Agarwala, has not been able to make out a case in support of his Bill. My Honourable friend has referred to his 22 years' practice. I should have expected that he would cite at least three cases that had occurred during his 22 years' practice showing how the difficulty has actually been felt. In all humility I can claim a larger practice behind me in the same province from which my Honourable colleague comes and in the same Court where he practises. At any rate until 1920, I was not aware that there was any real or genuine difficulty being felt on this account either in the subordinate courts or even in the High Court. I am not aware of the unfortunate case to which he referred this afternoon. Probably it happened since I left the High Court.

Now, Sir, I believe the whole of my Honourable friend's argument is based upon a misconception. It is well known to lawyers that in theory an advocate or a pleader is really an officer of the Court, and I should have thought that no Judge would have felt any difficulty at all in applying the provisions of the law as it stands to the circumstances of each case where it was necessary to appoint a pleader. Therefore, with all respect to my Honourable colleague, I would say that this is a perfectly superfluous and unnecessary measure, the more to be deprecated because it is in the nature of an isolated attempt to deal with a Code like the Code of Civil Procedure. On these grounds I would strongly oppose the motion made by my Honourable colleague.

Mr. President : The question is :

'That leave be given to introduce a Bill further to amend the Code of Civil Procedure, 1908 (Amendment of Rule 4 of Order XXXII in Schedule I)'.

The motion was negatived.

-THE INTEREST ACT 1839 AMENDMENT BILL.

Khan Sahib Maulvi Abdul Quadir (Central Provinces: Nominated Non-Official) : Sir, the piece of business standing against my name in to-day's list is to move for leave to introduce a Bill to amend the Interest Act of 1839 by inserting a new section in it to the effect that no creditor whether of a secured or unsecured loan shall be entitled to recover by suit interest in excess of the principal amount due at the date of the suit. The

[Khan Sahib Maulvi Abdul Quadir.]

Bill seeks to prevent the accumulation of interest for long periods, and thereby to save many a debtor from utter ruination by his calculating and clever creditors. There is a similar rule in Hindu Law and it is called the Rule of *Damdapat*. It is in operation in the Bombay Presidency, Berar and in the town of Calcutta proper. In the Bombay Presidency and Berar, it is made applicable in cases in which the debtors are Hindus, while, in the town of Calcutta it is applied in cases where both the plaintiffs and defendants are Hindus. The operation of this rule on the lines obtaining in the Bombay Presidency and Berar entails a great hardship upon those who are non-Hindus because, if they are creditors, they cannot recover interest more than the principal amount due on the date of the suit, and, if debtors, they are denied the benefit of this rule altogether and they are made to pay interest irrespective of its being more than the principal amount due on the date of the suit. This rule is a very wholesome one if it were made applicable to all alike. It is so done in many of the Native States even to this day. Owing to its non-existence in other parts of British India, the Hindus and non-Hindus are alike falling victims to the 'Wait and have it' game of their scheming creditors who allow the interest to accumulate to such an extent that it becomes impossible for the debtors to pay up the amount, and they are ultimately deprived of their hearths and homes. The effect of this amendment would, no doubt, be that the creditors will sue their debtors as soon as the amount of interest is equal to the principal amount, and even this procedure is beneficial to the debtors, because, at present, sentiment prevents debtors from parting with part of their property and paying off their debts, and so they go on allowing the interest to be accumulated in the hope of clearing their debts in years of plenty and prosperity; but they are unable to do so and the *Sahookar* allows them time, till the interest, with principal, swells up to the value of the property in suit or with them, and at once rushes into Court and takes everything from them in lieu of money. But if the *Sahookar* were to bring his suit sooner, the debtor would be getting a chance of laying aside his sentimentalism, sell part of his property, pay off his debt and save the remainder of his property for himself and his family. I hope that the Honourable Members of the Assembly will see through the spirit of this measure and sympathise with its object and give their whole-hearted support to it.

The Honourable Sir William Vincent (Home Member): Sir, I think every Member in this Assembly has a great deal of sympathy with the object which the Honourable Member has in view, namely, to curtail the exorbitant demands of usurious money lenders, but it is the duty of Government, in my judgment, to point out the serious objections which there are to a Bill of the present character. If I am the person to put forward those objections, I can at least claim that I have in my time done more in endeavouring to remedy the evil caused by usurious money-lenders than most Members of this Assembly. For some years I worked on a Bill, which was known as the Usurious Loans Bill, and which is now part of the laws of the land, but to which no reference was made by the Honourable Mover. The essence of that Bill is that it enables the Court to examine the transactions between the money-lender and the debtor and to revise inequitable contracts. It also gives the Court power to re-open any contract which it believes to be unfair or unconscionable, that is to say, it can go into old accounts and examine prior readjustments.

This is very important as regards this rule of *Damdapat*, because it is through readjustments and fresh contracts that the law of *Damdapat* is often defeated. I may say that at the time when we examined this question in 1918, we considered this rule of *Damdapat* very carefully. The opinions I received then were not generally speaking in favour of it. The Madras Government, for instance, pointed out that it would not afford any real remedy. The Government of Bombay regarded the rule as being of small, though not of negligible, utility. The Government of Bengal, while advocating it, realised that innumerable stratagems will be devised to circumvent it. The best summary of the objections to the rule of *Damdapat* is, however, I think, found in a note which we obtained from Sir Michael Fenton of the Punjab. He then said :

'The *Damdapat* custom involves regulation of the rate of interest in a manner which would work very unfairly both for debtor and creditor. It would be consistent with the *Damdapat* rule to grant decrees giving interest at one hundred per cent. per annum, if the suit for the principal plus interest at that rate were brought at the expiry of one year from the date of the loan. It would also be consistent with that rule to disallow interest at the low rate of five per cent. if the creditor allowed interest at that rate to accumulate for 15 or 16 years. A *Damdapat* rule which ignored the time factor would be extraordinarily unequal in its operation.'

In the same file there is another criticism—a very good one—by Mr. Justice Ayling of the Madras High Court, on this point, and I commend it to the attention of the Assembly. The main argument that he used was that there is no more justification for an arbitrary limit upon the amount of interest than there is for a limit on the rate of interest. The two things are really the same. 'To fix the amount of interest', he added 'is a most clumsy and unequal remedy'.

Now, the question of limiting the rate of interest has been considered both in this country and in England several times. One of the most powerful Committees that sat in England within the last 25 years considered this subject in 1898, and that Committee reported as follows :

'Your Committee consider that a high rate of interest is not in itself incompatible with fair dealing and that no limit of interest can be prescribed which would be adapted to the widely different conditions under which these loans are contracted, and further that if a maximum rate were fixed by statute, the interest would tend in all cases to rise to that maximum.'

Now if it is unreasonable to fix the rate of interest, having regard to varying risks of different loans, surely it is equally unsound to fix the amount of interest. The mischief does not end there, however, and, the practical effects of a *Damdapat* rule are various. In the first place, all payments made by the debtor are always credited to interest whether that is intended or not. In the second place, the system encourages the entry of a large fictitious sum, which is not paid, in the original bond. In the third place, it encourages frequent nominal readjustments of old debts, when new fictitious sums are entered in the bond in order to enable the creditor to claim the benefit of this rule. Lastly it forces a money-lender to bring a suit earlier than he would have otherwise done. I am confident, and I ask the Assembly to examine the point, that we have in the Act of 1918 provided what is a far more just and really more efficacious remedy than *Damdapat* for this evil of usurious loans. I have already explained what that Act provides, and those who have experience of the Courts—some of them, I think, supported me when I introduced the Bill into the Council—will know whether

[Sir William Vincent.]

it has worked effectively or not. There is one other point, Sir, that I wish to mention and then I shall finish. I do not want to take up any more time on this Bill. There is a general idea that all money-lenders are nothing but a race of blood-suckers. I take a very different view. There are good men and there are bad men among them, but I can assure this Assembly that if it were not for the *Banias*, if it were not for the money-lenders, no business would go on in this country at all. The money-lender replaces the banks and is the back-bone of the agriculturists and the back-bone of all small dealers in the country. If you injure him by a number of oppressive laws, you really make business impossible. There was another Bill that we had—I think Mr. Yamin Khan promoted it—which proposed innumerable restrictions upon the money-lender. I want him and this Assembly to realise that the money-lender is one of the most useful members of the society in this country. Upon him, as I say, nearly all the small business men of this country depend. I do not say there are no black sheep among them. But I maintain that the *Bania* is often a maligned individual, I say further that the Courts have already ample powers of dealing with any inequitable transactions that may be made by him. I hope that we shall not, by accepting this Bill now revert, in modern civilised days, to what is really a very rough-and-ready system devised for primitive times. A rule of that kind may be suitable for primitive people. I have worked it myself in the Sonthal Pargannas. It was in force there—and I can only say from practical experience of working it that even in those conditions, it is one of the most difficult laws to use justly and fairly, because it encourages trickery of all kinds on the part of money-lenders who really do not act honestly in the matter. Sir, I have now put the objections to this Bill before the Assembly and I hope that they will weigh them carefully before they reopen the questions raised by this Bill when the whole question has only very recently been examined and fully considered both by the last Council and by the Government.

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : May I be allowed to speak a few words, Sir ?

Mr. President : At this stage, which is only 'leave to introduce the Bill', there is only one speech by the Mover and another speech by any Member who wishes to oppose it. The Honourable Member will have ample opportunity, when the Bill comes up for further discussion, of expressing his views.

The question is :

'That leave be given to introduce a Bill to amend the Interest Act, 1839.'

The motion was negatived.

Mr. President : I have received a suggestion from certain Honourable Members that it might be convenient to have the adjourned debate on the motion regarding the Civil Marriage Bill on Friday afternoon.

I am not in a position, at this moment, to say whether it will be convenient for it to be taken on that day. I hope to be able to make an announcement to-morrow.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 18th January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 18th JANUARY, 1922

Vol. II—No. 18

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Wednesday, 18th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

MEMBERS SWORN.

Maung Maung Sin, M.L.A. (Burma : Non-European);

Sir Montagu de Pomeroy Webb, Kt., C.S.I., C.B.E., M.L.A. (Bombay : European).

THE CIVIL MARRIAGE (AMENDMENT) BILL.

Mr. President: The adjourned debate on the motion regarding the Civil Marriage Bill will be taken on Friday at 2 O'Clock in the afternoon. Further, there will be no meeting of the Assembly on Monday, the 23rd of this month.

THE INDIAN EMIGRATION BILL.

Mr. J. Hullah (Revenue and Agriculture Secretary) : Sir, I beg to present the Report of the Select Committee on the Bill to amend the law relating to Emigration.

THE INDIAN INCOME-TAX BILL.

The Honourable Sir Malcolm Hailey (Finance Member) : Sir, I beg to present the Report of the Joint Committee on the Bill to consolidate and amend the law relating to Income-tax and Super-tax.

RESOLUTION *RE*: ABANDONMENT OF THE POLICY OF REPRESSION.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhammadian Urban) : The Resolution which I have the honour to move runs as follows :

'This Assembly recommends to the Governor General in Council the immediate abandonment of the policy of repression inaugurated in the country.'

It is under a compelling sense of duty that I venture to invite this House to consider my Resolution to-day. I am anxious, extremely anxious, more anxious than I can tell, that no word of mine should add to the bitterness or complexity of an already embittered and complicated situation. I hope it is

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not necessary for me to assure the Official Members of this House or Government that we are no less anxious than the officials themselves that law and order should be maintained. It is, Sir, in our own interest that there should be no disorder in the country, because if any lawlessness breaks out and if there takes place any disorder, we suffer with the rest of our countrymen. I am not oblivious of the fact that Government at this moment is face to face with a grave situation. Sir, the situation is grave in all conscience, but it is not necessary to exaggerate either the gravity or the difficulty of the situation. Let not our vision be blurred. Let us view things in their true perspective. Let us judge the non-co-operation movement in its true and proper light. Most of us, in fact everybody here, and most of the educated people outside, are fully acquainted with the programme of the non-co-operation movement, and, as we know, it was before the 17th of November last, for some time before that date, that non-co-operators were concentrating their attention and energy on the boycott of foreign goods and on bringing about a *hartal* on a particular date. Sir, let me say at once, and in as emphatic a manner as I can, that their decision to bring about a *hartal* on a particular day was a most unwise and a most unfortunate decision. We have it, on the authority of His Excellency the Governor General and of His Excellency the Governor of Bengal, that their attempt to bring about a *hartal* on this date exacerbated feelings and that there was an outcry, to quote the words of His Excellency Lord Reading, from the residents, particularly of Calcutta, and, in fact of most of the great cities in this country, against the intimidation and unlawful means which had been used by them in order to prevent people from taking the course which they wished to take. And, Sir, unfortunately on the 17th of November in Bombay there was a wicked and criminal outburst of lawlessness. There is no one, either in this hall or outside it in the country, who will not condemn that lawlessness in most emphatic language. Now, let us then see what followed the 17th of November. One finds that one Provincial Government after another resorted to the Criminal Law Amendment Act, the Seditious Meetings Act, the Defence of India Act and the Press Act. Sir, I have seen it stated by very responsible people that this is not a policy of repression. I shall beg the House to consider this question with me for one moment, without considering for the time being whether it is justifiable or not, but simply to confine their attention to the issue whether or not it is a policy of repression. For my purpose, it is enough to say that Government itself has called some of these measures repressive.

When the Repressive Laws Committee was formed, some of these measures were referred to them. In view of this fact, I submit, it is not open to serious argument that the policy inaugurated is not a policy of repression. Sir, my submission, my respectful and humble submission, is that Government went wrong in applying the Criminal Law Amendment Act to these various volunteer organisations in the country. It may be open to a Judge sitting in a court of law to hold that the language of the Criminal Law Amendment Act is wide enough to cover the case of a volunteer organisation in this country, but I submit with all respect that if you look to the object with which this measure was introduced and if you look to the surrounding circumstances that induced the Government in 1908 to introduce this measure, the conclusion becomes strong, from my point of view irresistible, that Government is not right in applying the Criminal Law Amendment Act to these volunteer organisations. May I invite the attention of this House to

what Sir Harvey Adamson said in introducing this measure in the Legislative Council? He said :

'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 Church Missionary Society was shot near his house at Kushtea. 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 Mrs. 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 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.'

Turn we now to the concluding speech of Lord Minto, who was then Governor General. He said :

'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 (*I shall beg the House to mark these words*) the workings of a murderous conspiracy—a wide-spread conspiracy—recruited from the ranks of emotional young men saturated with grotesque ideas of political freedom.'

Sir, whatever opinion one might hold as regards these volunteer organisations, I assert with all the emphasis I can command that it cannot be contended that these are murderous associations or that these are associations which organise political dacoities. It may be, and I think it is true, that in some cases there has been committed intimidation and other excesses by certain members of some of these volunteer organisations; but, I shall ask the House to remember that the creed of the volunteer organisations all over the country is non-violence. I find an Honourable Member occupying the Government Benches laughing at it; I shall ask him to consider whether or not it is a proof of their non-violence that leader after leader has been arrested, hundreds upon hundreds of young men have been arrested and sent to jail and there has been no trouble at all. If you look at the Resolution which has been passed by the Congress organisation, you will come to the conclusion that whatever might be the action of individual volunteers here and there, the aim that has been put before them is non-violence. This is the pledge that each volunteer has to take :

'With God as witness I solemnly declare that I shall be a member of the National Volunteer Corps; as long as I remain a member of the corps, I shall remain non-violent in

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word and deed and shall earnestly endeavour to be non-violent in intent since I believe that in India's circumstances it is non-violence alone that can help the Khilafat and the Punjab and result in the attainment of Swaraj'.

In their own interest non-co-operators have to be non-violent.

If the inauguration of this policy has been wrong, what about its application and its exercise? What do you find? You find that the Seditious Meetings Act has been applied not only to public meetings but even to Congress Committee Meetings. You find that volunteers have been indiscriminately arrested and packed off to jail. You have the unhappy spectacle of practically all the members of the United Provinces Congress Committee being arrested while they were sitting in a committee meeting. Their only offence was that they had supported a Resolution calling upon members to join the volunteer organisations. I have myself seen in Calcutta young men and even elderly people coming and saying: 'Purchase *Khaddar*: observe *hartal*'—that was enough; they were arrested and put into prison vans and sent to the lock-up. I have seen this with my own eyes.

This is not all. What more has been done? Speaking of my own province, I say that men whose political opinions you might condemn, whose political judgment you might find fault with, but whose character and attainments you dare not question, have been sent to jail because they have signed the pledge of these volunteer organizations. Take the case of Pandit Motilal Nehru. It is open to anybody in this House to disagree with his politics, but I submit that by virtue of his attainments, his knowledge, and his position, he could have well aspired to occupy any position open to an Indian under the Crown. Take another distinguished man in Benares, Babu Bhagwandas, a scholar, a student, an educationist. He has been sent to jail, and the case is so gross that even Dr. Subrahmanya Aiyer from Madras has publicly said in the papers that an appeal should be made to His Excellency the Governor General to consider the case of Babu Bhagwandas. What more has been done? Indiscriminate arrests, trials in camera, sentences which are out of all proportion to the technical offences which have been committed. You find that boys and men with honourable records have been sentenced to various terms of rigorous imprisonment because they have joined these volunteer organizations. This, I submit, is a thing which Government will do well to stop and stop forthwith. What has been, I ask, the result of this policy which has been inaugurated by Government? The result has been that this policy has been taken by the non-co-operators as a challenge to freedom of speech and to freedom of association. Thousands upon thousands have become volunteers; *hartals* which would otherwise not have been so complete have been made absolutely complete by the inauguration of this policy. Jail has lost its terror. Instead of being a place of humiliation, jail has become a place of honour, and to some, it has become a place of pilgrimage. Furthermore, this policy has thrown into the ranks of the non-co-operators thousands upon thousands of men who before took no interest in politics. The psychology is easily understandable. You find a man with a clean and decent life, esteemed and respected by his fellowmen, and, when you find that man sent to jail for an offence of this nature, general sympathy goes out to him because the feeling, right or wrong, is created that the man is made to suffer for the sake of his country. The result, I say, has been the aggravation of the very evil which Government wish to remove. Look at Lahore, I read in the papers only last night that hundreds of ladies have come out and are going about in

the streets as volunteers. Might I ask whether this policy has been supported by the moderate opinion in this country? The National Liberal Federation has spoken against it; the moderate organizations all over the country have spoken against it; the All-India Christian Conference, the Indian Association of Calcutta, the various Bar Libraries, the Moderate Press, I shall not mention individuals of recognised worth and position who condemn this policy—in fact all have protested against this policy and urged its abandonment. I submit that what the present policy has done is to aggravate the evil which it was intended to remove. Sir, non-co-operation I shall beg this House to treat as a symptom and not as the disease itself. If you go on fighting non-co-operation without looking into the causes that have given birth to it, I submit with confidence that you will never be able to destroy it. The way to destroy non-co-operation is to remove the causes, and the causes once removed, it will wither, and will ultimately disappear. Sir, luckily for me I have on my side the authority of the Honourable the Home Member himself as regards the unsoundness of the policy of repression. Speaking in this House, he said:

‘Now, in such a situation, there were three policies open to Government. We could have gone in for a general policy of repression, but we were very unwilling to adopt this course, though we have been pressed to undertake it by a certain section of opinion. Such a policy leads nowhere. It is not consistent with the spirit of the Reforms. It would have served merely to increase bitterness and racial feeling; it would have impeded the social and political progress of this country; it is inconsistent with the greater liberty of speech and action which these Reformed Councils would demand from the Government; it would have necessarily involved an invasion of private rights which are highly cherished by all the people; it would have alienated support for Government, would have strengthened the very people we wanted to weaken, and would, I believe, materially have weakened the moderate party and precipitated disorder.’

I submit, Sir, that this is exactly what has happened on the inauguration of the present policy. Sir, as I stated at the outset, the difficulties of Government are enormous. It is up to Government to devise ways and means for restoring peace and harmony in the country. If Government will ask the assistance of the non-official Members of this House, I suppose they will be willing, they will be ready, nay they will be eager, to place their services at the disposal of Government in restoring peace and order. But, Sir, as regards the policy, I must urge its abandonment because its initiation has been bad. I must urge its abandonment because its application has been worse; I must urge its abandonment because its administration has been still worse. I must urge its abandonment because it has alienated public sympathy. I must urge its abandonment because it has aggravated the very evil that it was intended to remove. I must urge the abandonment of this policy because I believe that if persisted in, it is bound to lead to disaster.

Mr. President: Before the Assembly proceeds to debate, it may perhaps clear the air a little if I make a statement regarding the amendments on the paper. There are eighteen amendments, but there has been handed in to me this morning a comprehensive amendment, standing in several names, which supersedes most of them. It offers a definite alternative to the terms of the Resolution and practically covers all the amendments on the paper. The only amendments which in my opinion, it does not cover are those standing in the name of Khan Bahadur Sarfaraz Hussain Khan, numbers 4 and 16, which introduce a different idea in the proposal to make the abandonment of a certain policy by Government conditional upon the abandonment of a certain policy by persons outside the Government. Therefore, I propose to

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take the comprehensive amendment, which has been handed to me, standing in the name of Dr. Gour and others, and then to take the amendments of Khan Bahadur Sarfaraz Hussain Khan as an amendment to Dr. Gour's amendment.

Lient.-Col. H. A. J. Gidney (Nominated Anglo-Indian) : May I take it, Sir, that the other amendments will not be touched upon at all? My amendment is not covered by Dr. Gour's comprehensive one.

Mr. President : If, as the debate proceeds, any Honourable Member, in whose name an amendment stands, is of opinion that the question before the House does not adequately cover the purpose of his own amendment, he will be at liberty to put his amendment before the Chair, but, I think, as the debate proceeds, it will be evident that the general amendment, standing in the name of Dr. Gour and others, covers, in substance, though not actually in terms, the other amendments on the paper, except those to which I have drawn attention.

The Honourable Sir William Vincent (Home Member) : May I have a copy of Dr. Gour's amendment? I have not seen it yet?

Mr. R. A. Spence (Bombay : European) : May we all have copies?

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : I will read it out. Sir, on behalf of the Democratic Party of this House, I have the privilege of moving the following amendment :

'While strongly deprecating the aggressive form of non-co-operation manifested by some non-co-operators and the resort to violence by them in some places, as also the menace of mass civil disobedience, this Assembly strongly disapproves of the recourse by Government to a general policy of repression without previously consulting this House, and recommends to the Governor General in Council the immediate abandonment of the policy of repression inaugurated in the country, the reversion to the policy announced to this House on the 23rd March, 1921, the release of all prisoners in detention in pursuance of that policy, and the convening of a conference comprising the representatives of all shades of opinion with a view to concert a practical plan for the restoration of peace in the country and for ensuring its political progress in consonance with its national aspirations.'

You will observe, Sir, that this amendment divides itself into four different parts and conveys a sense of the feeling of a section of this House, both as regards the activities of the non-co-operators outside this House and of the action taken by the Executive Government in combating non-co-operation.

It also suggests a constructive policy for the Government to adopt for the permanent settlement of the questions that are agitating this country.

Sir, my Honourable friend, the Mover of the principal Resolution, has told you in general terms the line of action which the Government took and which he has condemned. In doing so, he has referred to the genesis of the Act of 1908 which arms the Government with power to proclaim what is there described as 'unlawful associations'. If Honourable Members will turn to that Act they will find that in section 15 of Part II of the Criminal Law Amendment Act an 'unlawful association' is described in the following terms :

'Unlawful association means an association which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts.'

Then we have an extremely vague, extremely general clause which runs :

'Or which has been declared to be unlawful by the Governor General in Council under the powers hereby conferred.'

I would ask Honourable Members to indulge me for a few moments if I lay bare the facts which have culminated in the present national crisis. After the memorable speech delivered by the Leader of this House, to which reference has been made by the Mover of this Resolution, the non-co-operation movement throughout the country was languishing for want of support, and I venture to say that that movement would have died a natural death had it not been for the events to which I am about to refer. Honourable Members will well remember that on the 17th November last, His Royal Highness the Prince of Wales landed in Bombay, and on that day in the City of Bombay certain riotous crowds committed excesses for which the leader of the non-co-operation movement fasted for the purpose of restoring peace. I lament, with the Members of this House, that that should have been the method adopted for the purpose of preserving peace and restoring order.

I equally lament, Sir, that the aggressive non-co-operation movement should have stimulated the hooligans of Bombay to break out into that riotous conduct. But what happened? The Bombay Government kept their heads cool. They took no action. They did not resort to the emergency legislation which then existed as it exists now on the Statute Book. Now, listen to me for a moment. On the 17th of November, the day I have referred to, they observed a complete *hartal* in the City of Calcutta, and on the morning of the 18th of November two Anglo-Indian dailies, which shall be nameless, came out with flaring leaders : 'The *hartal* in the premier City of this Empire has been dramatically complete. What is the Government going to do? Is it going to abnegate its primary right of preserving order?' Acting upon the suggestion made in these two journals, the Bengal Chamber of Commerce felt aroused to its duty and addressed an urgent letter to the Government of Bengal to suppress the Congress and the Khilafat volunteer movement, and on the same day, the Government of Bengal, acting under the section, issued a *Communiqué* declaring the whole volunteer movement in Bengal as unlawful and proscribing these associations under the Act. Within 24 hours of the issue of this *Communiqué* arrests were made in the town and suburbs of Calcutta and in many places in Bengal, and I am given to understand that no less than 3,000 volunteers were arrested in the town and neighbourhood of Calcutta. Up to that moment there was no allegation that this volunteer movement, which had been in existence for a considerable time, had violated the letter or the spirit of section 15, clause (2) sub-clause (a) of this Act. But, all of a sudden, the Government of Bengal was roused to action by the two journalistic efforts combined with the letter of the Bengal Chamber of Commerce. The sole object of this repressive policy of the Bengal Government was not to preserve

Mr. President : Order, order. The Honourable Member must address his remarks to the action of the Government of India.

Dr. H. S. Gour : I presume, Sir, and I speak subject to correction, that this action by the Government of Bengal could not have been taken without the previous knowledge and sanction of the Central Government. I am quite aware

The Honourable Sir William Vincent: Would the Honourable Member like to know the facts? The facts are that the Government of Bengal could have taken action without the sanction of this Government, but this Government did approve of the action taken by the Bengal Government.

Dr. H. S. Gour: I am very glad to hear it, but I knew it already, and I was going to say it, Sir. This action of the Bengal Government was not taken, we now hear, without the previous sanction or concurrence of the Government of India. I do not ignore the Devolution Rules, and I know that it was within the jurisdiction of the Bengal Government to act. But remember my words, the Bengal Government take that action and create a situation in which it may be necessary that the Central Government must co-operate for the preservation of law and order, and the Central Government realise that that may involve financial responsibilities for which the sanction of this House might be necessary. Consequently, before any Government can embark upon a wholesale policy of repression, that Government, I submit, must, as a matter of logical necessity, consult the Central Government, and that Central Government must equally, as a matter of constitutional necessity, consult this Honourable House. Now, Sir, on the 23rd of November, 1921, the United Provinces Government issued a notification and commenced arrests of volunteers. On the 5th, or I think on the 6th of December, 4 days before the Prince was due in Lucknow, the Nehru Brothers and Jawaharlal Nehru and 12 or 13 other persons were arrested, and later on 50 or 60 members of the Congress Committee were arrested on the ground that they had enlisted themselves as volunteers. Up to that date, there was no suggestion that the Nehrus or members of the Congress volunteers in the United Provinces had either aided and abetted the commission of acts of violence or had themselves habitually committed such acts. The Honourable the Mover of this Resolution has paid a compliment to the *doyen* of the Allahabad Bar, Pandit Motilal Nehru, in which I join. I am sure, Sir, that no Member in this House can seriously say that the Nehrus either encouraged or aided persons to commit acts of violence or that they were members of an association which habitually committed such acts.

Let me complete the picture. I have told you what took place in Bombay. I have told you what took place in Calcutta and I have told you about two journals and the Bengal Chamber of Commerce and what the Bengal Government did and, acting upon a similar impulse and providing themselves against a remote contingency, what the United Provinces Government did. I now pass on to the Punjab. In Punjab, about the 3rd or 4th of December, Lala Lajpat Rai was arrested while he was attending a committee of the Indian National Congress. A notification was issued by the Bihar Government but, yielding to the protest of the local Legislative Council, the Government withdrew its proclamation and released all the prisoners who had been arrested. I am glad to say, Sir, that a similar contingency has not arisen in my own province, and, while the notification was issued in Madras, no action was taken. This is, I submit, the brief history of this general policy of repression, upon which the Government of India embarked acting on the suggestion of a certain Government and to provide for one single contingency. That, I submit, is a short history of the general law of repression, and Honourable Members will ask how far and why the Government of India are to blame. It is perfectly obvious that if the Government of India intended to legalise and sanction, on the part of the other provincial Governments,

recourse to this general policy of repression, it is only due to the Honourable Members of this House that the Government of India should have previously consulted us. Remember, Sir, we desire as much as any member of the Government would desire that there should be no disturbance of peace in the country and we are as anxious as any member of the Government would be to stamp out disorder and to arrest the spirit of lawlessness which is abroad in the country but we are equally jealous of the privileges of this House and we desire and demand that before the Government launches out on this policy of repression the Members of this House should be previously consulted and their concurrence obtained. That this is not done is the gravamen of our charge, of which the Government of India stand accused. I further submit, and I anticipate the arguments that will be advanced by the apologists of that policy that the Government of India have got the right under clause 15, sub-clause 2 (b) to declare any association unlawful, but let me remind my Honourable friend, the Law Member, and I think he will agree with me that this must be read reasonably and *ejusdem generis* and under this general vague clause the Government of India cannot proscribe persons lawfully engaged in a peaceful and non-violent form of activity merely because it happens to be political and intended to bring and focus popular grievances for the consideration of Government. I submit, therefore, Sir, that so far as the Government of India are concerned, they cannot stand acquitted of the charge of having embarked on a policy of general repression which was not justifiable under the circumstances of the case. Let me, Sir, clear the ground by saying that if any member of the association of volunteers or the Congress or the Khilafat was guilty of acts of violence or intimidation or of committing any unlawful acts, he should have been dealt with under the general penal law, but there is no reason why the whole association, the whole movement should be strangled because of the acts of one or two or some or many. That, I submit, is a view which commends itself to an important section of the Members of this House. Now, Sir, if I stopped short here, I should be certainly guilty of a dereliction of duty in that I should have criticised the action of Government without offering any constructive proposal.

Mr. President: The Honourable Member is no doubt aware that he has already exceeded his time. He should therefore bring his remarks to a close as quickly as possible.

Dr. H. S. Gour: Fortunately, Sir, the constructive proposal I have to make is one which does not call for any lengthy explanation. We demand that people who have been arrested in Calcutta, in the United Provinces, Bengal, Patna and elsewhere should be now released and those who have heard the history of the recent repression will have no doubt left in their minds that the contingency against which provision was made is over so far as Bengal, United Provinces, Bihar and Orissa and Burma are concerned, and what reason have the Government now to keep, in duration vile, leaders like C. R. Das, like the Nehrus, like Lala Lajpat Rai and others who, I submit, have not been guilty of any substantive crime.

But, I submit, the release of those people would not be the solution of the question. It would be, I submit, merely a palliative and not a cure. Therefore I suggest that for the purpose of allaying the growing discontent in this country, and for the purpose of effecting a permanent settlement of the questions which are agitating the public mind, the Govern-

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ment may be pleased to convene a conference of the representatives of all shades of opinion with a view to discuss and devise means for the purpose I have stated in my amendment. With these few words, Sir, I commend my amendment to the acceptance of this House.

Mr. President: The amendment moved is, that for the original* Resolution the following be substituted :

'While strongly deprecating the aggressive form of non-co-operation manifested by some non-co-operators and the resort to violence by them in some places, as also the menace of mass civil disobedience, this Assembly strongly disapproves of the recourse by Government to a general policy of repression without previously consulting this House and recommends to the Governor General in Council the immediate abandonment of the policy of repression inaugurated in the country, the reversion to the policy announced to this House on the 23rd March, 1921, the release of all persons in detention in pursuance of that policy, and the convening of a conference comprising the representatives of all shades of opinion with a view to concert a practical plan for the restoration of peace in the country and for ensuring its political progress in consonance with its national aspirations.'

Mr. Jamnadas Dwarkadas: (Bombay City: Non-Muhammadian Urban): Sir, I rise at this early stage of the debate to oppose the Resolution moved by my Honourable friend, Munshi Iswar Saran, as also the amendment moved by my Honourable friend, Dr. Gour. Sir, I need not repeat here in this House that we are passing through a crisis. This country is faced with a situation with the like of which it has never been faced before. Whatever we say here in this House to-day, as men who are responsible, as men who owe a duty to the country, is likely to affect the situation considerably. The situation might improve if we, as responsible men, exercised our sense of responsibility, rose to the occasion, went deep down into our hearts, thought and reflected on the situation for ourselves and then stood up, and taking up a decisive attitude on the question, said openly and clearly whether we considered the Government to be in the right or in the wrong. The situation is so grave that no amount of quibbling will solve the situation. I take leave to differ from my friend, Munshi Iswar Saran, when he says that the situation is much exaggerated. The gravity of the situation, he says, is exaggerated.

Munshi Iswar Saran: No, I did not say that.

Mr. Jamnadas Dwarkadas: The gravity of the situation can never be too exaggerated. Let us face facts as they are. For the last few months in the country there has been in existence a movement which has been gaining ground day after day, which has been causing a good deal of mischief in almost all parts of the country, until it has come to a stage now when it behoves us either to say that we shall support that movement and face the disorder that ensues as a result of that movement, or that we shall support the Government in dealing with that movement in order that the seeds of disorder, which can never do good to this country, may, for all time to come, disappear. It has been said that the events that took place in the country do not justify Government's launching on what is called a repressive policy. Sir, I am not a lawyer, but I should like to know what is the definition of 'repression.' If Government resorts to exceptional measures in order to put down a legitimate movement which is launched for the purpose of bringing about a state of affairs which would satisfy the political aspirations of the people, then I would agree that the

*Vide page 1667 of these Debates.

Government is putting down by repressive measures a legitimate movement. But if Government puts down a movement or tries to put down a movement, which is, it must be remembered, not a constitutional movement, not a movement which aims at getting the grievances of the country constitutionally redressed, but which aims, in the words of the author of the movement, at the overthrow of the Government, which says openly that the non-co-operators have declared war against the Government, which openly declares that the adherents of the movement—I am quoting the words of the author of the movement—are rebels and have nothing to do with Government: if measures are taken to repress that movement in order that peace to the country may be secured, I submit, although I am not a lawyer, that it is not a repressive measure, it is not a repressive policy on the part of Government. (Hear, hear.) For all these months we have been hearing day after day from one leader after another that they have nothing to do with the Government, that they have broken all the ties with the existing Government, that it is a Satanic Government (too satanic to deserve any co-operation at the hands of the people of this country), that they are at war with Government, that they are rebels bound to overthrow the Government and replace it by their own Government, by their own Republic, if need be. I submit, Sir, that if on any occasion in the history of British rule in India Government have shown patience and forbearance with any political movement—I know to their cost and to the cost of the country in the past, they have put down movements of a legitimate character which were nothing compared to the movement that is now launched—I submit, Sir, that if Government have on any occasion in the history of British rule in India shown forbearance and patience towards any movement, it is on this occasion only, and in spite of the fact that this movement never concealed the fact that it was a revolutionary movement. I think the Government showed forbearance towards this movement because, as was pointed out by the Honourable the Home Member long long ago in this House, the Government relied on the support of the Moderates: the Government thought that the inauguration of the new policy of reforms would bring about a situation where responsible men in this House would enforce this opinion on the people of the country—that after all the reforms were a great measure, that everything that they wanted to achieve in the shape of political freedom can be constitutionally achieved through the Reforms.

The Government waited to see the result of our doings outside the House. The Government waited to see the result of Moderate agitation outside this House. Unfortunately, I confess, although many of us, I am bound to admit, tried our best to put our views before the people, the non-co-operators stole a march on us and we did not succeed. Let us be frank about it. We did not succeed. Still the Government waited. Events here and there, took place which clearly indicated that if repressive measures were not taken by the Government, in my own words, as I said in September in Simla, the day was not far when what happened in Malabar would probably be happening in almost every part of the country. The Government still waited. In Malabar unmentionable things have taken place. Perhaps, Sir, Honourable Members, who have neither been to Malabar nor have the vision to realise the sufferings that have been inflicted on the inhabitants in Malabar, cannot sufficiently sympathise with those sufferings. But let us leave aside Malabar. Even after the events in Malabar, Government did not resort to what is now

[Mr. Jamnadas Dwarkadas.]

called repressive policy. But surely we, who come from Bombay, are entitled to give to this House the benefit of what our experience has been in Bombay, especially in view of the fact that my Honourable friend from the United Provinces and my Honourable friend from the Central Provinces have thought it proper to refer to what happened in Bombay. I come from Bombay. But I never dreamt for a moment, Sir, that Bombay would ever be a place where scenes of the character and the unmentionable things that happened in Bombay on the 17th of November would ever take place. What happened in Bombay on the 17th of November, 1921? My Honourable friend says that in spite of the fact that so many things happened in Bombay, Government never resorted to a repressive policy. The Government never dreamt, and justifiably so, nor did we ever dream, nor in his own words did Mr. Gandhi ever dream,—but the Swaraj that he saw in Bombay for two days stunk in his nostrils—to quote his own words, that such things would happen in Bombay. What happened in Bombay? Sir, I wish I could convey to the House in adequate terms the slightest notion of the terrible things that took place in Bombay. Women's honour in Bombay was not safe. I do not want to shock the House by telling them that women were treated in a most shameful and unmentionable way in the streets of Bombay. The lives of three police constables were taken under the nose of Mr. Gandhi. The wife of our Honourable and esteemed colleague, our Deputy President, was one of those who, although she was stoned and badly stoned escaped coming entirely under the wrath of the non-co-operators. I wish I could describe the agony of Mr. Gandhi's soul during those two days. Unfortunately, Sir, for this country, Mr. Gandhi has a short memory. When things happened during 1919, which shocked him, he admitted his mistake and said that he had made a Himalayan miscalculation. Things happened in Malabar. Malabar was too far away from him. He could not visualise the innumerable sufferings of the people of the place. When things happened under his own nose in Bombay, he felt the agony, which I cannot adequately convey to you. Sir, I want to ask this House whether they consider that having seen things happening in Bombay, the Government of India or the Provincial Governments would have been wise to watch with folded hands the preparations which were likely to bring about the same or even worst results in other provinces. Does any Honourable Member for a minute imagine that if he were in the place of Government, if he had seen lives lost in the manner in which they were lost in Bombay—and it is reported more than fifty innocent lives were lost—if he had seen those unmentionable things that I have related which happened in Bombay, he would have risked the same, and the losing of lives in other provinces that followed, or would he not have come out in the open and said: 'while the mischievous preparations are being made for the purpose of securing safety for the people, for the purpose of preventing a situation in which the people are bound to suffer, I shall do everything in my power, and resort to all the measures that it is in my power to resort to in order legitimately to put down this agitation, which is sure to result in these terrible happenings.' Let us not mix up personalities with the issue before us. Mention has been made of respected men who are in jail to-day. Sir, I do not exaggerate, but there is hardly anyone in the country to-day who feels more than myself. I submit, that these respected leaders who, if they had only followed the right line would have deserved their places on the Treasury Bench, are in jail to-day. The suffering of these people is a matter of grave concern. But if it is necessary for us, in

co-operating with Government, to invite a little suffering on a few of the population in order to avoid the large suffering which will engulf the whole population in this country and which will ruin the prospects of this country, I say unhesitatingly let us come out and invite a little suffering on a small band of people, however painful it may be for us to bear that suffering; but let us under any circumstances and at any cost, save the country from going into the clutches of a future, which is very uncertain and which is bound to bring about great disaster on our countrymen. Sir, we are faced with a very grave situation. The proposal has been made that a Round Table Conference should be called for by the Government. Again, Sir, I may be permitted to refer to the humble efforts that it was my privilege to make for the purpose of bringing about a Round Table Conference. I have been thoroughly disappointed. No man could have tried, I want to assure the House, to bring about peace by means of a Round Table Conference as I have tried, and I also want to mention to this House this fact that in the summoning of this Round Table Conference, the Government have shown their readiness to meet us in every possible way that can be imagined. The one man who has slammed the door for the Round Table Conference and who is responsible for the situation and its gravity is Mr. Gandhi. The Viceroy openly said in answer to the deputation that waited on him in Calcutta that he was prepared to have a Round Table Conference if Mr. Gandhi would agree to a truce; that no party was to blame the other party, that no party was to take credit for having come victorious and to blame the other party for having gone down, that all were to meet in order honestly and earnestly to settle the differences that were agitating the mind of the country. The Viceroy left the door wide open for the Conference. Mr. Gandhi has slammed the door, I think, for ever. Another effort was made in Bombay

Mr. K. Ahmed (Rajshahi Division : Muhammadan Bural) : On a point of order, Sir. Is the Honourable Member entitled to go beyond his time limit ?

Mr. Jamnadas Dwarkadas : Another effort was made in Bombay only a few days back to secure the Conference. Why has that effort failed ? (Cries of ' Not failed '). To my mind it has failed, and the letter that Sir Sankaran Nair has written to the *Times of India* supports the statement that I am making here. Why has it failed ? Leaving aside the question of Mr. Gandhi not attending the Round Table Conference, Mr. Gandhi does not even condescend to take part officially in the Conference that was called by his friends. Sir, all means have been exhausted. All efforts have been made for peace in vain. The clear course before the Government and before us, responsible men, is either to support the Government in putting down a movement which we all know definitely, if it continues, is fraught with the gravest disaster for this country, or weakly, for fear that we might lose popularity with our people, for fear that our countrymen might blame us, to support that movement and be a party in inviting what I consider is going to be the ruin of this country. The time has come when it is not a question of supporting a foreign Government to put down disorder in the country. You have to choose between Government of any kind on the one hand and on the other hand anarchy, chaos, disorder which will for centuries give a set-back to the progress of this country. I leave the choice in the hands of the House. So far as I am concerned, I unhesitatingly and emphatically declare that I shall be with Government in putting down disorder.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, I rise at once with your permission to correct certain misstatements which have been made. As regards the Round Table Conference, which the Conference met at Bombay, tried to bring about, Mr. Jinnah has told the House that it would be a failure. He has told us that he has been attempting a similar thing and that he failed. I may say in all humility that what such a great man as Mr. Jinnah has tried and failed in, lesser men like myself and persons who have been associated with me have endeavoured to bring about and may succeed ; and I am hopeful that within the course of a fortnight or so there will be an announcement that the Round Table Conference will be summoned. Sir, since the speech which the Honourable Member has referred to, there has been a consultation with the leader of the non-co-operation movement and he has written a letter which I have handed over to the Honourable the Home Member from which it will be seen that the leader of the non-co-operation movement would attend this Conference in his official capacity. I would not say that he would not recede from the position he has taken up, because he distinctly says so in the letter which he has addressed to us. I may inform the House that after this Conference we had some doubts and one of the leaders saw Mr. Gandhi ; and Mr. Gandhi has since written this letter which he wants to be shown to the Viceroy and I take it to the Viceroy's counsellors also, so that the probability of a Conference is made easy. Now, Sir, I felt bound to offer this explanation to the House because I am anxious that those that come after me and speak on this Resolution, whether it be from the Government Benches or whether it be from the non-official Benches, should not use language which is likely to put an end to the hopes and aspirations we have in this matter, namely, to bring about peace in this country and reconciliation. For that purpose, Sir, I have been endeavouring to catch your eye as early as possible, and I appeal to the Members of this House not to use language which would make it impossible for a happy solution of the existing troubles being brought about . . .

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non Muhamman Rural) : Will you read Mr. Gandhi's letter?

Mr. T. V. Seshagiri Ayyar : I hope, Sir, that you will allow me to reply to all these questions, because it is a matter which goes to the very root of the whole question. In the Conference, at which certain Resolutions were passed, Mr. Gandhi agreed that he would consult his Working Committee and write to the Committee appointed by the Conference that he would suspend *hartals*, and suspend picketing, suspend mass disobedience, until the 31st January unconditionally, and if the Round Table Conference were called, he would, until the deliberations were over, not have any resort to these three measures. Sir, at the same time, in the speech which he delivered at the Conference he said that there were certain demands which were irreducible and unless those demands were acceded to he would not be in a position to attend a Conference in his representative capacity. This gave us trouble. We took up the position which Sir William Vincent is sure to take up, namely, that it would be useless to summon any Conference if one party insists upon regarding particular demands as irreducible, as an ultimatum from which he would not withdraw. For this purpose the Committee appointed by the Conference met next morning ; we had a discussion and we deputed the most respectable amongst us, Pandit Madar Mohan Malaviya, to go to Mr. Gandhi and explain the situation. The Panditji went to Mr. Gandhi and he has got in his possession a letter written by Mr. Gandhi himself, of which I gave a

typed copy to the Honourable the Home Member. I do not know whether I would be quite in order in reading this letter to you, but as it will have a bearing upon the discussion in this House I may read some portion of it. (Cries of 'The whole of it'.)

Mr. President: If the Honourable Member refers to a document which has not been published and uses it for the purposes of debate, the House is entitled to demand its publication.

Mr. T. V. Seshagiri Ayyar: I bow to your ruling, Sir, and I shall read it. This is what he says in the letter which he wrote to Pandit Madan Mohan Malaviya :

'What I mean is that until I am convinced that my demands are unreasonable, unjust or impossible of fulfilment, I would not recede from them. I would not consider the unwillingness of Government or the Parliament to grant any of these things to be a ground for reducing the demands. The value of a Round Table Conference consists in understanding each other's difficulties and making allowances for them. Hence my insistence that the Government must change their heart. If they entrench themselves behind their armed forces, a Conference is not only fruitless but mischievous; they must try to appeal to our intellect as we must try to appeal to theirs. If the Government or anybody, therefore, shows to my satisfaction that the particular demand is unreasonable or untenable, I would certainly give in as I did yesterday on the question of the mode of securing the release of political prisoners other than the two classes mentioned in Resolution 3. As soon as I realise the difficulty of acceptance of my method, I will straightaway withdraw.

Only I must add that I have so much considered the demands and understood the arguments against them that there is no reasonable prospect of my being convinced to the contrary. As against this attitude of mine, you at least (that is, referring to Panditji) would be able to put my known anxiety to avoid differences and meet more than half way wherever I can. No body who has honest and clear convictions of his own should be afraid of or despair of dealing with me. You are not, Gokhale never was though he perhaps more than you, fully understood that something in me which friends call obstinacy or obtuseness and which I call my religion. There is and must be in all of us a point beyond which one may not go. You are at liberty to use it in any way you like.'

This letter shows that in going to the Conference he would not argue that certain demands are irreducible, demands from which he would not recede. He is willing to sit with other people, to consider their opinions, and then come to a conclusion as to whether he should give way or not. Under these circumstances, Sir, I have every hope that the Government of this country will see its way to summoning a Round Table Conference of persons of all shades of opinion so that the question may be debated in full and a satisfactory solution of the present difficulties reached.

Sir, I am afraid I have taken up more time than I was entitled to, but so far I have been able to reply only to one portion of the speech of my friend, Mr. Jamnadas. If I have your permission, Sir, I should like to say a few words upon the general topic. Sir, it has been said by Mr. Jamnadas that a Round Table Conference is impossible, that an understanding with Mr. Gandhi is impossible, and that the Government are perfectly justified in the policy which it is pursuing. May I remind my Honourable friend that it is not a month even since he signed a manifesto which was presented to His Excellency the Viceroy in which he condemned along with us the policy pursued of extending the Criminal Law Amendment Act and the Seditious Meetings Act as altogether unjustified. (Hear, hear.)

Mr. Jamnadas Dwarkadas: Sir, may I rise to make a personal explanation if I may interrupt my esteemed friend? I have already

[Mr. Jamnadas Dwarkadas.]

made mention of the fact that no one has tried more for peace than I have, and I put my signature to that address because I was in favour of the Viceroy inviting a Round Table Conference if Mr. Gandhi would agree.

Mr. T. V. Seshagiri Ayyar : Sir, what I said was that he has in signing that manifesto roundly and in unmistakeable terms declared that the action taken by the Government in extending the Criminal Law Amendment Act and the Seditious Meetings Act was altogether unjustified. (Hear, hear.) It is for that purpose, Sir, that I referred to it. I will not go into that matter any further. What I ask my friends on the Government Benches is this. Do you think that every other possible recourse to law had been exhausted when you extended the Criminal Law Amendment Act to the various provinces? I ask you that question, Sir, because it has not been a preventive measure, but a provocative measure. It has not put down crime. On the other hand, it has declared a large number of honest men criminals. Consequently, I ask you whether you had exhausted all the avenues of putting an end to what you call disturbances before you thought of extending the Criminal Law Amendment Act to the various provinces? You, on the Government side, know under what circumstances that Act was passed, and for what purpose it was intended. It was intended to apply to cases where there is rebellion in the country, where the ordinary law in the country is inadequate to deal with the situation, and where it is absolutely necessary to protect lives and property by other means. Is that the position now? Are you prepared to admit that the country is in such a state of rebellion that you are unable to govern it without extending the Criminal Law Amendment Act? I submit, Sir, it would be a clear confession of weakness on the part of Government to say so. I do not think that there is such a state of things in the country that you can honestly say that but for the extension of the Criminal Law Amendment Act it would be impossible to govern the country. What, after all, has been the result of extending the Criminal Law Amendment Act? You are substituting the executive mandate for the opinion of the judiciary. If you thought that a particular association was unlawful, why did you not go before the constituted authorities and take their opinion? Why do you not disclose what you consider to be the propaganda work which is likely to ruin this country? Instead of that, why do you take upon yourself to declare by an executive mandate that 'we shall ban this association and the other, and whoever offends our proclamation shall be prosecuted'. Sir, that seems to be a confession of weakness on the part of the Government, and I hope this Assembly at any rate will not sanction any proposal which has the effect of substituting executive authority for judicial pronouncements. Sir, speaking on the volunteer movement, I make bold to say that this volunteer movement is not intended for purposes of intimidation and of preventing people from pursuing their peaceful occupations. (Loud laughter.) Well, certainly some people have got a loud voice and they can laugh very loudly, but that loud laughing would not show that they are right. I know the volunteer movement in my province. I have watched the movement in other provinces, and I know that these volunteers do a great deal of social service, they do a great deal of political and religious service, and I believe that the Honourable the Law Member will bear me out when I say that there is nothing intrinsically criminal in the volunteer movement. It is only when the members resort to oppression, intimidation and violence, that you will

be entitled to say that this movement must be put down. Until then Government will not be justified in putting it down. Sir, if the Government goes on at this rate, they should be under no delusion that they will be able to put down in the long run this movement and to say that the country has been brought to peace. That, I respectfully submit to Members on the Government benches, is impossible. You are creating more unrest than there is in the country, and the result of continuing this policy will be that in course of time there will be such sullen discontent and such a grim determination to resist the law that you will find it impossible to deal with the situation. You will have to build more jails, and you will have to deal with a people who are deeply discontented and who are not all friendly towards you. Under these circumstances, it is the duty of Government to see that this policy is no longer persisted in, and if there is an honest opening for a Conference, it should welcome it and see that the country is no longer subjected to the grave trials which it has been undergoing during the last 5 or 6 weeks. Otherwise, what would be the alternative? The Government will have to give up all their other duties and take to policing us. You have given out to the world that you are here more for the purpose of civilizing us, for the purpose of making us fit for having Dominion Self-government. If you are engaged in the duty of repression, and you find that there is a large number of people who have to be looked after in this country, the result of it will be that you will never have time to do any other work; you will be engaged from the beginning of the year to the end in the work of policing the country, and you will not be able to show to the civilized world that you are really in this country for the purpose of guiding us, for the purpose of making this country progress peacefully, and for the purpose of making this country fit for Dominion Self-government. You will have to face that situation. Do not be under any misapprehension that by extending the Criminal Law Amendment Act and by prosecuting a large number of people you are going to restore peace and order in the country. Far from it. You are going to make this country more ungovernable and difficult. It may be that by the summary powers you have, you will be able to put down to a certain extent the outward expression of the feeling, but the inward discontent will be there; the discontent will continue and increase, and in the end you will find that you are not able to do what you came to this country to do.

In these circumstances, I would appeal to the Government of India not to proceed with the policy of extending the provisions of the Criminal Law Amendment Act, or the Seditious Meetings Act, you will only do harm by so doing. You are not doing good to the country, nor are you doing good to the reputation of the British nation. Indeed, you will weaken it a great deal and instead of going forward you will have to go back a great deal.

Rai Bahadur Bishamphar Nath (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, in making some observations on the subject before the House, I would like to confine my remarks only to a few points. Did the political situation in the country justify the adoption of the repressive policy? What has been the result of this policy, and is it likely to meet the end in view? Sir, there was unrest in the country no doubt, which still continues, and the non-co-operation movement disturbed the peace of mind of the people. But can the unrest be attributed mainly to the non-co-operation movement? Is it confined only to our country? Was not the non-co-operation movement the effect rather than the cause of the unrest? The new policy

[Rai Bahadur Bishambhar Nath.]

that has unfortunately been inaugurated seeks to remedy the evil by the application of the Criminal Law Amendment Act and the Seditious Meetings Act. But may I ask, in all earnestness, was the situation similar to what existed at the time in Bengal when these extraordinary measures had to be devised, and after all did these repressive measures cure Bengal of the malady or was it the bold statesmanship of Lord Hardinge in annulling the partition of Bengal and the Minto-Morley reforms that has restored peace to afflicted Bengal? Sir, howsoever objectionable the non-co-operation movement may be in itself, we have to recognize the fact that its methods are entirely different from those adopted by the revolutionaries of Bengal in 1908, who hatched their plots in the dark and resorted to pistols, bombs and daggers for the execution of their nefarious designs. The ways of the non-co-operators, insidious no doubt, are non-violent. I admit some of the votaries of the movement, contrary to the commands of their leaders, have adopted methods far from peaceful. But these eruptions have been local and spasmodic. They have been openly condemned by their leaders and the restraint exercised has not been altogether ineffective. In the majority of the provinces the hubbub has not been attended with violence. I would illustrate my point by referring to the United Provinces, to which I belong, and where unfortunately repression is being ruthlessly carried on. Before the extension of the Criminal Law Amendment Act, the agitators used to submit meekly to the application of section 144, howsoever unreasonable and unjustified was its application to a particular case was supposed to be. There was not even serious political trouble, not to speak of 'impending sanguinary revolution.' There were disturbances in some districts of Oudh no doubt, but they were due to causes purely economic and agrarian. I respectfully join issue therefore with His Excellency Sir Harcourt Butler when he says that:

'The situation was acute and critical, the disorderly element had come in, ruffians were hired or collected together. Had not the Government taken prompt action against the ringleaders, the Provinces would have no doubt passed through a period of bloodshed and misery which would have been remembered for many years to come.'

On the contrary, I hold that the situation, not at all critical, has been made so and is being steadily aggravated by an irritated and panic-stricken Government, recklessly pursuing the policy of repression. A regular crusade against political bodies solemnly pledged to non-violence, indiscriminate arrests and convictions of some of the most respectable citizens for offences merely technical, heavy and capricious sentences on youths guilty of no other than juvenile freaks capable of being remedied more effectively by their guardians and teachers rather than by magistrates and jailors, are methods which, to say the least, are not likely to foster affection for the Government. I admit, Sir, people should not have defied the Criminal Law Amendment Act and the Seditious Meetings Act. But, at the same time, I submit, Sir, that the law under promise of repeal and meant to be applied to a situation quite different should not have been resorted to and the elementary rights of citizens of freedom of speech and association should not have been lightly invaded. And what has been the result of this policy of relentless repression? Disaffection is going deeper, volunteers formerly only few in number have now increased by hundreds and thousands. Quiet submission to law has assumed the form of open defiance. The heart of the people perfectly sound is getting more and more affected. Sir, I submit in all humility that the new policy has failed miserably and the sooner it is

abandoned the better for the people and the Government. Condemning the non-co-operation movement in the Darbar speech of the 17th December last, His Excellency Sir Harcourt Butler was pleased to observe :

'That the attempt to boycott Colleges and Schools failed signally. I did not affect in the Province one per cent of the students and scholars. The attempt to boycott the law courts was wholly unsuccessful. The appeal to surrender titles given by and offices held under the Government fell on deaf ears. The efforts to seduce soldiers and policemen were mostly in vain.'

May I then respectfully inquire where was the necessity for the change of policy? Nobody holds a brief for those who use violence. Punish them by all means. People who transgress the law of the land deliberately must be prepared to take the consequences. But has not the ordinary law of the land made ample provision to bring into its clutches those who invade the liberty of others? Why then have recourse to laws meant for totally different conditions. If the existing law does not suffice, necessary amendments can be made. To pursue a policy of wholesale repression by utilizing the Criminal Law Amendment and the Seditious Meetings Acts will, I am afraid, make matters worse. The policy has defeated its own end and as such should be abandoned. The question is put to us as to what the Government should do in order to counteract the pernicious effects of the non-co-operation movement. All that I can say in reply is, that if they cannot think out the right remedy, let them for God's sake give up the use of the wrong drugs which are simply aggravating the disease. If the non-co-operation movement does not subside on account of its inherent weakness, let a correct diagnosis be made, its root causes discovered and effectively remedied. With these few words, I beg to support the amendment.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadan Rural) : Sir, I do not wish to recite the deplorable events of recent times which have already been laid bare before Honourable Members. But there cannot be two opinions about the stern fact that the political situation in India just now is very critical and demands most thoughtful and careful treatment.

'At a juncture like the present'

to use the words of His Highness the Maharaja of Bikaner :

'it behoves everyone to be careful to say nothing which might aggravate the situation.'

It cannot be denied that the India of to-day is not what it was 5 years ago. The recent repressive policy of the Government, of extending and applying the Criminal Law Amendment Act, the Defence of India Act and the Seditious Meetings Act to several parts of India, and also the misuse of the existing laws resulting in wholesale arrests and imprisonments, can never lead to good government. Such a policy is self-destructive and has supplied nourishment to the non-co-operation movement in order that it might grow strong. Otherwise, it would have died out or continued only as a social or a commercial organization preaching temperance and the use of Swadeshi goods against which the Government, as such, cannot complain.

They must remember that well-known saying '*ja ko Prabhu darun dukh denyi taki mati pahle har lenyi*' (whoever is destined to suffer extreme misery is deprived of his brains).

In the course of an altercation over Gandhi caps, only last month, I read in a newspaper that an Indian was shot by a European at Dehra Dun. Such is the height of feeling.

[Lala Girdharilal Agarwala.]

What good has happened by arresting and putting into jail so many Indians, some of whom are highly respected in the country even by those who do not agree with them in their political creed? One result which everybody can see is that jail life has lost all terror and humiliation. At the time of going to jail people are cheered and garlanded. Khilafat and Congress volunteer organisations which have been declared illegal are swelling from day to day. If you arrest 10, you find 20 taking their place. Sometimes a larger number of persons enter the prison vans than are actually wanted, as if they were going to a sacred place. How many persons can you imprison? Why should not better counsel prevail? The reign of terror cannot last long! Screw not the chord too tight lest it break! The best policy is to adopt conciliatory methods. Surely there is no bankruptcy of statesmanship! Why not then put your heads together and come to some common understanding and 'bring peace and prosperity'—to use the words of His Imperial Majesty the King-Emperor—'based upon mutual understanding and good will'!

I am one of the most loyal supporters of the British connection in the country. Please remember: Do not treat those who are at present opposed to you in such a way that their future co-operation with you will become impossible. Please remember what a Wazir said to a King who had first ill-treated him and then tried to reconcile him by presenting him with pearls: *Dilra shakistai na ki gohar shakistai* (You have broken the heart and not the pearls).

I therefore strongly advise the Government immediately to abandon the policy of repression, and to release all the victims of such a policy and confer with the representatives of all shades of opinion with a view to devise a practical plan for the restoration of peace in the country and for ensuring its political progress in consonance with its national aspirations.

Rai Bahadur Pandit J. L. Bhargava (Ambala Division: Non-Muhammadan): Sir, the policy of 'let alone', i.e., non-interference pursued by the Government in relation to the non-co-operation movement till some months past was really what it ought to have been, and if it erred at all, it erred on the right side. It is also an open secret that in reference to several items of the non-co-operation programme, the movement had not succeeded to an appreciable extent. In November last, the item which was to be taken up was the campaign of civil disobedience, but the difficulty of finding many unmoral laws and orders which could be effectively resisted stood in the way of the non-co-operators. Unfortunately, the most deplorable events which took place in Bombay in that month on the very day His Royal Highness the Prince of Wales landed there altered the situation altogether. The Government introduced a radical change in its policy and launched upon widespread and wholesale repression. Notifications were issued by various Local Governments one after the other under the Indian Criminal Law Amendment Act, 1908, as amended by the Devolution Act of 1920, declaring the volunteer organisations unlawful and notifications and proclamations were issued under the Prevention of Seditious Meetings Act of 1911. Thus the serious difficulty which stood in the way of the non-co-operators to start the campaign of civil disobedience was removed and an opportunity was afforded to them to fulfil their cherished desire. The Government took action under these Acts, apparently with the

laudable object of maintaining peace and order and protecting peaceful and law-abiding citizens and it is too true that the solicitude of the Government for the maintenance of law and order is none too great and all steps taken for these ends should receive the full support of the people in general. But the real question at issue is whether the measures adopted by the Government under these acts were justified by the circumstances or not and whether they have succeeded in achieving the object in view. Granted that there were cases of intimidation by volunteers in some places and of interference with the liberty of the buyers and sellers of liquor and other articles, in others one cannot resist the conclusion that the remedy adopted for the prevention of the recurrence of such cases was worse than the disease itself. Could not such individual cases be inquired into, properly dealt with, and deterrent sentences, if necessary, passed on them, under the ordinary law of the land? The enforcement of such obnoxious and harsh measures as the prevention of Seditious Meetings Act and the Indian Criminal Law Amendment Act, which unduly interfere with the fundamental and elementary rights of free speech and association of the people at large, certainly demanded a much stronger case than the one evidenced by stray cases of intimidation by volunteers on an inconsiderable scale, and these too in very few places. It is not strange, therefore, that the people regard the extension of these measures (adopted ostensibly in the name of peace and order) as calculated to stifle and crush all their political activities and legitimate national aspirations. These apprehensions are further strengthened by the recent orders regarding the press and newspapers like the '*Independent*' of Allahabad and the '*Partap*', the '*Kesari*' and the '*Bande Matram*', of Lahore, especially at a time when the Bill to repeal the Press Act is on the anvil of legislation and is likely to be passed this very month. As a matter of fact, there are many persons who have dispassionately and most carefully considered the situation in all its aspects who agree with Pandit Madan Mohan Malaviya in thinking that to declare Congress Volunteer Organisations unlawful was a great blunder committed by the Government.

That these notifications have failed to achieve the object aimed at admits of no manner of doubt. Not to speak of the rank and file, many non-cooperation leaders, men of unimpeachable character, great wealth and eminence, held in the highest esteem by their countrymen for their sacrifice and patriotism, some of whom, whose names I need not mention as they are well known to you all, could have very well adorned the front benches of the Legislature of any country and incarcerated in jails and from that place attract sympathy for themselves and the cause they have at heart. The volunteers parade the streets in towns, big and small, in open defiance of law with nobody to vindicate it by their arrest. Of course it is lamentable that in some places those who ought to uphold and maintain order stoop to methods which are the very travesty of law and in the name of law and order commit excesses which embitter public opinion and acerbate mutual relations. Enrolment of volunteers has not ceased, but is going on vigorously. The prevention of Seditious Meetings Act is also being flagrantly violated. The participation of ladies in the agitation against these measures has lent to the movement an impetus of unabated zeal and vigour. Even in a small town like Hissar in the Punjab, the place of my residence, only day before yesterday a procession of ladies, Hindus and Muhammadans, passed through the streets to the utter bewilderment of the authorities. In fact a situation of great delicacy and difficulty has arisen, in which leniency in the application of these

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measures looks like weakness and is regarded by the people as such, and stringency in enforcing them spells unalloyed tyranny. These measures, like other repressive measures, in all climes and ages, are sure to defeat their own ends, and the sooner they are withdrawn the better it is for all concerned. Lawlessness, stalking through the King's highways, does not present a spectacle either for the Government or the people to exult at. But can the Government claim that it is not in a fair measure responsible for precipitating and hastening the situation to take the present critical turn? I am afraid it cannot. This repressive policy and these notifications have landed the country in such a predicament that only courageous and wise statesmanship can solve the difficulty. It can hardly be gainsaid that the situation is extremely grave and the future is fraught with gloomy forebodings. The conflict between the Government and the people is one on which neither can be congratulated.

To my mind the abandonment of the policy of repression is the only solution of the difficulty. Let steps be taken to have the notifications under the prevention of Seditious Meetings Act and the Indian Criminal Law Amendment Act at once withdrawn and all persons arrested or convicted for violating these and other repressive laws be forthwith released and a Round Table Conference with persons representing all shades of political opinion be convened with a view to substitute harmony and peace for discord and disorder which are reigning in the country and are sure to reign if the present policy is pursued, and a radical change for the better will, as a matter of course, follow.

In conclusion, I again urge with all the emphasis that I can command, that it is but necessary that repression should give place to conciliation in order to relieve the tension and ease the present situation and that the Government while not neglecting its primary duty of maintaining order and peace and punishing lawlessness under the ordinary law of the land should radically change its policy and have resort to measures which may conduce to secure the good will of the people. With these words, I heartily support the amendment moved by Dr. Gour.

1 P.M.

Maulvi Abul Kasem (Dacca Division : Muhammadan Rural) : Sir, I fully realise the uncomfortable position in which I am at the present moment. I feel myself on the horns of a dilemma. On the one hand, I feel that I will be shirking my responsibility and neglecting my duty if I simply give my silent vote on this important Resolution. On the other hand, I equally feel that, if I speak out my mind and give expression to my own opinion and my judgment, I shall be making myself disagreeable to a large section of my countrymen and my views will be unpalatable to them all. But I have to face the situation as it is. Sir, the Resolution lays down that this Assembly asks the Government to abandon, and abandon immediately, the repressive policy. As has been pointed out by Mr. Jamnadas Dwarkadas, we want a definition of repressive policy. To understand this, for a layman like myself, I have to analyse the situation, as the very learned Mover has done it. I understand the country is faced with a problem. Here is Mr. Gandhi, with a programme of non-co-operation and non-violent non-co-operation if you like, with a programme defined, illustrated, clearly stated and we have had a year's experience of the methods by which that programme is being executed and carried into practice. If people believe, and there are a very large number who do, that

that is the proper method and the proper programme for the solution of our difficulties, for the attainment of Self-government, and that the carrying out of this programme and by the methods dictated to by the Dictator is likely to advance the cause of the country, to bring in peace, contentment and happiness to its people, I believe it is the duty of every mother's son in India who so believes to join that propaganda, to work it out and bring it to a success. If, on the other hand, people believe, as I do believe, that this programme of Mr. Gandhi, as set out by him in clear terms, is a set-back in the progress of the country, retards it and brings the country to wreck and ruin, I equally believe that it is the duty of every man in the country worth his salt to fight it out to the best of his ability. That is the situation. I do not claim wisdom for myself. I have neither the right nor the privilege, either temporal or spiritual, to claim that right, but I believe myself to be true to my opinion and at the same time I do not and cannot say that the other side is wrong. Those who believe in the other side owe it to themselves and their countrymen that they should join it. It is no use sitting on the fence. In politics there is nothing like a stand-still. You must either go forwards or backwards. Now, as regards the terms of this Resolution, it has been said that the Government have inaugurated a policy of repression, and, as instances, mention has been made of the arrest and imprisonment of a large number of volunteers and of some of our most respected and venerable leaders. I admit that it is a painful thing to see so many of our countrymen losing their liberty, but I want to know whether it is the Government which imprisoned them or whether it was the Government which only satisfied their ambition or their vanity to be in jail. Reading an article in Mr. Gandhi's 'Young India' I found it stating the other day speaking of a distinguished countryman of mine, that the opportunity of going to jail having come so very soon, he has availed himself of it. And, if people are anxious to be the guests of the country or the guests of His Majesty, I see no reason why their wish should not be gratified. It has been said that in Bengal, thousands of people have been imprisoned. I may tell this House for its information that the Government of Bengal got a large number of people convicted at different police courts in the City of Calcutta, but the majority of them are let out by the backdoor as they are taken in by the front one and the same set of people are coming in every day. Readers of newspapers must have found, even in non-co-operation papers like the 'Servant', mention day after day, of the number they sent out and the number that were arrested. It will be found that the people who went hankering after jail were three times as much as those who got it. Sir, what is the reason for this craze for being jail-birds. The craze is because the dictum has gone forth that a man cannot be a patriot, a saviour of his country and a lover of the nation, unless he once visits His Majesty's jail, and nobody has a right to speak on behalf of the country unless he has one conviction to prove against him. If that is the mentality, what is the Government to do? I certainly agree with my friends that it was useless to use section 17 (b) of a special law for this purpose. I do not approve of it and I think it should be abolished as early as possible but my motives are different. I do not approve of it because it is not effective. It has not served the purpose it was intended to serve. On the other hand, the Government have strengthened the hands of the non-co-operators by taking action under those sections. The people of this country who share my view think that it is the duty of Government, as the

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protector of peace, law and order, to see that this is not done, that effective measures are adopted to bring about a cessation of the activities of this movement. Sir, reading the Resolution, I find that they begin by condemning certain actions of an aggressive nature on the part of the non-co-operators. Am I to understand from the learned Mover of this Resolution that apart from the aggressiveness of certain non-co-operators and the violence used by some of these people, this House is prepared to approve the programme of the non-co-operators that has been laid down by Mr. Gandhi? If it is, I think you can adopt this amendment. Otherwise, we have to say that this House not only disapproves of the aggressiveness and the violent actions of the non-co-operators but also the programme itself. The second question is that while it only condemns those portions of the programme of the non-co-operators, it asks the Government to withdraw and suspend its activities in the matter. It does not call upon the non-co-operators to suspend their activities and it cannot do so. Sir, I was told a little story by a countryman of mine that whenever your son quarrels with your neighbour's boy, the best course you can adopt is to jump into the arena, shout out 'Boys, don't fight' and in the meantime catch hold of the arms of the neighbour's boy and allow your boy ample opportunity to strike your neighbour's boy.

So, while you say that you condemn this aggressiveness and that violence on the part of the non-co-operators, you ask the Government to tie its hands while the non-co-operators use all the machinery of war which they have in their armoury. Again, the last portion of this Resolution reads: 'that means should be taken for meeting the legitimate aspirations of the people'. I really believe that the time has come when we ought to put our heads together for the removal of our grievances and for a further advance in the political aspirations of the country; but we must limit our aspirations according to the circumstances and according to our capabilities. Here again, with the permission of this House, if I am not too much of a bore, I will repeat another story. An old woman in one of the suburbs of London once went into a butcher's shop and stood before the stall. The butcher asked, 'Madam, what do you want?' She replied, 'If you ask me what I want, then I have to say that I want a house in Park Lane, a Rolls Royce Motor-car and £20,000 a year to live upon. But if you wish to know what I expect to get, it is only two pounds of mutton on credit till Saturday.' So I consider in regard to our aspirations the question is not what we want but what we are likely to be able to enjoy, and, what is more, what we are likely to get. A suggestion has been made by no less a person than Mr. Seshagiri Ayyar, who has just come from Bombay as a messenger of peace, and is a countryman of mine who has been in the front rank of the public life of the country for over a quarter of a century, that a Round Table Conference is being arranged and that Mr. Gandhi has condescended to come down to it and is climbing down. But I want to know from Mr. Seshagiri Ayyar whether it is not necessary for a Round Table Conference that there should be a common basis of understanding. Here is Mr. Gandhi who has given out as his deliberate aim and goal in life, and the essence of the non-co-operation programme, the overthrow of the present Government and the paralysing of it by all the means at his disposal. If he does not give up that aim and goal, what is the good of having a Round Table Conference, or, for the matter of that, a Rectangular Table Conference? I would just remind Mr. Seshagiri Ayyar of a Resolution of which he has given notice and which comes up for

discussion, I believe, the first thing to-morrow morning, in which he asks that a Committee of this House be formed for the purpose of advising Government to consider the present situation and to devise means for meeting it. I think that is a Resolution which Mr. Seshagiri Ayyar came to after due and deliberate consideration of the entire situation, and I think that that Resolution meets the present situation quite well. But, to add to it and say that the Government should call a Round Table Conference to discuss matters *ad infinitum* without a common basis and without a definite proposal before it, is, I think, futile.

Then, again, Sir, we, in this House, have got absolutely no influence with non-co-operators and when there are two conflicting parties, if you cannot influence the one, you have no business to interfere with the other: that is to say, if we take it that the Government and the non-co-operators are two different parties.

One word more, Sir, about intimidation, threats and lawlessness. It has been remarked by Munshi Iswar Saran, and he has quoted chapter and verse for it reading from the creed of the non-co-operation movement, that non-violence is the essence of the movement, and before God and man they swear that they will be non-violent. I know that and I have read that as well as Munshi Iswar Saran; but what has been the practice? I have not been in touch with Mr. Gandhi for about 15 months and I cannot speak about him, but as regards his followers—I do not mean the insignificant followers, but some of the most distinguished of his followers—I would ask, have they in their actions followed this principle? I may just tell Munshi Iswar Saran and Dr. Gour that no less a person than Maulana Abul Kalam Azad of Calcutta came to my house, where a meeting was being held of a large number of Muhammadans, among whom were some of our distinguished co-religionists—he came to that house of mine and wanted to take part in the deliberations, and therein he stood up and said: 'Those of you who will dare go to the Legislative Council against the mandates of the Congress will suffer for it'. That was the threat he held out to us, and, what is more, before the elections were held, one of the Members who had been present at that meeting and who had offered himself for a seat on the Bengal Legislative Council, had his house broken into by two volunteers with a revolver, and the man was so terrified that he immediately wired the withdrawal of his candidature for the Bengal Legislative Council. That is what has happened. Then, again, Sir, in the town of Burdwan, where I live, a junior pleader who happened to be the editor of a small vernacular journal had the audacity to write an article in his paper against this non-co-operation movement, and the result was that, while his wife was lying dangerously ill in bed, on her death bed in fact, a man was sent to fetch a doctor. The doctor was obtained but, when he was on the way, volunteers held him up and said that the pleader was against non-co-operation and that he could not proceed to his house: the gharrwallah was threatened with bodily hurt if he carried the doctor there. Word was also sent round that no gharrwallah in the city of Burdwan was to carry a doctor to the unfortunate pleader's house. The result was that no doctor was available, and the poor girl—she was but a girl—died the next morning for want of medical aid. And these are the volunteers who met with the approval of Mr. Gandhi. Did Mr. Gandhi or his lieutenants in Bengal condemn this action, or did not the volunteers receive a pat on the back! These actions are the soul of the non-co-operation movement, and when these actions

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are committed, the leaders go and pat the volunteers on the back, encourage them and sometimes congratulate them on their success. That has been the bane of the whole movement.

I am distinctly of opinion that there are two courses open to an Indian at the present day, either to go and join Mr. Gandhi's movement—I do not say that they will be wrong in doing so; if they honestly believe that his propaganda is right and that it is the proper road to the salvation of the country, they will be quite as justified in joining Mr. Gandhi irrespective of the consequences, as I am in joining the ranks of those who believe in the opposite opinion, namely, that it is contrary to the interests of the country to do so. Every man ought to fight out this question with himself to the best of his ability and his conscience.

With these few words I beg to oppose the Resolution as it stands and the amendment *in toto*.

The Assembly then adjourned till twenty Minutes past Two of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes past Two of the Clock. Mr. President was in the chair.

The Honourable Sir William Vincent: Sir, I am glad of an opportunity of speaking at an early period in the session on the measures adopted by Government to meet the recent activities of the non-co-operation movement. Honourable Members of the Assembly will, I think, give me credit for having been prepared to meet them, and take consultation with them at the earliest opportunity. We have been blamed to-day by one Honourable Member in that the Government of India took action without previously consulting the Legislative Assembly. I will deal with that matter later on. At the moment, may I say that, when we did offer an opportunity to this Assembly to discuss the matter, at the earliest opportunity possible, it was not the official Members of this Assembly that refused the offer but the Non-officials. I am glad, however, to discuss the question early particularly because I seek to remove what I believe to be great misapprehensions on the part of many Members of this Assembly and many members of the public in regard to the attitude and policy of Government. Our previous policy in regard to this non-co-operation movement I have frequently explained in this Assembly. We have acted always with one object, *viz.*, the idea of avoiding interference with the activities of this movement so long as the public peace was not touched and the maintenance of law and order was not endangered. We believed the movement was, as it is, intrinsically unsound. We hoped that this view would appeal to the majority of the people in this country and that the moderate party would use their influence to disabuse the people of the harmful and foolish proposals put forward by Mr Gandhi and his followers. May I refer for one moment to our Resolution of October or November 1920, when we appealed particularly to the moderate party to assist us in this matter. All this time, however, we always insisted on the prosecution of persons guilty of direct or indirect incitements to violence. And there was one other activity we always sought to combat, namely, the dissemination of edition among our soldiers and police. In January last, again, I explained to

this Assembly in detail the policy of Government. There was, however, always this proviso in our statements of policy that we were well aware we might be forced into more vigorous application of our measures against sedition, and that a time might come when it would be a criminal betrayal of our duty not to do so. I say, Sir, from that time we have always avoided systematically and steadily any excessive severity *vis a vis* this movement. Later, there were a number of seditious speeches, including incitements to violence, particularly by Mr. Muhammad Ali and his brother, and Government were prepared to take action against them. What ensued is well known to the Members of this Assembly. There were meetings between Mr. Gandhi and His Excellency, and later Muhammad Ali and his brother offered to the public certain undertakings on which the Government withdrew the prosecutions against them. In a letter of June, 1921, addressed to Local Governments after this undertaking we indeed expressed some hope that it might be possible to reduce the number of prosecutions. We were anxious not to force the pace and although we always maintained our determination to keep order, we sought to avoid over-drastring action against the less dangerous or less violent adherents of the movement. At the same time we indicated to Local Governments that they were not to prosecute persons, the prosecution of whom might have great effect outside the province, without consulting the Government of India. In that letter, further, we invited Local Governments to give certain other convicted persons the same *locus poenitentiae* which had been given to Muhammad Ali and his brother. We have throughout avoided very carefully any suggestion, any action, which might create the impression that we desired to interfere with a legitimate political movement. I defy any Member of this Assembly to say otherwise. We have indeed frequently been reproached with weakness on this account. I maintain that it was not weakness but patience. At the same time, we made every effort to meet the legitimate wishes of educated opinion in this country. I have no time to-day to recapitulate all we have done but I should like to mention such matters as the compensation to persons injured in the Punjab disorders, the further review of the Punjab sentences, the Committee on the Press Act, the results of which will be before this Assembly very shortly; again, the Committee on repressive measures and the Committee to inquire into racial distinctions in criminal proceedings. In fact, there was no question that came before us in which we did not honestly seek to meet moderate Members of the Assembly in order to consolidate the moderate party into a great working power in the country for good. What has been the response of Mr. Gandhi and his followers? I maintain that it has been one steady stream of sedition, one steady attempt to subvert Government, one method of promoting this object being adopted after another. Sometimes it has been the boycott of piece-goods in order to injure British trade, although Mr. Gandhi had himself, I believe, at one time said that 'boycott' was a word that was entirely inconsistent with his principle of 'Ahimsa'. Later this movement took the form of attempts on the loyalty of our troops attempts on the police and there were constant incitements to disorder. These have resulted in serious outbreaks of violence in many parts of the country, the most important of which was the Moplah outbreak. Sir, there has recently been some attempt to minimise the cruelties committed by the Moplahs in Malabar. I refer in particular to the remarks of Mr. Abdul Bari and Mr. Hasrat Mohani on this subject. Mr. Abdul Bari spoke of the pure spirit of the Moplahs and denied the veracity

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of these accounts of their atrocities. Mr. Hasrat Mohani justifies them in the following words:

'At such a critical juncture when they are engaged in war against the English, their Hindu neighbours not only do not help them or observe neutrality but aid and assist the English in every possible way. They can indeed contend that, while they are fighting a defensive war for the sake of their religion and have left their houses, property and belongings, and taken refuge in the hills and jungles, it is unfair to characterise as plunder their commandeering of money, provisions and other necessities for their troops from the English and their supporters.'

Many of us, however, have, I believe, some knowledge of the atrocities committed by these men, atrocities which I am certain in my mind that every Mussalman in this House deplors as deeply as I do, and they will appreciate what a misrepresentation of the facts this is. The barbarities of the Moplahs have been indefensible. I will cite one instance from '*New India*' in support of what I say. Writing of a respectable Nair, an article in this paper states:

'When on the 26th he threatened other steps, the rebels forced their way into his house, dragged him out, along with his wife and two children, carried them to the mosque and bathed all four and compelled them to recite verses from the Koran and dress as Moplahs. At mid-night they were led home and imprisoned. Next day the deponent's head was shaved and ten days later a certain notorious criminal (now in custody) forcibly circumcised the deponent. Three weeks later he and his family and other converts (some being Christians) escaped to Shoranur.'

Sir, I am one of those who have been to Malabar. I have seen myself refugees, a thousand in one refuge, hungry, homeless, lacking clothes, and I can assure Members of this Assembly that it was a pitiable sight to see. I only mention the facts because this attempt has been made and because this rising, these acts of cruelty and murder are one of the direct results of the Khilafat movement. I do not put it (I never have put it) that Mr. Gandhi is responsible for this directly, but I do say that his supporters—his Muhammadan supporters—were the cause of this terrible loss of life. Indeed you have only got to read Mr. Hasrat Mohani's speech to see what the character of the rising was. Now, if the Moplah outbreak had been an isolated instance of disorder, as I said in the last Session, the Government might not have been forced to take action against this non-co-operation movement. It might well have been argued that the circumstances were exceptional. But have Members of this Assembly read the report which is attached to the Repressive Measures Committee? Have they read the appendix setting out a list of 84 outbreaks of disorder of a serious character within a year? Sir, we have been told that after the declaration of policy by this Government in March last, the non-co-operation movement was dying down. I think that I am correct in making this statement, and I hope I am not misrepresenting anybody. Is there any foundation for it? Does not every Member of this Assembly know that that is absolutely inaccurate? Does not every Member here know that the movement of disloyalty to the Crown, intended to paralyse Government, intended to subvert the administration, has been growing day by day throughout the year? Can any man here say that actually the movement was losing strength? Do not these disorders tell a different story—these outbreaks which culminated in the riots in Bombay on the 17th November? Before I come to that, however, I want to deal with another point. May I inform this Assembly that, during the present year, it has been necessary to call out the military to suppress serious disorder

no less than 47 times? May I tell them that, during the last three months, military assistance has had to be invoked—I have here the figures from His Excellency the Commander-in-Chief—no less than 19 times? Does that look as if the forces of disorder were losing strength before the Government took this action?

And now, Sir, I want to turn to the rioting in Bombay in which the lawless tendencies of those who follow Mr. Gandhi—not of Mr. Gandhi himself—culminated. Bombay is a city in which Mr. Gandhi is supposed to exercise the greatest influence. He himself was present there on the 17th November. The occasion was one, one would have thought, when at least every loyal citizen of the Crown, whatever his political views, would have avoided any disorder or riot. It was the occasion of the landing of His Royal Highness the Prince of Wales, the heir to the Throne of England. That was the occasion chosen by the non-co-operators in Bombay for an outbreak of violence which, I believe, has not been paralleled in that city for many many years, and what was the object of those who embarked upon this campaign of violence? I say the object was vengeance, vengeance on those who dared to differ from them politically, vengeance on those who dared to go forth to welcome His Royal Highness the Prince of Wales in spite of Mr. Gandhi's direction—that was the sole crime of the unfortunate people so maltreated. That, Sir, is the result of non-violent non-co-operation. Was Mr. Gandhi able to exercise any influence to stop the demand? Why, it was pathetic to read his words next day. He was full of sorrow, but he had not thought of the consequences of his act before. After all he had had warning on previous occasions. Well, Sir, I do not know that I need go through the events of those terrible days. You have heard from my Honourable friend, Mr. Dwarkadas, how women were assaulted in the public streets; you have read in the papers how harmless Europeans and Indians, including many Parsis, were murdered or assaulted, how one unfortunate engine-driver, going home from his work, a harmless individual, was suddenly attacked and murdered by a cruel mob. All this was the result of this non-violent movement. The reports say that it began in intimidation and that, when that was not checked, those who had been guilty of intimidation thought they could proceed with impunity to violence. The damage done to property also—the property of private individuals—was very great. I read, in one report, of 137 shops being looted and that is an under-statement of all the damage.

Now, let us see what was happening in other places on that day? In Delhi there was a *hartal* enforced by systematic threats and intimidation. And I assert here, and I dare any one to contradict me, that intimidation was practised by men posing as volunteers; men dressed as volunteers who paraded the streets and interfered with the liberty of law-abiding citizens in a manner that is intolerable in any civilised community. Is it surprising that we received many complaints actually of absolute want of any Government control at the time? In Calcutta, again, there was a *hartal*, promoted by general intimidation and violence on the part of volunteers. It is idle for any one to deny it. Mr. Abul Kasem and other Members were in Calcutta and they know the facts. The Government of Bengal, writing on the 26th November, reported that an incessant stream of seditious speeches was being poured forth, that money was being freely spent in the employment of paid agents; and here I may tell the Assembly that many of these volunteers,—I do not say all of them because that

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would be wrong,—but many of these volunteers are merely paid men, paid a rupee a day; and, in fact, when the supply of money dries up,—and there have been places where this has happened,—the supply of volunteers has run short. We were also told by the Bengal Government that on the 17th there was general suspension of activities of all kinds, and the riff-raff of the city, under the guise of volunteers, was abroad, terrorising and abusing law-abiding folk, and there were numerous instances of molestations of Europeans and Indians. The authority of Government was openly flouted; and law-abiding citizens were depressed because of Government's failure to protect them. I have got instances here of the different kinds of speeches made in Bengal. I do not think I need cite them except to mention that one of them says:

'That the Bengalees had discovered the death-arrow of the English. Remember Kanai and Khudiram Bose and others of Bengal.'

I do not suppose the Members of this Assembly know who they were; they were prominent murderers; some, if not all of them, were hanged. Well, Sir, the whole effect of the activities was that, on the 17th of November in Calcutta there was an absolute effacement of the authority of Government, and general intimidation throughout the whole of the city. I am told now that we exaggerated all this: 'There was a *hartal*, it is true, but there was nothing more than a voluntary one.' Well, the *Amrita Bazar Patrika* itself stated on the morning of the 18th a most significant fact—I cite it because it is testimony coming from an adversary—it said on the 18th 'Writ large on the *hartal* of Calcutta is revolution.' Now I ask the Assembly to ponder those words.

I may say that throughout all this period the most desperate efforts were made to create racial animosity. Those who were in Calcutta in December last—I was there—know how true this is and it was a very dangerous factor in the situation. There was also at that time every reason to believe that if the activities of these so-called volunteers were not curtailed, we should have a repetition in Calcutta of what we had in Bombay. Now the total deaths in Bombay were 53 people killed, and I think something like 400 injured went to the hospital. The problem before the Government, therefore, was: are you going to sit quietly, or, as my Honourable friend said, 'with folded hands' and watch with apathy and inertia this slaughter of innocent people, or are you going to take action while there is yet time? The Assembly remember also that previously, on the 14th of November, there had been already a dangerous riot in Calcutta at Belgatchia, in which over 5,000 people had been engaged. Now, I maintain that, in such circumstances, the Bengal Government were fully justified in taking the action that they did. We have abundant testimony that, whatever be the professions of those who inaugurate these volunteer movements, their practice and precept are poles apart. You may say that they enter into a solemn vow of non-violence, but in practice they are repeatedly, constantly and persistently, guilty of intimidation and violence. Let me turn to another province. I have got a report here from the Bihar Government. We called for these reports to see on what grounds they had proceeded against these associations. The replies show that Local Governments were satisfied that the members of the proscribed associations went in systematically for this class of offence. To return to Bihar, on the 10th of December, I received a report from the Local Government

which says that these volunteers had been guilty of intimidation, violence and other forms of criminal action on no less than 122 occasions reported in the last year. One of the incidents is worthy of special mention, indeed many of them are. The one to which I refer was the case of a poor Muhammadan who had the misfortune to be a law-abiding subject of the Crown. He died in Ranchi and his funeral had to be performed. But the non-co-operators said: 'No, he shall not be buried by Muhammadans.' Well, some over-daring spirit said: 'Oh, his was not so great an offence that we should allow this oppression; men who differ from others in their political views are entitled to a little toleration.' So they took the body to the graveyard with police protection and buried it. What was the next action of the extremists? The non-co-operation volunteers dug up the corpse and dishonoured it. ('Shame'.) Well, that is the conduct of these non-violent non-co-operation volunteers. Again, on the 17th, in Calcutta, there were unfortunately two Muhammadans who died in Ballygunge of natural causes and those who wished to bury them could not procure the necessary assistance; they were unable to procure bearers or *khatias* or anything else and the bodies remained unburied for the whole of that day. There was many a sick man and woman in Calcutta on the 17th who could not procure medical attendance. No conveyances for medical practitioners, and when doctors walked to the patients and attended on them, they would not get medicine, because the dispensaries were not allowed under the strict orders of the non-co-operators to sell medicine even to save life on that day. Now, is that intimidation or is it not? I have been told that Government interferes with the liberty of the subject in proscribing these associations. I am amazed at the audacity of those who make such an accusation, whether it comes from the Members of this Assembly or from those who are of different political opinions, and I include Mr. Gandhi. Who in reality has interfered with the liberty of the subject to the same extent as members of his party? Who is it that will not allow those who wish to welcome the Prince to do so? Who prevents reasonable respect being shown to the dead? Who boycotts and intimidates those who venture to serve the Crown or wish to sell or buy foreign piece-goods? Who will not allow any Member of the Assembly to address a public meeting without interruption? ('Hear, hear'.) Who, then, is it that is really guilty of interference with the liberty of the subject? What extremist can make, with justice, this accusation against the Government? What has the Government done in this matter?

I want to deal now with another point because it has been mentioned by Munshi Iswar Saran. He said:

'In the United Provinces all was quiet; there was really no trouble, no danger there; everything was calm and bright, and there was no apprehension of any disorder.'

Well, here is what His Excellency the Governor says. After all, he has some knowledge of the province, politically a very wise man, a great administrator with great knowledge and experience of the province. What did he say? He said that:

'Everything at that time looked like working to a climax. In many districts the situation was menacing. In one the Deputy Commissioner could not appear without being hooted; in another the audience were urged by a political fanatic to murder the Deputy Commissioner.'

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Now, Sir, we know what happened on a similar exhortation last year, when the unfortunate Deputy Commissioner of Kheri lost his life. We know what has happened this year in an outlying district in Oudh; a Superintendent of Police, for no reason, I believe, was recently attacked while going home on his bicycle; he was approached by two men saying 'hazur, hazur' and, when he stopped, one took out a pistol from underneath his *chudder* and fired at him, wounding him severely. Sir, I think we may say, in such circumstances, that we know what the dangers of these exhortations are. His Excellency the Governor of the United Provinces then went on to say that it was quite clear to him that they were on the verge of a widespread trouble and at the end of his speech he says: 'I do not hesitate to tell you that if the Government trifle with the present situation you will probably soon find your life, property and your honour in danger'. That was the situation in the United Provinces when His Excellency the Governor of the Province, with the consent of his Council and, I believe, with the unanimous consent of his Ministers—I speak from recollection, I hope I am doing them no injustice—perhaps some one from the United Provinces will tell me if I am wrong—(*Rai Bahadur S. P. Bajpai*: 'You are not wrong')—introduced this Criminal Law Amendment Act in his province. Sir, in such circumstances, is it not fair to maintain that we have really been forced into vigorous and drastic action? The policy of Government has not changed; it is the action of Mr. Gandhi and his followers which has compelled Government to a more vigorous application of a policy always designed to maintain law and order. But there has been no campaign of indiscriminate repression as has been alleged. Great play has, of course, been made about the application of the Seditious Meetings Act, but what are the facts? It has been extended, in all, to ten districts only. There are many provinces in which associations are not proscribed at all and action under the Criminal Law Amendment Act has only been taken where it was urgently required. In this city of Delhi there are 20 associations of volunteers, but only three have been proscribed, and it is only where the Local Government have every reason to believe that the members of those associations are systematically practising intimidation and violence, using non-violence as a cloak for criminal action; that action has been taken under the law of 1908. Sir, I maintain that the Government has behaved with unexampled patience in regard to this movement, and indeed it was with great regret that they came to the decision that it was necessary to enforce more vigorously the law against those people. If there is any body which has stood out for toleration it is the Government of India. We have persisted in the policy of toleration from the very beginning of the Reforms Scheme. And yet to-day we are reproached because it is said that our action is inconsistent with our previous declarations. Sir, we have always recognised that we might be forced to take more drastic measures, and I repeat now that, if the moderate party had been able to give us the help that we looked for it might never have been necessary to resort to these measures. No one has done more than the Government to help and consolidate that party, and if they had acted more vigorously, it might have made it possible for us to have avoided the measures we have now been forced to take. We should not have resorted to them if we could have possibly helped it. We have shown the greatest restraint and patience. We have often heard it called weakness; patience does not necessarily mean weakness. And now, when we are faced with great difficulties and defend the liberty of

the law-abiding, we are reproached with the accusation that we are interfering with the liberty of others. Sir, anyone who has any idea of the political traditions of His Excellency, his radical political training, his love for liberty; anyone who has any knowledge of His Excellency's career, must know that it was with the deepest regret that he took this line of policy and that he only did so when it was absolutely necessary. Indeed, I say that every Member of his Government felt the same and was in the same position; but, Sir, there are paramount functions, there are certain fundamental duties, which no Government can neglect, and first amongst them is the maintenance of law and order, the preservation of the public tranquillity and the protection of law-abiding citizens from violence and intimidation. His Excellency the Viceroy, in his speeches, has referred many times to the anxiety to do justice, but I have never seen any speech of his in which he has sought to evade accepting the paramount principle and responsibility of maintaining the peace and tranquillity of this land. And now, Sir, I wish to turn to our instructions of the 24th November, in so far as the Criminal Law Amendment Act goes. They were to the effect that where associations practised intimidation, violence and obstruction, it was necessary to suppress those activities and that the Act of 1908 should be used for that purpose. I believe, up to a certain point at any rate, it has been successful. What followed? A number of young men—many of them in Calcutta, hired from the mills—joined these associations as volunteers for a money reward. Many are doing it in Delhi now and a rupee a day is the price. They join the volunteers in defiance of all orders and then complain bitterly and pose as patriots, if they are arrested. In Delhi, when the movement first started and arrests took place, the authorities were anxious not to impose too severe penalties on accused and the consequence was, they were sentenced to simple imprisonment. Many of them were quite pleased; they were able to get free meals and had nothing to do, so later it was found necessary to sentence others to rigorous imprisonment. At once there was a general feeling that this was very unfair, though it was really a very natural consequence. Throughout, however, the Government have been very anxious to avoid any appearance of undue severity; to avoid any appearance of unreasonable harshness we have made various suggestions to the Local Governments, with which I will deal later. Apart from this, however, His Excellency was never unmindful of the dangers of a purely repressive policy and, as every Honourable Member knows, he received a deputation on the 21st December in Calcutta and listened to their views on the action of Government and the possibility of a conference between different sections of the community and Government. And I should like to read to Honourable Members one or two words from His Excellency's reply to that deputation because, to my mind, his words breathe a lofty tone of statesmanship and indicate a deep desire to find a solution of the problem of all the difficulties with which the Government are faced. He spoke words over which every Member of this Assembly would do well to ponder. Referring to a suggestion that Government should cease making use of measures now enforced and release prisoners convicted under the law, he said:

'I cannot believe that this was the intention of the deputation, when originally suggested, for it would mean that throughout the country intimidation and unlawful oppression and other unlawful acts should be allowed to continue, whilst Government action to maintain order and protect the law-abiding citizen would be largely paralysed. I need scarcely tell you that no responsible Government could even contemplate the acceptance of such a state

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of public affairs. I wish, with all my heart, that it had been possible to deal with these problems in a large and generous spirit, worthy of such an occasion in the history of India. Had there been indications to this effect before me to-day in the representations which you have made in your address on the part of the leaders of non-co-operation, had the offer been made to discontinue open breaches of the law for the purpose of providing a calmer atmosphere for the discussion of remedies suggested, my Government would never have been backward in response. We would have been prepared to consider the new situation in the same large and generous spirit and I would have conferred with Local Governments for this purpose.

Sir, now what was Mr. Gandhi's reply to this? This is what Mr. Gandhi said:

'I am sorry that I suspect Lord Reading of complicity in the plot to unman India.'

I would ask Honourable Members of this Assembly if they would take that view. He proceeded to say:

'I am forced to conclude that Lord Reading is trying to emasculate India by forcibly making free speech and popular organization impossible.'

... In another article he said:

'I was totally unprepared for what I most respectfully call his mischievous misrepresentation of the attitude of the Congress and the Khilafat organisations in connection with the visit of His Royal Highness the Prince of Wales.'

And now I ask the House to remember what happened at the meeting of the Indian National Congress at Ahmedabad; Pandit Madan Mohan Malaviya put forward certain proposals for a Conference which was contemptuously rejected by the members of that Congress. But there was a much worse feature of that meeting held at Ahmedabad and that was the deliberate threat of civil disobedience, and I want Members of this Assembly to realise that we are, at this moment, faced with that. Then, again, at another meeting in Ahmedabad there was that speech of Hasrat Mohani, which, I hope, Members of this Assembly have not forgotten, in which he referred to an Indian Republic, not to be established by non-violent means but to be established by violence at the discretion of the speaker and his followers. That is the situation with which the Government is faced and I want to ask whether, with the law as it is, with such a dangerous situation facing them, the Government could have met it otherwise than they did. I am told we should have prosecuted those guilty of intimidation. Have we not been trying to do this for many months? Have we not tried persistently to carry on the administration of the country by the use of the ordinary law? How are you going to deal with intimidation under that law? A person comes along, his name and his identity are unknown; what does he do? A threatening look, or it may be just a word uttered quietly, a gesture, a note recorded in a pocket book: but the threat is there: and the person threatened knows too well what he will suffer afterwards. Who is going to chance a prosecution on evidence of that kind? What earthly chance is there of a conviction when associations combine and their members habitually practise violence and intimidation of that character? I put it to every practical lawyer in this Assembly that it would be idle to go to court in such a case. But this kind of intimidation has been perpetually

practised by members of these volunteer associations in recent months. Sir, it is well known—all political writers, all constitutional writers and all Governments have recognized it—that, in such circumstances, exceptional measures are necessary. You have only to read Sidgwick, a great liberal writer on politics, and there you will find ample justification for the use of exceptional measures in such an emergency. I can quite understand Honourable Members feeling great sympathy with particular individuals who have been convicted. We ourselves deeply regret that some of these men have deliberately chosen to go to jail. But I ask Members of this Assembly not to let their sympathy for individuals carry them away or override their sense of justice. I want them to realise that we have got to maintain law and order in this country, and whether the Government here be democratic, whether it be bureaucratic or whether it be autocratic, it is all the same. If you now seek to deprive the Executive Government of its power of maintaining law and order, you are depriving them of a power which you yourself will be desperately in need of later on. It is not a question of one form of Government or another. The maintenance of law is an essential of all civilised Governments. I am told that the Criminal Law Amendment Act has been used improperly and that it was designed for a different purpose. Sir, I sat recently on a Committee for the examination of so-called repressive laws. Dr. Gour, the Mover of this amendment to-day, was another member of that Committee. He signed the report of that Committee. Members who have looked at the report will have seen that, in considering the Seditious Meetings Act and the Criminal Law Amendment Act, we specially referred to the fact that we were doubtful about the immediate repeal of these Acts, one reason being the condition of the country, and another reason being that they had lately been used in certain provinces. I am told that it was always understood that these Acts were only to be used against anarchical conspiracies. I maintain the present associations are merely another manifestation of violence prompted by disloyalty and sedition. Last year, in Delhi, the Act was enforced in respect of certain associations and Honourable Members were well aware of it. I did not then hear of any complaint of a misapplication of the Act. What was the reason? Why did Dr. Gour and other members of the Repressive Laws Committee allow this measure to remain on the Statute Book if it was never intended that it should be used in an emergency of the present kind? I maintain, Sir, that it was because we realized then that this might be necessary, though Dr. Gour and I—you will give us both credit for that, I am sure—hoped that it would never be necessary. Honourable Members have told the Government that they sympathise very much with them, that they are all for law and order, that they will suffer if the public peace is disturbed, and so forth. May I say, Sir, that this pathetic, futile sympathy is of very little use to us unless the Honourable Member can indicate the manner in which these disorders and intimidation can be suppressed without recourse to this special legislation. I have listened to all the speeches to day carefully and I have heard no practical measures suggested which would replace either the Criminal Law Amendment Act or the Seditious Meetings Act. Perhaps other Honourable Members may be able to supply the defect.

Then, Sir, Dr. Gour asked: 'Why did you apply these Acts without consulting the Legislature?' There seems to me to be a very short answer to that. The Legislature was not sitting at the time but, as I said, I gave Honourable Members an opportunity of discussing the question at the first

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meeting and no one wanted it. Sir, if a house is on fire, no one except, perhaps, my friend Mr. Seshagiri Ayyar, who has a pathetic faith in Committees, would think of calling the Assembly or a Committee to consider and approve the measures necessary to put it out. In such a situation Government had to act at once. We were faced in November with a situation of extreme gravity and did what we thought right. This Assembly is now also faced with a situation of equal gravity and has now to face its responsibilities. Sir, I want, in conclusion, to deal with one point more only, and that is, the effect of a vote accepting this Resolution or accepting the amendment. I want Members of this Assembly to ponder well what their responsibility is, to consider well whether if they accept this Resolution to-day, they will not be deliberately encouraging the impression that they approve the non-co-operation movement and sympathise secretly with the activities of these volunteers and that they will not support the Government in the maintenance of law and order. What will be the effect of such a vote on the officers of Government, and on loyal citizens? Will it not dishearten them and make it impossible for them to do their duty? Are you going in this Assembly here deliberately to encourage the forces of disorder, to promote anarchy and chaos throughout the land? I have been told that I exaggerate the gravity of the situation. It would be difficult to do so. This country is, in truth, faced with a very grave crisis; we have civil disobedience looming before us. We have threats of organized violence from an influential section of the Mussalman population. We have had outbreaks of violence of a dangerous character showing what may happen in a more extended degree in future. We have had the most terrible bloodshed and loss of life. We are face to face with a situation in which there may be, I fear, greater loss of life and greater bloodshed. It is for the Assembly to say whether they are now going to encourage the forces which make for ruin and disorder. It is for them to say whether, consistently with their oath of allegiance to the Crown, most solemnly sworn here, they can conscientiously and deliberately encourage those who intend to overthrow this Government by any means that is possible. Lastly, it is for them to ponder their responsibility not only to the Assembly, not only to the Government and to the country, but also to themselves. It is for them to say whether they will take such a course as will facilitate a real and very grave danger to their own properties, to their own lives and to their own honour.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, my task in speaking on this Resolution has become very difficult after the very passionate and eloquent appeal which we have listened to from the Honourable the Home Member. I am sorry to note that a responsible Member of Government has chosen on this occasion to appeal to passions and prejudices rather than to the intellect of this House. I quite realise with him, and no one does it more than myself, the grave anxieties of the situation. Sir, I am afraid he has taken the wrong issues and placed them before the House. We are met here to-day not merely to consider the action taken by the Government during the last two months.

If the amendment proposed by the democratic party is carefully considered, we have met here to-day to find a solution, a permanent solution I hope, for the very grave situation with which this country is faced. I quite realise with the Honourable the Home Member that we are faced with a situation which

may lead to bloodshed, to anarchy, to revolution. That is really the situation. But, Sir, how are we to deal with that situation? That is the point for which we are met. We are not concerned so much with blaming this man or this party or this Government. Let us put our heads together and consider how best we can sail, how best we can reach the shore once more of peace and order in this land. All of us are interested in that. Sir, I invite this House to form a mental picture of how we departed when we left Delhi at the end of March, 1921. We came here in a state of despair and diffidence as to whether we would be able to do anything to restore the confidence of the people in the government of this country. A very large and influential section of the population stood out of the reforms. We agreed with them that the reforms were inadequate and unsatisfactory, but at the same time we came to this House fully hoping that by working the reforms so as to remove the causes of unrest we would be able to achieve better results, appeal to the commonsense and appeal to the intellect of the people and thereby seduce them from the mischievous activities of the non-co-operator. Sir, at the end of March last, as I told this House during the last week of that month and as I told the representatives of the Press immediately after we departed in hope, better hope and better expectation that we had realised something, that we had really made an onward march in catching the people. Although we did not satisfy the extreme section by our work in this House, by the very measures referred to by the Honourable the Home Member, by means of the various Committees appointed to examine the repressive laws and the Resolutions passed in various ways to ameliorate the situation, by making suggestions to make reforms in this direction and that, we rightly thought that we had really achieved something and that we had really made an onward march in regaining the confidence of the people in this Government. Sir, I join issue with the Honourable the Home Member in the statement that he has made that the non-co-operation movement gained strength after the March Session. Sir, I know that in my own province we tried to combat the non-co-operation movement not in any aggressive form by forming *Aman Sabhas* with the help of the officials but by issuing pamphlets and leaflets pointing out the work of the Assembly, pointing out the work of the various Legislative Councils and by appealing to the intellect of the masses of the people. The non-co-operators stood self-confessed of their failure to have achieved any result. Look at their proceedings in November and December, or rather before November last. When they met in Bezwada, they had to confess that they had failed in the four items of the programme which they had put forward before them. Lawyers had not ceased their practice. The Councils had not been boycotted, schools had not been deserted in the way they expected. They confessed to a failure and they seriously considered what they should do next, how to practise civil disobedience, what law to take up to practise civil disobedience. They were certainly in a confused state of mind. They did not embark upon any real practical step. They were languishing for want of food in that direction. By the policy adopted by Government on the 17th November, the Government have supplied that food on which the non-co-operators are now living. There is no use of confusing the issue, of drawing a ghastly picture, a gruesome picture of what has happened since November last, when the Government deliberately departed from the policy which they had pursued. We said: 'We would co-operate with you in enforcing the ordinary law of the land.' We said: 'Apply section 144.' We said: 'Apply section 107'. The

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Government did so mercilessly. We did not protest. Muhammad Ali was arrested by using section 107 in a very questionable way, when he was on his way to Madras, in the train. Section 107, which is intended to be applied to vagrants, was applied to a passenger in the train. We did not protest. Section 144 has been used, misused, abused. We did not protest. Section 144 has been used so often and so recklessly that a sub-magistrate had the audacity to use it in his own favour against his neighbour who was pestering him. This was in Musiri. Now all that we put up with because we thought it was necessary to put down the violence of the non-co-operators. No doubt mistakes were made. Who will not make mistakes? Do not the soldiers commit mistakes? Are you to condemn the whole army, the British army, to whom we owe our peace in this land, simply because a Private Mulligan molested a Hindu widow? Are you to condemn the whole police force simply because a few policemen here and there misbehave? Sir, we have to be careful not to get panicky simply because certain events happened in a certain place. What is really the root cause of the situation in the land to-day? This non-co-operation is but a symptom of the very grave disease which exists in the country. Are you going to deal with the symptom without dealing with the disease? That is what the Government are trying to do. Are you really meeting the wants of the people? Are you really going to suppress the volunteer organisations in the various parts of the country and are you thereby going to restore the contentment and happiness of the millions of people in this land? I quite agree that it is the primary duty of Government to restore peace and order. But, Sir, restoring peace and order is but a trifle as compared with the happiness and contentment of the millions of the people in this land.

Do you consider that the non-co-operator is such a clever man that he plays upon fancy grievances? Are the grievances real or fancied? Do you think that the non-co-operator would succeed if there were no grievances? What is this *kartal* and this boycott of His Royal Highness the Prince of Wales? The Royal House was revered and respected and they would have gone on their knees before His Royal Highness. Even the Editor of the '*Amrita Bazar Patrika*' fell before—he prostrated himself in the way that Hindus worship great men when His Royal Highness who is now His Majesty the King Emperor came to India. What is it then which has raised this barrier? The country feels, the country has lost its confidence in the Government; that is the real truth of it. And there is the disease for which we have to try and find a remedy. Are not national issues being discussed to-day? Where are the people of the country in this Assembly to-day? In the balconies are our men and ladies taking an interest in this debate and waiting to see the way in which the country is to be treated. If they had confidence in this Assembly and in the Government would they not be there? Therefore, I say the whole truth is that you have to recognize the disease. You are not statesmen if you do not recognize the disease. Repression is not the remedy. Did it do in Bengal after the partition agitation? The Government used all the weapons in their armoury and used them freely. Were they able to restore contentment? One solitary act, Sir, when His Majesty came out to India restored peace and happiness to Bengal. It is statesmanship which is now wanting. We have a great statesman in our midst, His Royal Highness. Unfortunately, Sir, His Royal Highness

has been brought here at this time when he should not have been brought into this country. But now having come we are bound to give him a rousing and enthusiastic welcome. But, at the same time, we have to take into consideration the views of the other people. It is quite true that His Royal Highness is above politics. But are you above politics? Is the Executive Government above politics? As the *'Manchester Guardian'* has put it, is it not an attempt on their part to show to the people of England through this Royal visit, that really there is nothing wrong with the Indian Government. That is the view which some people take. Now, therefore, when you find some people taking that view, are you adopting the right treatment, are you not really aggravating the evil, by doing all these things, such as arresting men like Pandit Mati Lal Nehru, like Mr. C. B. Das, and, for doing what? Are they heads of organizations which are pledged to violence? Can you justly say that? On the other hand, do they not exercise their influence for the public good? Could you have successfully prosecuted Muhammad Ali and Shaikat Ali but for the beneficial influence of Mr. Gandhi without creating trouble in the land? Do you think the Muhammadans would have kept quiet when their leader was being prosecuted and convicted? Would they not have got loose but for the influence of Mr. Gandhi? Is he not sincere in his profession of non-violence? Does he not regret violence as much as we do? He does so, and but for his influence I do not think the Government would have been able to successfully prosecute Muhammad Ali and Shaikat Ali. His influence is great in the country. If you do not recognize it, you will be making a sad mistake. And who will be sufferers if the present policy is persisted in? My countrymen and countrywomen will have to suffer more than Europeans. Therefore I am bound to speak out. There is no use in hiding one's thoughts, and we must speak out in these matters what we feel. Sir, take the opinion of every Indian in the land: take the opinion of the leaders: take the opinion of the servants of India: take the opinion of the most moderate of the moderate organizations: has any one supported the action of Government in this country? I challenge the Honourable the Home Member to point to a single Indian newspaper which supported the action of Government. I suppose, Sir, that we must give them credit for knowing the country. Do not give credit for knowing the country only to some people. We know our own country also, and I say this is not the right method to adopt. You have made a sad mistake. I quite agree that one cannot help getting angry with the way in which the Bombay people behaved on the day on which His Royal Highness landed. It is a crying shame to the country which has gone to my heart: it has gone to the hearts of many people that the people of Bombay should have behaved like that

(A Voice: Some of them.)

Rao Bahadur T. Rangachariar: I can quite believe that the Government got angry; but if you govern in anger, you are sure to land yourself and the country in trouble. That is really the cause of the reversion to this policy of yours. Government having invited and having got His Royal Highness here, and the Bombay people having behaved as they did, the Government lost their heads. The Government were not so led away by the Moplah outbreak. The Honourable the Home Member told us then deliberately that we must not take the Moplah outbreak as symptomatic of the general condition of the whole country

The Honourable Sir William Vincent: The Honourable Member accused me then of dilly dallying and shilly shallying with the Khilafat Movement.

Rao Bahadur T. Rangachariar: Now I am glad the Honourable the Home Member referred to that. I said you had been dilly dallying and shilly shallying with the Khilafat Movement. You have been creating hopes. Your Prime Minister in 1918 said this and said that, and your Government went back upon those promises. That is what I referred to as dilly dallying and shilly shallying with the Khilafat question. That is precisely what has led to all the present troubles. You raised hopes and you have not been able to satisfy those hopes and expectations. Now, Sir, the Honourable Member has gone off the track. Instead of dealing with this matter now under discussion, he has tried to draw me off the track. I am not concerned with blaming the Government, I am most anxiously concerned with the situation of the country. Is there no way out of it? Exclude Mr. Gandhi; ignore him; deal only with the evil. Have not the Irish people recently deposed De Valera? Was not De Valera considered the idol of the Irish people? Was he not considered an indispensable man for arriving at a settlement? And has not British statesmanship succeeded in weaning away the Irish people from De Valera? Could we not similarly wean away the Indian people from Mr. Gandhi? Sir, the Government has failed to tackle the problem. They know the situation in the country is absolutely inexcusable. There is no use shutting our eyes to the state of the country. The people do not believe in the Government. They want the Government to show by their action and by their demeanour that they have the good of the country at heart; and then I say that no number of Mr. Gandhis could exercise an influence on the people. Do you mean to say that the Indian people are likely to be so misled unless there is something wrong, unless they have lost faith altogether in the Government? They have come to that stage that they are ready to say that they are ready, even if anarchy is the only alternative, to go through with it instead of relying upon the existing Government. Are you going to allow that state of affairs to continue? I say that it will be intolerable if such a state of affairs continues. I think that too much importance is attached to Mr. Gandhi. Do you mean to say that if Pandit Malaviya and other leaders were called together—Government ignoring Mr. Gandhi—and provided that the Government were honestly striving to find means to deal with the situation in the country, that Mr. Gandhi could exercise any insidious influence against that Conference? I therefore have strong hopes in a Conference. I, therefore, have strong faith in a Conference, and I hope, Sir, that His Excellency Lord Reading will take it seriously and not be led away by these symptoms which do now and then appear in a vast country like this. Let us not be misled from the correct path of our duty by painting a too lurid picture of the situation. It will become a lurid picture if you allow things to go on in this way. Therefore let us take counsel, let us not hesitate. I do think, Sir, that this policy is not going to pay. You are not going to restore peace and order. You must abandon that policy. Take reasonable people into your confidence. Do not confine your attention only to moderates. There are moderates and moderates. There are some people who are not moderates. I am one of them. I do not want to be called a moderate. I cannot be a moderate in my love of my country. I want my country to progress as fast as possible without bloodshed and without any trouble in the country. My

friend, Mr. Abul Kasim, told us, we have either to support this Government or walk out I say 'No'. I will remain with the Government and try to improve it and improve it, and obstruct it when it goes wrong. That is the policy I am going to pursue. I want this Government to continue as a good Government intent upon securing permanent good in this land. Therefore I support the amendment.

The Honourable Dr. T. B. Sapru (Law Member): Sir, it is only under a painful sense of duty that I have felt called upon to intervene in the debate at this particular moment. My Honourable friend, Mr. Rangachariar, has, in the speech, which he has just delivered, given a warning, which, I shall frankly say, I am going to take. He warned us against the danger of impassioned speaking on an occasion like this. He asked us to appeal more to the intellect of the House than to its emotion. I cordially agree with him for more reasons than one. In the first place, I think I am constitutionally incapable of making an impassioned appeal to the emotion of the House. In the next place, even if I were capable of that impassioned eloquence, which has characterised some of the speeches to-day, I would deliberately refrain from indulging in impassioned eloquence on an occasion like this. I would much rather be judged by the test which has been laid this afternoon by my friend on the other side of the House. But, before I come to the main questions which I propose to deal with, there are just a few points which I would like to answer. He has said, and very rightly said, that a Government which governs in anger lands the country in danger. I quite agree with him, but let me assure the House that whatever fault you may find with the Government, of which I happen to be a Member, you cannot possibly find that fault. It has been my privilege to have been associated with His Excellency Lord Reading very intimately during the last six weeks and if I tell you how cool, how calm and how collected he has been in dealing with the problems as they have arisen from day to day, I am sure none of you will endorse that charge which has been made by my friend, Mr. Rangachariar. I speak deliberately, with a certain amount of self-restraint, as I happen to be a member of his Government, but one thing I may be allowed to say and that is what I have told some of my Indian friends in confidence that, throughout these 6 or 7 weeks that I have had the honour of meeting His Excellency, whoever else may have used an angry phrase or an uncharitable word about any individual who happens to be in jail, that man is not Lord Reading. Therefore, whatever else you may say, I beg of you and implore you not to bring the charge of anger against the Government of Lord Reading.

I shall now come to some of the other issues which have been raised this afternoon. What, after all, is it that divides the Government from the critics in this House? Is it because the Government are anxious to maintain law and order that their critics are at variance with them? I venture to think it would be unjust to the critics of the Government to say that they do not want the maintenance of law and order. I must in fairness to my Honourable friends, Munshi Iswar Saran and Dr. Gour, to whose speeches I listened with great attention, say that they made it abundantly clear that they were as anxious for the maintenance of law and order as any member of the Government on this side of the House. I might go a step further and say that even Mr. Rangachariar, breaking his own precept about impassioned eloquence, burst out at one stage in his speech and said that he too was as anxious as any member on the

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side of the Government for the maintenance of law and order. Therefore it seems to me that, so far as the question of law and order is concerned, I do not think that there is any the least difference between the Government and the critics of the Government. Well, then, wherein does the difference arise? The difference arises in regard to the application of that principle; and the methods adopted by the Government for the restoration or maintenance of law and order. If there has been some warmth exhibited to-day during the debate (I hope I am not doing any injustice to any speaker), it has been to no small extent due to the feeling that has been created in the country,—and a perfectly natural feeling it is,—over the arrest of men, who, but for their political opinions, might have occupied any position in this House. Speaking personally, I am free to confess that there are among those men who have gone to jail several whom I have held in the highest possible esteem in private life and whose friendship I have enjoyed. But, as one previous speaker said, in an issue of this character, which affects the whole country, which affects, if I may say so, the very fabric of society, I think it is only fair that we should not allow our reason to be overpowered by our emotion. Well, therefore, I will beg of you, and earnestly beg of you, in discussing the general issue to set apart personal issues which have been raised to-day.

Now, my Honourable friend, Sir William Vincent, has given you a historical retrospect of the events which have happened in the country during the last twelve months or more. Malegaon, Malabar, Bombay and Calcutta are so many milestones in the progress of those events which have brought about disorder and anarchy in the country and which we cannot possibly overlook. (Cries of 'And Madras'). It has been said: 'Well, the accounts which have appeared in the newspapers are exaggerated.' I have not the smallest room for doubt that when political passions are excited, when the country is divided into two camps, there is exaggeration on both sides. It does not hurt me to make a confession of that character. But let us not forget what Mr. Gandhi himself has said with regard to some of these events. After the Bombay incident, did he not say that it was possible to forget Malegaon, it was even possible to overlook Malabar, but you could not possibly overlook Bombay? Just about that time, speaking about picketting, what is it that he said? I shall rather quote his words than give the substance. In one of his articles in '*Young India*' he said:

'Picketting should be regarded with the gravest suspicion; there is no doubt that it has not everywhere been of a strictly non-violent nature. There has been verbal violence or a show of violence. It is better, therefore, to suspend picketting at least for the time being or till we have attained much greater self-control and gained greater experience; we may confine our attention just now to working among the drinking class.'

Therefore, in discussing this question, I will beg of you to take a comprehensive view of the whole situation and not to argue out the case as if you were arguing a case before a magistrate or a sub-judge, but take the entire totality of circumstances, and the entire body of events which have happened during the last 12 months and then ask whether, in view of the events which happened on November last, the Government were or were not justified in taking the action which they did. It is possible that you may hold that another course might have been adopted. But what that

course could have been or should have been has not been pointed out by any Member of this Assembly to-day. It was no doubt suggested by my Honourable friend, Dr. Gour, and also, I believe by Mr. Seshagiri Ayyar, that it was open to the Government, to prosecute individuals who were found guilty of intimidation. Now, Dr. Gour is such an eminent lawyer—he has edited the penal laws of the country—and Mr. Seshagiri Ayyar has been such an eminent judge, that I do not think I shall be appealing to them in vain when I say that criminal intimidation is not a cognisable offence under the penal law of the country; and, so far as I know, if you exclude the Criminal Law Amendment Act, there is no other power under the law that I know of under which the Government can deal with intimidation practised by a mass of men; that is the only power. You may dispute the facts; I am not raising any question of fact because those facts have been dealt with at length by my Honourable colleague, Sir William Vincent; but once you accept the position that there was any tyranny, oppression or intimidation exercised to any appreciable extent and once you realise that it is the duty of the Government to put down that tyranny or oppression or intimidation, then, I ask you, under what law can you advise the Government to proceed?

Mr. S. C. Shahani (Sind Jagirdars and Zamindars; Landholders):
Amend the law.

The Honourable Dr. T. B. Sapru: I am coming to that; probably when I make a statement on that point, my Honourable colleague will be happy, but he must not anticipate that part of my speech. Therefore, taking the law as it stands, the only action which the Government could have taken, if there was intimidation, if there was tyranny, and if there was oppression, against an association as such, was action under this Act. It has been said that the Government could have prosecuted these men for conspiracy. Let me remind the Assembly that this question was carefully considered by the Committee over which I had the honour to preside in Simla; the question as to whether prosecution for conspiracy to wage war against the King or to commit any other offence under the penal law would be a good substitute for action under the Criminal Law Amendment Act was considered, and it was found, with the concurrence of Dr. Gour, that it would not be a good substitute. Besides, let me point out to you that, if it is a question of choice between prosecution under the Criminal Law Amendment Act and a prosecution under the law relating to conspiracy, I venture to think that if Dr. Gour were confidentially asked by a client of his, he would certainly advise him to take his trial under the Criminal Law Amendment Act, because you do not know how much more severe the sentence may be in a case of conspiracy. My Honourable Colleague, Sir William Vincent, dealt with the cases of intimidation and tyranny in various parts, and I do not wish to cover that ground. I was only interested in pointing out to you that the action which the Government took was the only action which they could take provided there was tyranny and oppression exercised. The Government are, however, aware that the application of this Act has undoubtedly created a considerable amount of feeling in this country and it may be, as has been pointed out by several speakers to-day, that in individual cases probably courts have gone wrong; but those are cases which can be set right. However, in order to meet the popular wish that we should further examine the position, I am authorised to make a statement on behalf of

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Government in regard to this matter and it is this; that we are carefully considering if it is possible to find an alternative form of legislation which, if successful, might avoid some of the criticism which has been levelled against this Act. Let me assure the House that some of the Members of the Government will be meeting to consider this question, and to examine whether it is possible to have something better and more effective and less objectionable than the Criminal Law Amendment Act. I feel also that the House will be gratified to hear what action was taken by the Government in December last in order to meet some of the criticisms with regard to the present situation. I will read out to you, from a document which I have before me, some of the instructions that have been issued. First of all, we have instructed Local Governments that, where possible, trials should be conducted in open court, though it is realised that in many cases this is not possible. Secondly, we have suggested that the utmost care should be taken to see that evidence is recorded in full and that all legal formalities are strictly complied with in all trials; further that, when there is any doubt as to the legality or justice of a conviction, the Local Governments should review the sentences passed in consultation with their legal advisers. Thirdly, we have drawn their attention to the sentences awarded for similar offences in different provinces and suggested that sentences should be carefully examined to ensure that where punishment is awarded, the sentence should not be unduly severe. We have also asked the Local Governments to consider the circumstances under which rigorous imprisonment should be inflicted upon these offenders and suggested to them that they should make it clear, particularly in the case of minor offenders, that the Government are anxious to vindicate the authority of the law rather than to see the offenders punished with undue severity. Finally, we have said that it may be necessary, for various reasons, to limit the number of prosecutions. Then, I must point out to the Assembly, that the Local Governments have gone as far as possible to make matters easy by prescribing special treatment for these political prisoners, and indeed many have been released on furnishing a reasonable undertaking, while some have been released even without a guarantee. Further, the Government is prepared to have inquiries made by the Local Governments into any specific cases of undue severity, improper prosecutions or excesses, but I hope that this Assembly will not press the Government to abandon the general policy of maintaining law and order. At the same time, I may say, as I have already said, that Government is examining the law relating to these associations. Now this is all that I wanted to say with regard to some of the points which were raised in the debate and to which I have no doubt Sir William Vincent would have referred if he had more time at his disposal. If you examine the question dispassionately, what is really at the bottom of the criticism which has been levelled outside this House during the past six weeks? It has been said that the present policy of the Government really amounts to an attack on the right of free speech and free association. That seems to me to be the sum and substance of the criticism. In fact, if my memory does not mislead me, I think that is the line which Mr. Gandhi has taken in some of his paragraphs in a recent number of 'Young India.' Now, with regard to the right of free speech, so far as I know, except in three or four districts in India where the Seditious Meetings Act has been applied, there is no restraint placed on freedom of speech. And may I respectfully remind this House that it is impossible to ignore or overlook the

fact that the Congress and the League were not held under any restrictions, that the utmost freedom of speech prevailed there ; so much so that it was possible for the President of the Moslem League to talk of a Republic and also of the possibility of violence. Now, this does not look like restraint on freedom of speech. As regards the attack on the right of association what I would venture to point out to the House is, that even to-day there is nothing in the law to prevent you from forming an association provided that association is meant for a lawful purpose. It is only those associations which, according to the evidence before the Government, were considered to be guilty of unlawful activity that were declared unlawful. Some of the Local Governments, for instance the Central Provinces Government, have not touched these volunteer organizations. Therefore, when you say that what the Government have done is that they have robbed the people of the liberty of association and the liberty of free speech, I say you put your case too high. This is not what has happened and this is not what the Government have done. Therefore, I ask the House to carefully consider the issue. What is it after all that the non-co-operators want ? Is it that they want Dominion Self-government in the country, or is it that they want to have nothing to do with the British Government or to throw off the yoke of British rule ? Or, in other words, is it that they want a definite position under the British Crown or is it that they want absolute independence ? If it is the latter, I am sure, that so far as this Assembly is concerned, it will have nothing to do with them. If it is the former, if what they really want is Dominion Self-government, I believe that you will scarcely find an Indian in this House or outside this House who will not be prepared honestly to say that he is as much devoted to the idea of Dominion Self-government as any one in the camp of Mr. Gandhi. (Hear, hear.) But I would respectfully venture to point out to you that in politics, it is not the idea which matters so much as the method by which you carry out that idea. (Hear, hear.) Is this the way to achieve Self-government, to attain Home Rule or to acquire Swaraj ? It is for you to decide. So far as my limited reading of history goes, so far as my limited experience in politics is concerned, I venture to think that howsoever you may attain Swaraj, you will not and you cannot attain Swaraj through non-co-operation. (Hear, hear), and if really you want Swaraj, will you achieve it through peaceful means by maintaining peace and order in the country, or by creating confusion and anarchy in the country ? I leave the question to be answered by the Assembly by its votes.

Mr. Darcy Lindsay (Bengal : European) : Sir, the Honourable Mover of the Resolution asks the Assembly to recommend to Government to abandon their repressive policy. I wonder if it has occurred to the Honourable Member that the boot may well be on the other leg, and that the real repression, or may I say, oppression, comes from the non-co-operation party who, with the assistance of volunteers and other agencies are intimidating a peaceful people to do their bidding in the observance of *hartals* and the boycott of European goods. We have heard from many speakers that it is the duty of the Government to maintain law and order and thus protect the people against oppression. Is this not what they have been endeavouring to do by every means in their power by the arrest of volunteers and others who are interfering with the rights of the people ? I do not know whether my Honourable friend, Dr. Gour, was present in Calcutta on the 17th November and later on in December, but if he was, then all I can say is he saw the situation through.

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very smoked glasses. He has spoken with some warmth in connection with the writings of certain papers and also the Bengal Chamber of Commerce: They at least had sympathy with the liberty of people, if he has not, and if their writings in any way influenced the Government of Bengal, I say all honour to them. Sir, I was present in Calcutta on the 17th of November. I witnessed the deplorable state of affairs that existed that day. The people had no liberty at all. If they ventured out, stones were thrown at them, drivers were dragged from carriages or motor cars and people went in very fear of their lives. You have heard the Honourable the Home Member give in detail the reports from Bengal and I need not add to this.

In December matters were not nearly so bad because the so-called repressive measures were beginning to take effect. But, in spite of that, there was a great deal of intimidation on the part of volunteers. They made house to house visitations, spreading false statements wherever they went; they even went to the length of telling the people that they had better not venture out of their houses on the morning of the 24th, because the Government had ordered that soldiers, who were to be posted in the streets of the Northern portion of the town, were to shoot them down at sight. This information, Sir, came to me from two friends of mine, innocent traders in Bow Bazaar, whose houses had been visited, and they asked me how was it that the Government should adopt such measures with the people. Religion was even brought to bear, particularly amongst the Muhammadan community. My own servant, who has been in my service for 18 years, asked me why it was a sin to his God to work for me on the 24th. That is the preaching which he received in his mosque, and it is not an isolated case. It affected many traders and particularly the servant class. The servants of the Great Eastern Hotel in Calcutta gave notice that they had been ordered not to work on the 24th and that they could not work—they have, I understand, since been replaced. There was evidence on all sides, Sir, that, left alone, the people would have gone out joyfully to welcome their Prince. We had ample evidence of this on the 27th—the day of the public entertainment on the Maidan when vast masses came out and gave their Prince a right royal welcome, as they would have done on the 24th had they been left alone with freedom to do so. But for the action of Government in proclaiming the volunteers, we were fast drifting to an impossible position at the will of the non-co-operation dictators. In the speeches to-day reference has been made more to the Presidency towns and not so much to the up-country places. With your permission, Sir, I will read a letter written by Mr. George Bridge, who is an Honourable Member of this House but unfortunately absent to-day. He is a tea-planter in Assam and writes as follows:

'Sir, the following is a copy of a telegram I sent to the Chief Secretary of the Government of Assam at the request of the loyal European and Indian communities of Mangaldai:

'The loyal inhabitants of Mangaldai European and Indian alike request protection from Gandhi volunteers who are breaking up and looting *kate* boycotting, intimidating Government servants, tea garden employees, enlisting volunteers daily. Names of new volunteers notified to authorities but not a single volunteer arrested. No action taken, though proclaimed illegal by your Government.'

The telegram speaks of itself. Since the Assam Government's proclamation against volunteers these have been unlisted wholesale. There are now two volunteers in the

enlisted in nearly every village. The Congress Committee have ordered the breaking up of all the *hats* in the district and a lot have been broken up and some looted. Also no supplies of any sort are to be sold to garden coolies, and Government officials, clerks, etc., to be likewise boycotted and intimidated. There is a large Mussalman population in the district who are Gandhi volunteers and want little encouragement to turn to rioting and looting. They threaten shopkeepers on my land that they will burn down their shops, etc., if they dare to sell stores to the garden coolies. Further they try to persuade coolies to leave the gardens and not work for the *sahab*. I hear they promise rent free for three years if they become volunteers and the *busti* people are uniting not to pay rents.

The situation is becoming worse and worse and Government, by allowing a free hand to the Gandhi volunteers, will be themselves to blame if the situation becomes impossible and uncontrollable. The loyal Indians cannot understand this deplorable apathy on the part of Government, and many are forced to become non-co-operators for want of Government support and protection. For over a year now the Gandhi volunteers have had a free hand to overawe and overrun the district without the slightest check. Some of the leaders have, it is true, at last been imprisoned, but the volunteers are in greater numbers and more seditious than ever, and unless stronger steps are taken, it will end in rioting and revolution.

MANGALDAI TEA ESTATE ;

The 6th January, 1922.

ours, etc.,

GEO. BRIDGE,

Managing Proprietor.

Sir, the measures recently adopted have met with considerable success and have gone a long way in helping to restore confidence. Yet we are now asked to recommend to the Government to abandon the wise protection they have given to the people and leave them to their fate. What will be the effect amongst the trading community? It will be so-called peaceful interference with their legitimate vocations, be it trader or employee, and its attendant loss to their pockets. What harm, I ask you, have the peaceful citizens ever done to forfeit the protection of Government and why such tender solicitude for the misguided volunteers, many of whom, when arrested, were given the option of release by signing against the movement or going to jail and posing as martyrs to their cause? Where is the hardship, I ask? Surely, Sir, if the Resolution were adopted and acted upon, it would be taken as a great sign of weakness and fear on the part of Government, and much capital would be made out of it by the non-co-operation party to further the now threatened civil disobedience movement. We have not heard very much about civil disobedience to-day, but if it is started and goes ahead, we may see the country throughout plunged into an infinitely worse disaster than the troubles in Malabar. Then the Members of this House will say: 'Why this apathy on the part of Government; why have they let things slide, why did they not take action in time to prevent this trouble?' If we pass this Resolution to-day and there is bloodshed later on, as the result of civil disobedience, then I say that responsibility for that bloodshed will be on the heads of the Members of this House in their failure to support Government.

There is one other point, Sir, that has not been dealt with and that is the arrival of His Royal Highness the Prince of Wales in Delhi next month. Only as recently as Monday last, this House voted on a Resolution adopting an Address of Welcome to His Royal Highness. To-day we are asked to pass a Resolution condemning the action of Government in protecting the people from coercion, in declaring and maintaining *hartals*. If this measure is passed and is acted upon by Government,

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what will be the position when His Royal Highness arrives? Delhi may be in a state of *hartal* probably worse than any other place he has yet visited, and, I venture to say, it would be a peculiar position for the Members of this House to be in to go and pretend to welcome the Prince when only to-day we have adopted measures to make that welcome futile.

In conclusion, Sir, may I ask the Honourable Dr. Gour if his democratic party are at liberty to vote according to their conscience or does he propose to exercise the repression, his rules no doubt provide for? With these few words, Sir, I oppose the Resolution.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division: Muhammadan): Sir, the amendments that stand in my name are:

The word 'immediate' between the words 'the' and 'abandonment' be deleted; and

The words 'immediately after the suspension of the activities respecting picketing and civil disobedience' be added after the word 'country'.

Sir, it is my heart's desire that Government should withdraw as soon as possible the notification extending and applying the Criminal Law Amendment Act and thus to allay public excitement and consternation. It is a fact that the arrest and imprisonment of political leaders and their followers have embittered the feelings of even loyal people, and to a certain extent alienated popular sympathy, nay even increased agitation. When a man is arrested, most naturally his whole family gets affected and agitation instead of being confined to men is extended to women, and as a matter of course the larger the number of arrests, the more the agitation. The continuance of this state of things will result in what, I am unable to prophesy. But what is Government, whose primary duty is to maintain peace and order, to do when its authority is openly defied and the laws of the land disobeyed? Surely it realises its position and it must have been with great reluctance that it had to extend and apply the Criminal Law Amendment Act. The question therefore arises as to whether the ordinary Criminal Law is sufficient to meet the situation. It is common knowledge that intimidation and obstruction have been solely responsible for the breach of public peace. Intimidation is a non-cognisable offence and cannot be taken cognisance of by the court without a complaint. But how can a complaint be lodged when the complainant himself is intimidated from making a complaint? And the situation becomes difficult and complex, when Government has to deal with organised intimidation. Take the case of the Congress and the Khilafat volunteers on the one side and the Police on the other, — each attempting to have the shops closed and remain open respectively and control traffic at times of *hartal*. Is Government in such a case to allow the two separate bodies of workers, *viz.*, the volunteers and the police, separately officered, and with different objects in view, to patrol and parade side by side, and promote friction, collision, and breaches of the peace which are inevitable in the peculiar circumstances of the case, or should it interfere and maintain order? What would you advise Government to do to meet the situation? What would you have done yourselves, I ask in all seriousness, if you had to face similar difficulties and were placed in similar circumstances? I dare say you would have acted in about the same manner in which you find Government acting now. You have simply to put yourselves for a while in the same position in which Government is now, and you will, I am sure, realise the exact position.

Gentlemen, I am no doubt aware of police high-handedness in certain cases, and their attempts at times of *hartal* to have the shops remain open and hackney carriages plying. But the same and very much more can be said of the volunteers in their attempts to have shops closed, and hackney carriages stop from plying.

The Bombay riots, to quote an instance, not to speak of others, are clearly convincing of the nature of the influence and formidable obstruction I have spoken of. All I need say in connection with this matter is that excesses are committed in times of excitement as a matter of course, and in the circumstances, my request to this Honourable House is to devise means and to recommend to Government the desirability of taking such steps as may tend to prevent the mischief from continuing, nay growing in intensity. It is very easy to say, for the purposes of academic discussion, that Government should immediately withdraw the notifications, but I ask you again in all seriousness as to 'what would be the effect if picketting and civil disobedience continue?' Does this Assembly realise the position?

Honourable Members of the Assembly, at a critical time like the present, would it be fair and dignified for a responsible body like this Honourable Assembly, consisting as it does of representative men of culture and enlightenment, to ask Government to immediately withdraw the notification extending and applying the only applicable law of the land, calculated to meet the present situation before the activities respecting picketting and civil disobedience are suspended, or at least there is an assurance of that? Can any one deny that the political situation as it exists at present is acute and critical and fraught with dangerous possibilities and, if not handled most carefully and delicately, is bound to result in great misery as well as in actual bloodshed?

I need not, gentlemen, anticipate your decision, and I am sure you will decide rightly. But this much I may be permitted to say, that you should wholeheartedly support Government in its attempt to maintain peace and order in the land, and see that those whose avowed object is to paralyse Government do not succeed in their tactics to paralyse it.

A word about disobeying the laws of the land, and I have finished. On what does public peace rest? Verily and obviously on respect and obedience to laws. Have civil disobedience to law, and the whole fabric of peace and social order collapses and falls to the ground! What then? Disorder, anarchy, and ruination.

My view, therefore, is that the Government should not be asked to abandon its policy so long as the activities of a section of the people respecting picketting and civil disobedience are not suspended and my clear duty is to place my views before the Honourable House, and I hope, I shall not be misunderstood.

Dr. H. S. Gour: I move for the postponement of this debate in view of the lateness of the hour and the fact that we have other engagements equally important, such as the Committee on Racial Distinctions.

The Honourable Dr. T. B. Sapru: The Committee is not sitting to-day and so far as the Government are concerned we should like the debate to go on unless of course the House overrules us.

Mr. President: There is nothing that has arisen in the course of the debate to justify this motion for adjournment. Moreover, the Assembly takes precedence of all Committees.

Lieut.-Col. H. A. J. Gidney : Sir, I intervene in this debate as the representative of a community who have suffered from the activities of non-co-operators and who have offered their entire services to the Government for use in any shape or form to combat the malicious activities of non-co-operators. I intervene, moreover, with personal feeling as members of my family in Bombay have been maltreated by the adherents of non-co-operation.

It was not long ago that I was asked to give my opinion on the policy of Government towards Gandhi, the Ali Brothers and non-co-operation generally and my reply took this form—that it reminded me of the milk sold in the Simla bazaar. When asked for an amplification of my view I said : 'weak with water'. If I were asked to-day whether the Government policy towards non-co-operation was repressive, I would give another answer and say that it was water with milk in it. It is weaker than it was then. I certainly would not classify it as repressive and I stand as the accredited leader of my community to state that we vehemently oppose the Resolution that has been put before this House calling upon the Government to withdraw what has been stigmatised as a repressive policy. Sir, if one may be inclined to be plain spoken in such a matter, I think Government stands in the unhappy position to-day of being accused for having really no policy or a very weak policy to have allowed the non-co-operators to proceed to this limit. For what do we find to-day? We find these leaders roaming the country, spreading the infection of rebellion against the Government and we find our own countrymen and countrywomen afraid to leave their houses except armed with revolvers. That is the condition in which non-co-operators have dropped India which was once law-abiding and peaceful. Can the Mover of this Resolution, after the Honourable the Home Member has put forward such a truthful account of what happened in the Moplah country, stand up here and say that the movement was a non-violent one? Are we to pass a blessing here on the attitude of the non-co-operators? Sir, I for one have got instructions to oppose this tooth and nail.

I am therefore sorry I find it impossible to lend my support to this Resolution, because as it stands it is bald. It is difficult to see on what grounds it is suggested and how it can be justified or even defended. I do not believe it is the intention of my Honourable colleague to give those, to whom the measures characterised as 'repressive' are applied, *carte blanche* to take the law into their own hands and to stalk the country with anarchy and rapine. The adoption of this Resolution would be tantamount to giving a blank cheque to uncontrollable mobs who have already overdrawn the credit of the country for sobriety, toleration and equity or regard for other's rights. Succinctly stated my anxiety is with Government and my sympathies with the misguided and misled. The term 'repression' is rather elastic. Government and the people at large have certain ideas of propriety in regard to individual acts, which find expression in laws. On the working of these elementary principles which protect the liberty of the individual in relation to the majority, depends the peace, tranquillity, and safety of a country. By common consent an infraction of these laws takes us beyond liberty and lands us into the domain of *license*. It is then, and then only, that the law is expected to, and does, step in. Has the Mover of this Resolution satisfied himself that the sense of proportion has failed in the correct appraisal of the offences or in fitting the penalties to the offenders to

justify the stigmatisation as 'repressive,' of the protective and preventative measures adopted by Government? I say that his bald Resolution, shorn of all qualification, implies that, in every case, in which the law was set in motion, it has gone beyond its scope. His Excellency the Viceroy, I understand, was prepared to welcome a Round Table Conference if those who approached him were the accredited representatives of the people and were in a position of authority to guarantee a cessation of hostilities. There has not been any response, except what we heard to-day, through Mr. Seshagiri Ayyar, from the enemies' camp. Are we, therefore, to assume that the other side is not prepared to desist from its reprehensible speeches, and lawless acts; that what has been said and done is perfectly legitimate, or, that the so-called leaders, who pride themselves in the power of exciting the passions of the masses cannot control or subdue the aftermath or sequelae?

India is characterised as litigious. Its sense of justice is centred in judicial tribunals where both sides are at liberty to present and argue their facts. If I remember aright, the turmoil over the Punjab affair two years ago, was, that the proclamation of martial law deprived the citizen of his civic rights. To that Caesar, to whom the public then appealed the recent cases intended to be covered by this Resolution did go. It is up to the Honourable Mover to justify his unqualified Resolution before he can reasonably hope for support. As I said before, my sympathies are with those who, having been led astray are now suffering, for none can deny that we are faced with a profoundly serious subject, affecting as it does India's national life and through it, the countries beyond. The organised efforts by men of considerable standing to rush the country, as never before since its creation, leaving no time for securing a sober frame of mind for the adequate discussion of differences as grave as they are radically opposed, are calculated to rob us of the new and long-sought for life emerging from the Reforms.

Hitherto, circumstances have tended to obscure the issue and obstruct the realisation of our profoundest hopes.

Propaganda, not always happy in inception or practical in operation, countered by methods futile or purposeless, has littered the pathway of orderly progress to the attainment of a self-contained peaceful country ready to work out its own salvation under the fostering agis of the Reforms. That India should have been drawn into the political, economic and moral maelstrom caused by the war was natural. That it should have created domestic tension was inevitable. That its pent-up hopes of liberation from spoon-fed helplessness to set its own house in order and manage its own affairs should one day come to the light was to be expected. The dawning of that great 'Day', the dream of the enthusiast and the *ultima thule* of Indian Political Leaders, fostered by the large body of sympathisers at 'Home', which was bound to come in the fulness of time, burst, with dramatic suddenness, ere the dark clouds of war had lifted.

The deferred hopes of self-governance promised in the Victorian *Magna Charta*, and ratified by successive promises from the Throne, have led the country to attempt to feverishly cover, in the smallest space of time, ground that would ordinarily have been trod, leisurely, and orderly, during the six decades which have intervened.

I believe no one in this Honourable House will contradict me if I say that the *impasse*, due to the divergent courses taken by the Leaders on the one

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hand and Government on the other, has been reached. We are constrained to ask to-day whither is the movement leading; when will the climax be reached and in what form? It is suicidal to blink at facts. Recriminations on both sides, I mean Government and the people, are no solution. The catch phrases 'extremist' and 'non-co-operator' are justifiable in application to either side, *viz.*, Government or the people. *Bureaucracy in excelsis* is the 'Extremist' to the people; while a tenacious adherence to autocratic traditions, unresponsive to the finer feelings and expanding hopes evoked by the teachings of the Government itself, and hastened by the tread of world-altered conditions, isolates Government as the 'Non-co-operator'. To say that there have been mistakes on both sides neither improves the present position; reconciles the past, nor assures the future. The axiom that two negatives make an affirmative, may be grammatically defensible, but is impossible of translation into practical politics. Nor have some of the remedial measures been the best in conception or quite happy in application. It has been remarked that a deplorable incident like the Punjab tragedy is the psychological culmination of series of the contempt, insult and contumely to which individual Indians have been subjected, since the Victorian Magna Charta of 1857, - the conferment of equality which purposed to efface for ever the suggestion of any difference between the conqueror and the conquered. The Britisher applied the axe to the partitions of the caste system in India so far as it stood in the way of the selection of avocational pursuits and individual equality, Castes, which, born in the primordial past and flowing through the immemorial tracts of time, refused to mix; a social economy which saw the glories and systems of other ancient kingdoms effaced from the scroll of time. My purpose in referring to this system is two-fold - *Firstly*, it built up traditions in the 300 millions in this country - around which clustered sentiments that have outlived history and the fanaticism of iconoclasts. *Secondly*, India cynically remarks that the Britisher, while deploring the water-tight compartments of caste as obstructive to national cohesion and progress, has himself imbibed and tenaciously clung to that system of compartmental exclusiveness. In the Indian Civil Service, India sees the Brahman, in all his clannishness and aloofness. The Army Officer is the living embodiment of the *Kshatriya*. The Merchant Prince, against whom the torrent of Indian vituperation is directed as the drainer of the country, is the *Vaishya*. The uncovenanted service in all its miscellaneity, from the Gazetted pimple on the face of bureaucratic society to the *et hoc genus omne*, constitute the *Sudra*. It is a mistake to believe that human nature in India can, or should, readjust itself to *dicta* which do not appeal to its traditional or British-fostered sense of self respect; or that they stop educated India especially the large array of the 'England-returned', from appreciating and desiring to import into this country the democratic spirit which prevails in and is the glory of the Western world. In the contemplation of the easy transition of the British democrat to the autocratic heights of the Ruler in India by running the gauntlet of a competitive examination confined to England, India sees herself outclassed. Anything untoward from such a socially readjusted agency to an Indian or an Anglo-Indian of equal or better lineage or culture is obviously resented and widens the breach. I believe it was Junius who said: 'insults make a man fall in his own esteem, that in order to recover his self-respect he has recourse to revenge'. The conflict-

ing differences between Indian aspirations and Government concessions which were being inscribed on the slate of time since 1857 were surely washed away by the blood of the two nations freely shed in breaking down the manacle to a world-wide Peace?—

That peace, thank God, has been effected. But what is the aftermath judged in the cleansing spirit of chastenment? Let no idea of superiority obscure the sense of Justice. Let no shadow of the sense of national inequality obtrude in the examination of the rights of the ruled. Let the process of adjustment be hallowed by the sense of Right, starting on the platform of Equality. Let not the recipient feel that his rights as a citizen of his own country, are tainted with a concessionary spirit. Let us examine our conscience and reject honestly and manfully, every individual act or statutory enactment which stands in the way of *rapprochement*. Let us see whether and, if so, what part such incidents have played in awakening and keeping alive the gospel of Hatred which is to-day being preached and exploited to such an extent as to make the Punjab and Khilafat incidents fall into insignificance. This racial hatred, this hostility, this mistrust must be eradicated ere any benefit can be expected from a Round Table Conference or other attempt at co-operation between Government and the people. In Lord Reading we have a Viceroy schooled in the principles of Justice, a judge of men, with a full grasp of mankind in its weakness and strength; a statesman tried in the exacting crucible of life, in all its variety. Our Law Courts adjudicate on personal rights, irrespective of caste, creed or colour. Is any apology needed for pleading that the same spirit of justice should permeate our political, nay our every-day life?

Protect those who need protection, but be sure your protective measures are not the occasion of sin to the innocent. Moreover, our acts and the manner of their enforcement should be calculated to appeal to our nobler and not to our sordid instincts. It is the duty of every public worker, and the best intellects, whether Government or of the people to concentrate, dispassionately on the present situation, to sink all differences and with the sense of *oneness* speak plainly and courageously. It would be possible from such considered altruistic opinions to evolve some practical thesis for friendly discussion. There is the fear that 'Evolution' and 'Revolution' are looked upon as convertible terms.

Immune from invasions; secured from internecine strife; nestling in amenities; far removed from death-struggles, and in the enjoyment of unbroken peace, one is apt to scan the histories of Revolutions as incidents flitting through a novel read in the supineness of unthreatened leisure. And, while urging on Government to shorten or lighten its retributive hand, we must be equally insistent on a truce being called by the other side.

The golden opportunity of a Round Table Conference suggested to the Viceroy did not materialise, as Lord Reading could not but refuse to parley so long as the other side lay entrenched. It rests with the Leaders of the people to now give that assurance to permit of the level heads not drawn into the vote of this fatuous struggle, to arrange for the necessary *rapprochement*. It is not right to refer to personalities in the discussion of principles, but I am sure the Honourable House will agree, that history proves and experience confirms that it is easier to awaken and call into operation, than to subdue, human passions. It therefore behoves us to lead the masses with reason and

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restraint. I am, however, one of those who believes that it is not too late to give the assurance that pending the Conference of a heart-to-heart talk, nothing untoward or prejudicial to the objects of the convention will occur. The bright hopes of such a Conference must not be blighted by weighting the memory with by-gones. The dead past has buried itself. The chapter of tragedies on both sides may be closed and sealed. Let that be the record of Fate. With the New Year let us open the book of Life and carve out our *Destiny* as soon and as fully as we can.

As the representative of the Anglo-Indian Community in this Council, I protest against this conspiracy to foist upon the country by whirlwind agitation at such a moment—a Resolution which not only offers violence to one's intellect and conscience, but, if accepted by this Honourable House, would be an open invitation to lawlessness, anarchy, rapine and bloodshed which have already demonstrated the so-called peaceful (?) non-violent propaganda to bless the further success of which we are asked to subscribe to the beatitude under discussion. Surely it is not the intention of the agitators to help to repeat the tragedies of 1857?

At the same time, I must admit that the fate of India appeals to us, Anglo-Indians, in quite a different sense to what it would to the British bird-of-passage or the stay-at-home Englishman. Here we have more than an abiding interest. Our forbears came to this country precisely like the Aryans and our Muhammadan brethren. Whatever the motives or circumstances of our entry into India, we, like them, settled in this country and are Indians. It is, therefore, in this naturalised capacity, that I ask my Honourable friend and colleague, Munshi Iswar Sarau, to amend his Resolution. I am not asking Government to do anything if the non-co-operators refuse to accept Government as the Government of this country. I am simply stating here that if the letter that Mr. Seshagiri Ayyar to-day received from Mr. Gandhi is written in a true and proper spirit, it opens a pathway a *via media* to a settlement. But it does not mean that the Government will budge one inch so long as the country is seething with sedition and unrest. I do not wish to convey in my amendment that idea. But I do consider that if a *via media* is open to us, it is best that we should take it.

I earnestly appeal to both sides to forgive and forget, to call a truce, to put forward their best intellect shorn of any ideas of victor and vanquished but controlled and regulated by hearts beating in unison, and then, verily, shall we visualise rightly and trace the path, however narrow it may be, leading to the realization of constitutional 'Swaraaj' for our country, India—the hope of unrequited years.

Rai Bahadur S. P. Bajpai (Lucknow Division, Non-Muhammadan Rural): Sir, I concede at the very outset that it is one of the paramount duties of a civilized Government to maintain law and order. I am anxious that the law should be respected and peace and order maintained, not only because I have got a sufficiently large stake in the country, but because I feel that the progress of my motherland largely depends on the maintenance of peace and order. But, Sir, I may be permitted to submit that the law must derive its support from the good-will of the people and should be properly administered. The whole question at issue before us to-day is not whether the

extension of the Criminal Law Amendment Act and the Seditious Meetings Act to various provinces in India, accompanied with an announcement that the Congress, Khilafat and National volunteer corps were unlawful assemblies, was a wise and statesman like move on the part of Government and has restored peace and harmony in the country. Sir, the policy of resorting to the emergency laws was inaugurated after the unfortunate incidents which took place in Bombay on the 17th of November last, the date on which His Royal Highness the Prince of Wales landed there.

Sir, I do not find words to adequately condemn the acts of utter hooliganism perpetrated by the so-called followers of Mr. Gandhi. Ladies were dishonoured, tram cars looted, houses burnt and respectable citizens maltreated, but I may be permitted to remind my Honourable colleagues here that these acts were very strongly condemned by the leader of the non-co-operation movement and peace and harmony was restored within a very brief space of time. The Government of India probably thought that the situation was menacing and extraordinary, measures alone could save it. They probably gave a blank cheque to the provincial Governments and authorized them to maintain peace and order in the country *at any cost*. The provincial Governments, except the Government of Bombay and the Central Provinces, in their turn at once resorted to the wide application of the drastic measures and the tragic drama began to be staged. The Provincial Congress Committees with redoubled zeal and energy largely derived from the wide application of repressive laws, began to collect their forces and reorganise the various volunteer corps. The provincial Governments, armed with powerful weapons of offence and defence and relying upon the whole-hearted support of the Government of India, presided over by a sympathetic and large-hearted Viceroy of Lord Reading's calibre and eminence oftentimes over-reached themselves and exhibited a temper resulting from utter nervousness. The arrest and conviction under section 107 of saintly Babu Bhagwan Das, a man of unblemished character, high social position and status and great literary attainments, in spite of the fact that he was not a member of any of the volunteer corps two days after the arrival and departure of His Royal Highness the Prince of Wales at Benares on the charge of exhorting his fellow citizens to observe *hartal* on the date of His Royal Highness's visit to Benares and the arrest of 55 members of the United Provinces Provincial Congress Committee while transacting the business of the Congress Committee in the Congress Committee's office at Allahabad are some of the concrete instances of the severity and harshness with which the United Provinces Government has been pursuing the policy of indiscriminate repression. In the Punjab, the arrest and conviction of Lala Lajpat Rai and his friends under the Seditious Meetings Act while transacting the business of the Provincial Congress Committee is another instance of what I may be pardoned for calling misuse of a repressive law. Now, Sir, we have to dispassionately consider the consequence of the policy pursued by the Government during the last six weeks. I may be permitted to say that the Government, by embarking on the present policy of wholesale repression, have created an unprecedented sensation and caused deep resentment among all patriotic Indians irrespective of their political creed. The policy has not only exasperated feelings, but has given a fresh impetus to the non-co-operation movement. Sir, you are very well aware that the main features of the non-co-operation programme, *viz.*, relinquishment of titles, boycott of educational institutions, Courts and Councils, signally failed, despite the most earnest efforts of the non-co-operation leaders, but the present policy has come

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to their rescue. It has begun to bear fruit in the shape of the relinquishment of titles, boycott of educational institutions, Courts and Councils. The policy, as has been recognised by politicians of all shades of opinion in the country, has failed to cure the malady it sought to cure. The volunteer organizations are thriving and thriving wonderfully. To condemn an organization, because there are some black sheep in it, is a very drastic measure indeed. Are the Government going to condemn the entire police force, because the Assistant Superintendent of Police at Allahabad kicked and slapped a certain member of the United Provinces Provincial Congress Committee and Principal Heramba Chandra Maitra was assaulted at Calcutta. I believe the policy has certainly succeeded in the wrong direction inasmuch as it has made the position of moderates most delicate indeed. In short, the present policy has not only failed to cope with the situation but has aggravated it. Personally, I think the Government ought to have waited till mass civil disobedience was resorted to. If it had led to violence, the Government could have embarked upon a policy of stern maintenance of law and order and the Legislative Assembly would not have hesitated to support them. But, Sir, my reading of the situation is that but for the repressive policy, the mass civil disobedience resolution would not have been passed by the Ahmedabad Congress. The Local Government obviously acted on the initiative from the Government of India and if the policy is reversed, the Government of India, I submit, should recall such instructions as may have been issued to the Local Governments in this behalf. With regard to the release of the political prisoners, especially those convicted under the emergency laws, I beg to submit that a calm atmosphere to discuss the ways and means to restore peace and harmony in the land will not be created unless those who have been after all incarcerated because of their political convictions are released. Lastly, Sir, the reversal of the present policy alone will not save the country from the calamities which appear to be stored for unless British statesmanship rises to the occasion. The causes which have brought about the present state of the tension of feelings in the country will have to be sympathetically dealt with. It is no use denying the fact that feelings are still running very high in the country with regard to the martial law administration in the Punjab.

(At this stage the Deputy President took the Chair.)

The tactlessness displayed by the Government in bestowing a Jagir upon Lala Sri Ram Sud has given a rude shock to sensible Indians throughout the country. Over and above all this, the legitimate national aspirations of the people are to be satisfied. The only way to solve these delicate questions is to convene a Conference. Sir, I think the Viceroy should not hesitate to invite Mr. Gandhi to a Conference of this nature, and I still hope that Mahatma Gandhi will agree to suspend his activities and sit at the Conference and discuss ways and means to bring about the possibility of an honourable settlement.

Sir P. S. Sivaswami Aiyer :—Sir, I am one of those who find themselves in a somewhat difficult position to-day with regard to the acceptance of the Resolution or the amendment, which has been placed before the House. I find it is not possible for me to accept the Resolution which has been moved by my friend, Munshi Iswar Saran. It implies that the policy which has been adopted by the Government is one of ~~placidity~~ ~~and~~ ~~that~~

that policy should be *immediately* abandoned. One answer to it of course is that the policy which has been adopted by the Government cannot be characterised as one of wholesale repression. In the next place whether the policy Government have followed in taking such steps as they thought fit to enforce law and order should be immediately abandoned or not is a matter which depends upon the necessities of the situation. I find myself equally unable to accept the amendment which has been moved by my friend, Dr. Gour. The amendment refers to the omission of Government to previously consult the Assembly. I do not think it is a correct constitutional position to take that the executive should, before carrying out its duty in the matter of the administration of the country, come to the Legislature and ask for its advice. The proper position constitutionally is for the executive to act upon its own responsibility and face the consequence in the Assembly. It is an impossible position for any executive to come to the Legislature for advice from time to time with regard to the manner in which it shall discharge its duty. If the executive were not competent to carry on the task of administration without coming to the Legislative Assembly for advice, the executive would be incompetent for the position with which it is entrusted.

I may be told that the position which I have enunciated may be all right in a country which enjoys responsible government where it is open to the Legislature to turn out the executive, but that it does not hold good in a country like this where the executive is irremovable and independent of the support of the Legislature. Making full allowance for that differential circumstance, I still think it would not be proper for the executive to abdicate its function of acting in an emergency and coming to the Legislature for previous consultation.

My next objection to this amendment is that it asks for the release of all prisoners in detention in pursuance of this policy. I dare say that many of the persons who have been prosecuted or convicted might have been wrongly convicted; but I certainly am not prepared to say that all the persons who have been prosecuted and convicted have been wrongly prosecuted and wrongly convicted. Upon this point I would like to refer you to the expression of opinion which has appeared in the papers as having fallen from Sir Sankaran Nair. He distinctly states in his letter to the Press after the Bombay Conference that he cannot believe that all these convictions are wrong or that it is right to ask for the release of all prisoners. Even if it is right to ask for the release of all prisoners, is it not right to limit your demand to the release of those prisoners who were guilty only of a technical offence and who were not actually concerned in any form of intimidation? I am not willing to go to the length of asking for the release of prisoners who were actually guilty of intimidation and who have been properly prosecuted and convicted.

Then, again, Sir, the amendment asks for the convening of a Conference comprising representatives of all shades of opinion with a view to concert a practical plan. Much as I should like to subscribe to the idea of convening a Conference for the purpose of finding a peaceful solution, I am afraid that it is not possible to do so at this juncture without the whole-hearted co-operation of Mr. Gandhi. So long as he is the dictator of the non-co-operators, and so long as he continues to be, if I may respectfully say so, intoxicated with the incense of adulation paid by his worshippers, and so long as he is anxious to maintain his reputation as a prophet by trying to hasten the advent of Swaraj at lightning speed, so long

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as he maintains the attitude, the unyielding and uncompromising attitude which he does. I am afraid it will not be possible to come to any satisfactory results. Of course it is possible to arrange for a Conference without Mr. Gandhi; but do you think it will have any influence on the large mass of non-co-operators who follow Mr. Gandhi and who swear by him as an *Avatar*? I am afraid a Conference without Mr. Gandhi will have hardly any influence upon the mass of non-co-operators. But, at the same time, I am not opposed at all to the idea of a Conference among others, if it is thought that the conclusions of that Conference may help towards a peaceful solution.

Sir, in the course of this debate, two issues have been raised, and they are, in the first place, what our attitude should be towards this movement of non-co-operation, and, secondly, what our attitude is with regard to the steps which have been taken by Government to combat this non-co-operation movement. As regards the first issue, as to our attitude towards the non-co-operation movement, I have no doubt whatever that there is no difference of opinion in this Assembly. I believe we are all agreed that it is a movement which is fraught with the greatest danger to the country and more especially so when we are threatened with a campaign of civil disobedience, and that there can be only one answer to this movement which has been initiated by Mr. Gandhi. I do not think that there is any difference of opinion among us as regards the necessity for fighting this non-co-operation movement and for combating its mischievous effects by all means in the power of the Government. Of course the means within the power of the Government are not confined merely to the employment of methods of punishing those who may be guilty of excesses of the law; the means within the power of the Government certainly include means of conciliation as well. I do not propose to restrict myself in the consideration of these means which may be open to government for the purpose of fighting this movement. But as regards the question which was put to us by the Honourable the Home Member whether we are prepared to enlist ourselves on the side of law and order or on the side of the non-co-operators, I do not think we have any difference of opinion among us. Our undoubted and indubitable answer must be that we are bound to support the cause of law and order. The next issue which is really one which directly arises upon this proposition is whether the steps which have been taken by Government for the enforcement of law and order are such as to commend themselves to our judgment. Now, in connection with this matter, let me acknowledge with gratitude the patience and forbearance which the Government have exercised towards this movement of Mr. Gandhi. I do not believe that any other Government would have exercised the same patience and forbearance towards Mr. Gandhi. I do not believe that we shall ever enjoy the same liberty of speech that we enjoy under the present Government, not even under the Gandhi régime, of which we have had an ample foretaste already. If coming events cast their shadows before, the amount of tyranny that is exercised upon individuals by the non-co-operators fills us with apprehensions as to what is in store for us under the Gandhi régime. Making allowance for all the patience and forbearance which the Government has exercised in the past, the immediate question before the House now is whether the steps taken by them since the 17th November last have been such as to receive our unqualified approval. My difficulty with regard to this Resolution and the amendment is that if we reject the Resolution of Munsif Iyengar Saran and if we reject the amendment of Dr. Gour, we shall be held to have given our unqualified approval to

each and every step which has been taken by the Government and to all the acts which have been done for the purpose of maintaining law and order.

Now I have no wish to question the motives of Government or the soundness in general perhaps of the policy which it has been felt necessary to pursue, but I doubt very much whether even the members of Government themselves feel that the method of enforcement of the Criminal Law Amendment Act and the actual administration of the law have been carried on in such a way that there have not been cases of hardship, that there have not been cases of excesses, and that there have not been cases of blunder. While I am prepared to agree that in several cases their action might have been justified, it is quite conceivable, and from what I hear on all sides, it seems to be felt at any rate, that in several cases there has been hardship, there have been excesses and there have been blunders. Now I do not think that we shall be right in censuring the Central Government for this. It is because I do not want to censure the Central Government or their action that I find myself unable to support Munshi Iswar Saran's proposition. The question before us is what was the policy which the Government should have followed? Was it the policy of prosecution of individual offenders or punishing members of associations which were formed or which were reasonably held to have been formed for unlawful objects? It has been pointed out by the Honourable the Law Member that the ordinary law is insufficient to cope with the situation and that the intimidation which has been practised in many places could not be reached except by recourse to the Criminal Law Amendment Act. The use of the Criminal Law Amendment Act was contemplated in emergencies, and I do not think we can complain that the Act should not have been applied at all under any circumstances and in any situation like the one with which the country is now faced. But granting that the Government are entitled to use the Criminal Law Amendment Act, the question still arises whether in particular cases the Act was properly applied or not. That is undoubtedly a matter for the various Local Governments. It is not possible for the Central Government to arrogate to itself the functions of the various Local Governments, but it is open to the Central Government to exercise a check and it is the duty of the Central Government to see how the Local Governments carry out their duties in the application of this Act.

(At this stage Mr. President resumed the Chair.)

I have no doubt that in every instance in which the Criminal Law Amendment Act has been applied, the Central Government gave its sanction upon information and materials supplied to them by the Local Governments.

The Honourable Sir William Vincent: The sanction of the Government of India to the application of the Criminal Law Amendment Act is not necessary for Local Governments.

Sir P. S. Sivaswamy Aiyer: If it is not necessary, I dare say the Local Governments acted according to their own judgment. I do not wish to charge them with any improper motive in invoking the aid of the Act. But it may happen that in particular cases the Local Governments might have been misinformed. I will give you one or two instances. Take the Presidency of Madras. The Criminal Law Amendment Act was extended to the Presidency of Madras, and it was said by His Excellency Lord Willingdon that it was extended to the Presidency not because he felt any necessity

[Sir P. S. Sivaswamy Aiyer.]

for it, but purely as a precautionary measure. That, I think, with all respect to his statesmanship was a distinct mistake. It merely acts as a red rag and it provokes a number of people to form associations almost for the fun of the thing, for the purpose of courting cheap martyrdom and for the purpose of going to the police and saying: 'Oh, I am a volunteer, come and arrest me'. It may be said that in Malabar the Moplah outbreaks had occurred and that was the reason for the extension of the Act. But, as a matter of fact, the outbreak had occurred in September last, and nobody ever thought of extending the Criminal Law Amendment Act on that ground. Leaving aside, therefore, the disturbed area in Malabar, it was admitted by the Government that it was purely a precautionary measure. It seems to me, with all deference to the judgment of the local authorities, that the extension of the Act might well have been postponed till the necessity was actually felt. Take another instance, *vis.*, the action of the Governor of Burma, Sir Reginald Craddock. If I remember aright, he stated that the Criminal Law Amendment Act was extended to Burma for the purpose of securing a welcome to His Royal Highness the Prince of Wales. I speak subject to correction; I may perhaps be wrong, but that is my recollection. If His Excellency had said that the object of the extension was to prevent people who wanted to give a welcome from being molested, I should not object, but if I remember aright, His Excellency the Governor stated that the object was to secure a welcome to His Royal Highness the Prince of Wales. I do not wish to be hair-splitting: I do not know whether there was or was not any justification for the extension of the Act to Burma.

Similarly, with regard to the arrests, one cannot help feeling that there have been far too many arrests. Now this is certainly a matter within the cognisance of the Local Governments. But the administration of Law and Justice is a reserved subject, and it is open to the Central Government to pull up the Local Governments if necessary. Now can it be said that the hundreds and thousands of people who have been prosecuted and punished have all been guilty of anything more than the mere technical offence of being members of volunteer associations? I do not say that they may not be legally liable to prosecution. Once you proscrib an association it becomes unlawful, and if a person chooses to join an unlawful association, he is undoubtedly liable to prosecution and to conviction. But when I admit that they were all technically liable to prosecution and conviction, was it a wise course to have made innumerable arrests? Now look at the result of these innumerable arrests. It undoubtedly has alienated public opinion to a very very large extent. Now it may be that public opinion is misguided and that it has been wrongly alienated. It is quite possible to say that. Even if that be so, as a matter of fact very large numbers of the public are estranged in sympathy from the Government by the fact of these innumerable arrests, and that they are disposed to look upon the enforcement of the law with disfavour is a circumstance which I cannot but deplore as a well-wisher of the Government. Sir, I am anxious that there should be no divorce between the public opinion and the Government. I am anxious that every act of the Government should have the support of the public behind it, and, if we find that hundreds and thousands of persons are incarcerated for a technical offence, because, no doubt, they themselves have courted this cheap form of martyrdom, if you had had the same number of their

friends sympathise with them, and that large sections of the public sympathise with them, then there must be something wrong with the administration of the law which enables such a large number of young men to be incarcerated. That is a circumstance which the Government has to take into account. For these reasons, Sir, I feel myself unable to support either the original proposition or the amendment, and, with your permission, I beg to put forward an amendment of my own. I don't know how far my amendment will be acceptable to the House, but I trust that it will meet the views of several of the Members. My amendment runs in these terms :

This House while realising the perils of the present critical situation and the difficulties of the Government in dealing with it, and the necessity for the protection of peaceful and law-abiding citizens against any interference with their liberties, feels that the application of the Criminal Law Amendment Act, Part II, has been too extensive, and that in working the Act the Local Governments have acted with more zeal than discretion and tact and that sufficient care has not been taken to avoid harshness, and the House urges the Government to ease the present situation :

- (a) by the issue of necessary instructions to Local Governments ;
- (b) by withdrawing the proscription of associations, the members of which have not actually exercised or attempted to exercise intimidation ;
- (c) by withdrawing the notifications extending the Act from areas where it might have been extended merely as a precautionary measure and without any experience of necessity therefor ;
- (d) by withdrawing all notifications under the Criminal Law Amendment Act and the Seditious Meetings Act at as early a date as practicable ;
- (e) by such amendment of the ordinary law in regard to intimidation and conspiracy as may be necessary for the protection of peaceful citizens ; and
- (f) by ordering the release of political prisoners convicted under the Criminal Law Amendment Act and not found engaged in intimidation.

Now those are the terms of my amendment which I leave in the hands of the House, so that in case it is acceptable to the Honourable Members, it may be adopted. I do not think it is necessary for me to detain the House any longer.

Mr. President : I take it the Honourable Member intends his amendment to be substituted for the amendment standing in the name of Dr. Gour and not to be taken as an amendment to it.

The Honourable Sir William Vincent : Sir, I rise to a point of order. I am always willing to consider any amendment put forward during a debate, particularly when it is put forward in a friendly spirit as is the case with this amendment. At the same time it must be remembered that the question before us to-day is a vital one as regards the policy of Government. It has been considered and the whole matter settled, so far as the Government of India is concerned, by the whole of the Government. Further, Sir Sivaswamy Aiyer's amendment in itself involves an indirect censure on Local Governments. It has been put in without notice and I have no opportunity of ascertaining the views of the Council as a whole on it. Therefore, if I am within my rights, Sir, purely on those grounds and without considering the merits of the proposal I should like to press my objection to its being put in at this stage.

Mr. President : The amendment has been objected to on the ground of insufficient notice and it now falls on the Chair to decide as to whether it shall stand. I think the reasons just given by the Honourable the Home

[Mr. President.]

Member are sufficient to justify me in upholding his objection. Before we proceed, however, I think we had better dispose of the amendments* moved by Khan Bahadur Sarfaraz Hussain Khan, namely, to omit the word 'immediate' between the words 'the' and 'abandonment,' and, after the word 'country' to insert the words 'immediately after the suspension of the activities respecting picketting and civil disobedience'. The effect of the amendment, as the House will observe, being to make the abandonment of the policy of repression conditional upon the abandonment or postponement of picketting and civil disobedience by Mr. Gandhi and his movement. The question is that that amendment be made.

The motion was negatived.

Sir Montagu de Pomeray Webb (Bombay : European) : Sir, I rise to oppose the original Resolution and the amendment now before this House. I do so because I hold that nothing in the action of Government recently, could, even by the wildest stretch of imagination, be called repression. Nor do I consider there has been any restriction of speech or of the right of association that any reasonable man with any knowledge of the practical work of a Government or with any knowledge of what is going on in other Governments could possibly object to. I may say, Sir, that I have had the good fortune to travel in all the five continents of the world. I have been in the United States and in Canada. I have been through Japan and the coast ports of China ; I have been in South Africa and in Australia. I have travelled in many tropical lands other than India and I can say, Sir, that I can assure the Members of this House that the peoples of this country are far, far in advance of the peoples in any tropical country I have visited. Now I can go further and say, from my own practical experience and from my own personal observations, that there nowhere exists greater freedom of thought, greater freedom of speech and greater freedom of action than we all enjoy in this great land of ours. I therefore read with amazement and heard with amazement this talk of repression. What is all this talk about repression? Let us look facts in the face. At this moment we are carrying out an experiment in democratic Government in course of being carried out an experiment to which there is hardly a previous parallel. So far, in the last fifty years, I think, India has progressed as far as England, in Home freedom, progressed in the previous five centuries, and if we take the Government of India Act of 1919, the progress has been most satisfactory ; surprising to many, and surprising and astonishing to those who thought this country was not ready for such a development. There are many critics and enemies of this country's progress, and there are a good many people, who say, and who have said and who continue to say that India is not fit for anything like that measure of Self-government which we have received. Well, Sir, I for one do not join in that belief. I have spent most of my life in this country and I have every confidence that India will be able to show as good a record as any other democratic country in the world. At the same time I recognise that we cannot expect to jump to our destination all at once ; progress must be by steps. That being so, I think as far as we have every ground for satisfaction and that we ought to be extremely pleased with the progress we have already made.

Of course, I recognise that here in India, as in other countries, there are ultra-patriotic enthusiasts, whose patriotism entirely ignores their practical

* Vide page 1704 of these Debates.

Knowledge, who desire to abandon the broad straight path to Swaraj which is now clearly open before us, and to take a sudden jump across the ditches of anarchy and chaos to an unknown destination. I must say that I feel considerable sympathy with such patriots. Indeed, I find it very hard to be severe with them at all. At the same time, where such enthusiasm leads to disorder—frequent disorder and anarchy—then I think we must put our feelings of sympathy on one side and we must deal with the situation in the only way that the law permits.

Now, the Honourable the Mover of this Resolution has told us that he is anxious that there should be no disorder. He condemns *hartals*; he condemns the Bombay riots, and I presume all other disorders that have taken place, and he says it is up to Government to maintain peace and order. Well, then, Sir, I ask, what is his complaint? There is no law under which the present disorder can be met except the very law under which Government are acting. What then is the source of his trouble? Surely, it is not repression for Government to use the only law which is in their hands to use. I cannot understand his complaint at all.

Then, again, Mr. Seshagiri Ayyar has told us that all the volunteers are extremely good men actuated by the highest motives. (*Mr. Seshagiri Ayyar* : I did not say 'all'.) That is the note I have taken. I am sorry if I have misunderstood the Honourable Member. What I think he meant to say was that the intention of the volunteer organisation is wholly good. That, I am quite ready to admit. On the other hand, I think the Honourable Member must admit that some of the activities of some volunteers have been extremely noxious to the State. We have heard of Bombay and Calcutta and other places, and I can speak personally with knowledge of Karachi, where the volunteers have on many occasions been a source of great dissatisfaction and annoyance and injury to the people. Respectable merchants have themselves come to me and complained that they have been intimidated and forced to close their offices and shops and do things which otherwise they would not do for fear of being assaulted or ill-treated by the volunteers. Dr. Gour, has, I think, told us, that the Criminal Law Amendment Act duly provides for dealing with intimidation such as this. He says : 'Why not use it? Why this talk of repression?' I believe Mr. Gandhi to have the very highest and the best of motives, but when he starts a policy of civil disobedience, I think he hardly realises where he is going to. I certainly read the other day, with considerable interest, his own confession that at the Congress of Ahmedabad the other day several of his own followers behaved disgracefully, that they said that, as they were out for civil disobedience, they would not obey him, and that they sat wherever they pleased and they said what they liked, and behaved in a way that Mr. Gandhi found it necessary to reprove. If Mr. Gandhi finds it impossible to keep his own followers in his immediate neighbourhood in order, how can he expect to keep anybody else in order? We know perfectly well—Members of this House know perfectly well—that he cannot, no matter what his intentions may be, keep the masses in order. I have, a few weeks ago, been to a small town in Bihar where I was cut off from the mails and railway communications for over a week. The whole place was having an orgy of Swaraj—local Swaraj—and I heard Mr. Gandhi's name from morning to night. I do not think that the misguided people knew what they were doing, but still, that is what happened. Mr. Gandhi's followers got out of hand.

[Sir Montagu de Pomeray Webb.]

Now, Sir, I am as anxious as everybody else to see this country move forward. I want to see India a power among the nations, a power whose administration is respected, a power whose resources will be able to command consideration in other lands and with other Governments. But I am most anxious, Sir, that our progress should not be marred by the passing of a Resolution such as that which has been placed before us to-day. The enemies of India say that this country is not fit for Self-government and that we are progressing too fast. I fear that we shall be putting ammunition in their hands if by passing a Resolution like this, we censure Government, and tell Government that they must not maintain law and order. Therefore, I appeal to this House to support Government by rejecting this Resolution and the amendments. Government have told us quite frankly that if there are any special cases of individual excesses, which is quite possible with a great organisation like that of Government, then they will gladly look into such excesses. Surely every one of us must feel sorry that distinguished men like those who have been named should have allowed their patriotism to outrun their better judgment with the result that they are now in jail. Nobody can be more sorry for that than I am myself. At the same time, sympathy for individual public men must not allow us surely to censure Government in carrying out their first and foremost elementary duty of maintaining order. I therefore appeal most confidently to this House to uphold the reputation--I might go as far as to say the great reputation which this Assembly is earning by rejecting the Resolution and the amendments now before us.

Mr. N. M. Samarth (Bombay: Nominated Non-Official) : Sir, at this late hour, I do not think it necessary for me to make any long speech. Much of the ground has been covered already by some of the previous speakers. I wish the House to realise the position in which the country is at present. I want you to realise two things. What do you think as a responsible citizen the Government ought to do, and what do you think as a responsible citizen you should ask your own countrymen to do? The Resolution and the amendments say in effect that the Government has pursued a policy which must be condemned and which it must immediately abandon. What is that policy? That policy has been the application of two special laws which I along with Dr. Gour and others who were members of the Repressive Laws Committee recommended should be kept for the present and should not be immediately repealed until normal conditions were restored, and many of us, we stated in our report, hoped that these normal conditions would be soon restored so as to enable us to recommend to this House the immediate repeal of even those laws. I ask Dr. Gour if the normal conditions have been restored or if they have not assumed an abnormal form since. Any one who is conversant with what is going on in the non-co-operation camp, as reported from time to time in their organ 'Young India,' is aware that Mr. Gandhi has been going on from step to step towards the goal which he has placed before himself, namely, the bringing about of a deadlock in the administration of the State by civil disobedience, non-payment of taxes, and so on. Even at the Conference of which Mr. Seshagiri Ayyar spoke and where he was present, Mr. Gandhi made it quite clear that he would attend in his representative capacity only if his conditions precedent were fulfilled, and one

of them was in regard to the release of all the prisoners including even the *Fatwa*-prisoners and the Ali brothers. Another was that meanwhile, although he would put a stop to those activities till the 31st January, he should be allowed to carry on his activities in connection with the preparation for civil disobedience.

Is that a factor to be reckoned with, or is it not? I have got the reports here and they have not been contradicted and the letter which Mr. Seshagiri Ayyar read does not give a contradiction to that statement. Mr. Gandhi wants, in the meanwhile, to carry on his activities leading up to civil disobedience and this amendment itself curiously enough refers to the menace of civil disobedience and yet it asks Government to abandon immediately what it calls its repressive policy. I do not clearly understand the objection that some of the speakers have taken to the word 'repression'. Even such a thinker and writer as Sidgwick has used the word 'repression' and justified the repression in connection with the prohibition of public meetings and the proscribing of associations where the activities of those associations are likely to lead to a breach of the peace. In a well-known passage he has justified it and I put it to you : what are these associations and these public meetings? I can understand the elementary right of free speech, free association and free public meeting on the part of those persons who want to have their grievances redressed either through the Legislature or by laying an address at the foot of the Throne or, where there is no Throne, before the head of the Administration or the Republic. However wrong, however radical and mischievous their proposals may be, so long as those proposals are constitutionally put forward and placed through the Legislature or before the Throne, that association or that public meeting is permissible. But what are these men and their methods? They say that they do not recognise Government. They do not recognise judicial courts established by Government. They say that they do not recognise man-made laws before God-made laws. They go further and say that they are out to break the laws not because any particular laws are repugnant to their conscience and they want to get them repealed or amended, but solely with a view to bring about a deadlock in the administration and chaos and anarchy in the State. Can any one point out to me any thinker or writer on constitutional law or practice who postulates in favour of such a body the right of association and the right of holding public meetings? They are outlaws, they have proclaimed themselves to be outlaws and in favour of outlaws there cannot be any such right. Therefore, to my mind, Government has acted with great forbearance and patience, so much so, that Sir Sankaran Nair in the letter to the '*Times of India*' says that Government should have taken steps in the days of Lord Chelmsford and they were weak at that time and the same policy was pursued by this Government. In other words, Government has been too forbearing and too patient and has not nipped in the bud the agitation, which it should have done two years ago. Now the question is started by Mr. Seshagiri Ayyar that the ordinary law should have been applied. As we all know, the ordinary law was being applied. The ordinary law is of two kinds, preventive measures and punitive measures. The Criminal Procedure Code has only two preventive measures, section 108 taking security and section 144. Both these, however, do not apply to associations. They only apply to individuals and the public.

Mr. N. M. Samarth: They were being applied and Dr. Gour himself was one of those who said that Government was abusing the power under 144 by proscribing public meetings. Therefore, the only preventive action possible was under sections 108 and 144 of the Code of Criminal Procedure. Now, Mr. Seshagiri Ayyar must know that section 144, Criminal Procedure Code, gives power to any District Magistrate to act on his own responsibility. The Seditious Meetings Act is a much milder measure. It has more safeguards. No Local Government can apply it until it has obtained the sanction of the Government of India.

Dr. H. S. Gour: Not now.

Mr. N. M. Samarth: And the Criminal Law Amendment Act is an Act which is framed with a view to put a stop to associations not necessarily indulging in criminal activity of a violent character; but provided the Government is satisfied that the association is interfering with the administration of the law and maintenance of order, it is open to the Governor General to proscribe it. Dr. Gour read only section 15 of that Act and omitted to read section 16. Section 16 says:

'If the Governor General in Council is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order or that it constitutes a danger to the public peace, the Governor General in Council may by notification in the official Gazette declare such association to be unlawful.'

Have you or have you not heard that there have been these associations in Calcutta and that these volunteers were going about in uniform, drilling in streets openly, intimidating people and threatening shop-keepers not to open their shops? Do they or do they not come under the definition of the Criminal Law Amendment Act? Some one, I think Mr. Seshagiri Ayyar, said: 'Deal with them as unlawful assemblies', i.e., after the mischief had been done, but even under the Penal Code, as Mr. Seshagiri Ayyar must know, evidence has to be brought before the Court to prove that they are unlawful assemblies. Evidence could only be given by persons who have been intimidated and the man who has been intimidated surely is not going to come before the Court and incur greater harassment and greater risk to his life and property by giving evidence of that character. As a practical lawyer and ex-judge, surely he knows that in such cases the man intimidated is not going to come before the Court. Therefore, the Government had no option but to resort to the two measures which I and others in the Repressive Laws Committee recommended Government to have in its armoury to cope with the situation which we say in our report was at the time critical and may become more critical. If things assume the normal aspect, then, no doubt they will be repealed. Now that being the case, I cannot support the Resolution, nor can I support the amendment which in itself is so contradictory in its terms. It refers to the menace of civil disobedience and at the same time it asks Government to abandon the policy of, what it calls, repression inaugurated in the country. And what is the alternative suggested in the amendment? Dr. Gour calls it the constructive part of the amendment, but I consider it to be destructive of all considerations of law and order—the release of all prisoners indiscriminately in pursuance of that policy. Sir Ernest Barker has already pointed out that that is quite impossible. It may be that some persons have been convicted or sentenced wrongly and Local Governments will take steps in such cases to reduce their sentences or to commute them if necessary.

But there comes at the end of the amendment, the panacea, the convening of a Conference. It is said that it does not matter if Mr. Gandhi does not come. Very good, if a Conference is held, whom are we going to pacify? Are you and I going to be pacified? Do you stand in need of pacification?

Dr. H. S. Gour: Very much.

Mr. N. M. Samarth: Very much: then you had better join the non-co-operation party and be done with it. As between those who run with the hare and hunt with the hounds and the leading lights of the non-co-operation party, I have no hesitation in saying 'my hat off to the latter'. Well, Sir, whom are we going to pacify if Mr. Gandhi and his party are not going to come? I can understand a sort of Round Table Conference if Mr. Gandhi is amenable to influence by Mr. Seshagiri Ayyar or others and gives up his present demand, namely, that whatever the Conference may decide or may not decide, he must in the meanwhile be allowed full latitude to form his associations and make all preparations for civil disobedience. So long as that demand stands, it is an impossible position. Another aspect is this: supposing he is induced to come. He will take advantage of this Round Table Conference and say: 'well, I asked Government to release the Ali brothers, the Malabar martial law prisoners and other prisoners, and I asked Government to give us immediate dominion status; they have not acceded to it and they would not allow me to form my associations with a view to introducing civil disobedience. The Government is not reasonable; it has not acceded to my demand and I must therefore immediately start civil disobedience.' That will be to my mind the outcome of a Round Table Conference with Mr. Gandhi. Without Mr. Gandhi, a Round Table Conference is futile. However much I am anxious, and my anxiety is not less than Mr. Seshagiri Ayyar's to bring about peace and harmony in the land, I will not be a party to any proposal which I think is not going to lead to any tangible results. Let not Mr. Seshagiri Ayyar think that he alone is anxious to advance the progress of the country as rapidly as possible. He will remember that before the Joint Parliamentary Committee I gave evidence in such terms that even the extremists were rather staggered at the way in which I put my case. My anxiety for my country is not less than his, but at the same time it is impossible for me to ask this House to pass any Resolution or amendment, whether coming from the democratic or the autocratic party, such as the one before us. It is impossible for me to recommend it to the House.

Mr. Abdur Rahim (North-West Frontier Province; Nominated Non-Official): Sir, I am quite at a loss as what to utter and say concerning the present critical situation when I see and find that the political clouds are thickening and the thunder advancing and the storm now seems to be vertical and threatens to burst on the political ground as if with the next clap it will not only shake but shatter the whole political area into pieces. Now or never will be settled the fate of India, which decision must for ever settle the point at issue. Considering the present situation, one cannot help coming to this definite conclusion and finding that it has come practically to a fight to a finish between the Government and its subjects. The final result must either be the glory of the former or the fall of the latter and must consequently turn India into the tomb of the Government's ever-increasing glory and the grave of her children's fond hopes and expectations, or *vice versa*. This being the sad and painful

[Mr. Abdur Rahim.]

situation, I am prompted to offer a few observations for the consideration of this Honourable House, knowing full well that if I criticise the favourites of the people I will be looked upon as the tool of the Government, and if I censure the Government I will be considered an instrument of faction. Realising also that it may look like arrogance on my part to speak and like ingratitude on my part to keep silent, I nevertheless believe that when the affairs of one's country are in a distracted condition everyone is required to step out of their ordinary course of life in order to try and compose the minds of the people and endeavour to conciliate their affections. At such a moment it is the duty of every individual to hazard something, rather than to sit idle and indulge in idle lamentations over the calamities of one's country. I would first venture to appeal to those non-co-operators, my countrymen, whose loud cry for immediate 'Swaraaj' is resounding throughout the land and receives a response from many a people from the four corners of India : whose ambition and over-zeal have out-travelled their sagacity and wisdom to school themselves to patience and see if the policy of sudden impulse will enable them either to give peace to India or even to their own conscience. Let them just think for a moment and see if they are not risking their present congratulations, which are bound to be turned into serious complaints and grievances before long. Let them be fair and judge if their own feelings have not bribed and taken them in and cast them into a fool's paradise. Let them be dead-certain and sure that at leisure they will find out that tears which will be extorted and shed later on will be tears not only of folly but of deception and delusion too. To their great grief and sad surprise they will find that their sum of happiness on this cast is nothing else but building castles in the air. Perhaps they forget that those who live in an exaggerated hope meet with bitter disappointment and despair; let them, when hope pictures a flattering scene of future bliss before them, deny its pencil those colours which are too bright to be lasting. Let this exaggerated, uncertain and deceiving hope neither steal from them or steal from them. Let them give up this idea that 'as every thing can be gained in time, why should it not be by a sudden impulse. Let them not have to confess in the end that they have backed the wrong horse'. The situation can only be solved by those who have equal love and esteem for all the sons of Adam and have the real interests of their country at heart. Those are the people who can be the joining link between the Government and the non-co-operators. It is they alone who can bridge the gulf between the two; it is they who can annihilate the space and time between the two, and make them meet at the altar of humanity, equity, justice and love, actuated by mutual understanding, respect and good-will. It is they who can save India from ruin, turn her from despair to hope, give her education to safety, from hatred to love, from disorder to order, from misery to prosperity from sorrow to joy. It is they who can save India from drifting into chaos, and the abyss yawning before her. Government should follow a policy of construction and compromise, not a policy of destruction and discord. The Government should not be met down with anger and should not be enraged with fury; it should not be angry and proud, it should show that it has a head to contrive a heart to beat, a hand to grasp. It must strengthen its hold on India by confidence in its justice, its power, word of honour and wisdom. The Government knows and feels that India, as not the same to-day as it was yesterday and will not be the same to-morrow, as it is to-day, must show an exceptionally sympathetic attitude towards the

legitimate aspirations of the Indians, which is bound to win for them the consent of the governed based on the respect which they will have for the progressive justice of the rulers in responding to their legitimate demands and aspirations. The Government must bear in mind that it requires a peculiar instinct of statesmanship to govern India through a native army and native press. The Government should not think for a single moment that the Indians are sheep and sheep too without a single shepherd. The Government must be prepared to face and brave all these unpleasant and repulsive troubles, worries and anxieties in a good and cheerful spirit.

They are but the natural results of the eastern civilization coming in contact with the western civilization. The East cannot come in contact with the West without disturbing its serenity, without bringing new ideas into play, without infusing new ingredients, without in a word causing unrest.

It must also remember that when it gave education to the Indians on western lines, it caused the unrest, because it wished to colour Indian ideals with western aspirations. The present unrest should not take the Government with a sad surprise, the more so when it welcomed it in Persia and commended it enthusiastically in Turkey in the beginning, patronised it in China and Japan and has acknowledged it only lately in Egypt and Ireland. The watchword of the Government in future should be co-operation in the following words: 'we are pledged to advance and mean to advance'. At the end, I will request the Government to be good and kind enough to follow those best British traditions that 'they do not continue to govern the people because they do it well but that they are merely taking over the Government till the people can govern themselves'. The British should feel proud and say to India: 'rise up and try to walk, we will hold your hand first till you are grown stronger; when you have grown stronger, you shall walk free besides us as our daughter whom we have brought up.'

Sir, I now come to the Resolution before this Honourable House. I am sorry to say that I do not agree with the Honourable Mover of the Resolution and that too on many a good ground, firstly that the Government never followed yet that old well tried policy that it is with men as with asses, whoever would keep them fast, must find a very good hold at their ears. Secondly, that the Government has not allowed itself to be hurried into the so-called policy of repression. The Government took a very long time after long consideration and deliberation too. If there have been some accidents and instances, they are due to those individuals concerned. Nobody will blame the Government if it saw men smoking political pipes near powder magazines and said: 'away with the men and away with the powder'. In the interest of India, to say nothing of your own national honour, in the name of duty and of common sense, the first and commanding task is to keep order and to quell violence among all races and creeds sternly to insist on the impartial application of rules of justice, in short to guard the law, which is mother of prosperity and peace.

Mr. S. C. Shahani: Sir, I am afraid that a golden opportunity is being thrown away by the Government and the Assembly. On one other occasion, too, a similar mistake was made. When the massacres in the Punjab in 1919 under the cover of martial law were discussed in the Assembly, contrary to the expectations of most of us, my Honourable friend, Mr. Jatinadas Dwarkadas, was persuaded to drop the last clause of his Resolution on the subject which is in a measure responsible

[Mr. S. C. Shahani.]

for the present discontent of the people in the country. I would request all parties concerned not to be governed by any false idea of prestige. The people are infuriated. It may be that there is some insanity about the conduct of the people; but that is no reason why those who are in authority should refuse to consider the situation sympathetically. I have not the slightest idea of representing to the House that the non-co-operators are behaving rightly. As a matter of fact, I have had a very sad experience of it. Surreptitiously, clandestinely, they do take action to subvert the normal and regular work of institutions. Intimidation too is being used by the non-co-operators. That does not lead me to think that on that account the non-co-operation movement deserves to be put down ruthlessly. It has its good side. It represents some very good and beneficent progress. It represents quickened sense of self-respect. It represents deeper study of human history that the Indians have gone in for. It represents Indian political psychology, and means aspiration, and a very legitimate aspiration, on the part of the Indian people for self-rule for doing things as far as possible themselves on their own responsibility. The people have been very eager, so far as I can see, in these their aspirations. No one in this debate has come forward to refer to the causes of the present discontent amongst the people in the country. No one has referred to the Government refusal to punish those officers who even according to them misbehaved during the massacres in the Punjab in 1919; and no one can deny that pledges have been given, perhaps wrongly, for the modification of the Treaty of Savres. If pledges have been given, every effort should be made to redeem those pledges. Coming to the last cause, viz., Swaraj, it is true that we ought to develop slowly and stage by stage. That would be undoubtedly a sane development. But several well-known circumstances are responsible for the creation of this desire on the part of the people, viz., that they should at once make a further definite advance on the road to responsible government; and it surely behoves Government to sympathetically consider this mentality of the people who have been entrusted to their charge. Proposals are made for a Round Table Conference, and yet some very responsible people have come forward to say: "Do not go in for this Conference." I say, you would be committing a very sad mistake—excuse my plain speaking—if you do reject the proposal that has been made to you to-day. My Honourable friend, Mr. Seshagiri Ayyar, for whom my high respect just at this moment is ever so much higher, for this that he has done his best to arrange the preliminaries of a Conference, has read out a letter from Mahatma Gandhi. You may no doubt laugh at it, but according to me, this your laughter is short sighted. I am seeking to put my own views before you, and to tell you that his endeavours to bring about a settlement should be respected. If it is true that Mr. Gandhi has been in discussions unreasonable in the expression of his opinions, if at times he has formulated irrevocable demands, now at any rate, so far as I see from the letter that has been read out, he is in a reasonable mood. I am only describing the impression that has been left on my own mind. Different minds may read things differently. Events will show which readings are correct. I want to state clearly that according to me and several others, I suppose, in the Assembly this is a very fit opportunity for agreeing to a Conference with the leader of the non-co-operation movement. I myself do not believe in conferring with other leaders of the non-co-operation movement. I feel that Mr. Gandhi is really the one factor to be reckoned with at this time.

for he will be most followed by the people; and if that is so, it is very desirable to give in a little and to consent to a Conference with him. If this Conference should really lead to some substantial result, everyone, I suppose, will thank Providence for having been enabled to make up his mind to consent to this Conference. It has been said that in the Resolution as also in the amendment some censure is involved on the conduct of Government. I myself quite realise that the hands of the Government have been and are being to a certain extent forced. While I do realise that, what I mean to make out is that the Government is simply refusing to consider the causes of the discontent. It says that it is impossible to go back upon the past, that it cannot punish those that have been guilty in the Punjab massacres, that the Treaty of Sevres is an international question and therefore beyond it, and that Swaraj is a matter for consideration by the Parliament and people of England. This is a very wrong attitude to take, so far as I see. Politic satisfaction of people's claims will strengthen authority and power. Change this attitude, and I have no doubt that the people will respond. No one can pretend to make out that the people of India are bad, that they are malicious or that their emotions are perverted. They are in a measure being misled undoubtedly, but precisely on account of this attitude on the part of Government. If they have committed excesses, I would request you most earnestly to take into consideration the causes of this insanity, and to deal with the situation sympathetically. If you do not deal with the situation sympathetically, it will be very difficult for you by mere repression, however strong you may be, to hold the situation well in hand. It will then be bad for Government, and it will be bad for the people. If a certain amount of censure is involved in the Resolution and amendment, let the Government endure it in the interests of the people and in the cause of humanity. If you are not prepared to modify the policy of repression immediately, at any rate suspend it. If Mr. Gandhi is going to suspend his operations till the 31st January, there is absolutely no reason why the Government should not suspend its repressive policy till the 31st January, and try to come to some understanding. If agreement with Mr. Gandhi becomes impossible, then all of us will be with the Government. May divine protection strengthen the wisdom and good will needed for the task!

Mr. President: Munshi Iswar Saran.

Mr. N. M. Joshi (Nominated: Labour Interests): On a point of order, Sir. Is it the reply and is the debate closed?

6 P.M.

Mr. President: I called on the Honourable Member to reply.

Mr. N. M. Joshi: There are other Members who wish to speak.

Mr. T. V. Seshagiri Ayyar: May I ask for a ruling on a particular point, before the Mover replies, and that is about the Resolution standing in my name which comes on to-morrow? Whatever may be the result of this debate, would you rule that Resolution out or would you allow it to be discussed to-morrow?

Dr. H. S. Gour: In that connection, may I suggest that my amendment may be put in parts? If it is put in parts it will obviate the necessity and meet the objection that my learned friend, Mr. Seshagiri Ayyar, apprehends.

The Honourable Sir William Vincent : The Honourable Member chose to move all these points in one amendment, and I think we are entitled to have the amendment put to the Assembly exactly as he moved it; but I have no objection, so far as the Government is concerned, to a debate on this Resolution of Mr. T. V. Seshagiri Ayyar to-morrow, if such a debate is within the rules.

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural): On a point of order, the debate is not closed yet on this subject?

Mr. President : I called on the Honourable Member from Allahabad to reply.

Mr. Muhammad Yamin Khan : Does it mean that the debate is closed?

Mr. President : Certainly. As regards the point raised by Mr. Seshagiri Ayyar, the last lines of the amendment standing in the name of Dr. Gour read as follows :

‘And the convening of a Conference comprising representatives of all shades of opinion with a view to concert a practical plan for the restoration of peace in the country and for ensuring its political progress in consonance with its national aspirations.’

The Resolution set down in to-morrow's list asks for the appointment of a Committee of the Members of the Indian Legislature with power to co-opt, that is to say, turn it into a Round Table Conference, to inquire into the causes of unrest prevailing in the country and the measures taken by Government to deal with the situation and to make recommendations. Verbally these are two different propositions. Substantially they are the same proposition; and therefore I think they fall under the combined operation of Standing Orders 31 and 70 which preclude the Assembly from discussing and deciding questions already decided during a Session. If Honourable Members wished to have two separate debates they should have drawn their Resolutions and amendments accordingly. The Honourable Member himself invited the Assembly to discuss it by putting down an amendment to the Resolution standing in the name of Munshi Iswar Saran, and therefore I assume that he wished the debate to be taken to-day. The House is my witness that most of the speeches have referred in explicit terms to the question of a Round Table Conference; and under the rules, therefore, he cannot have an opportunity to raise a debate later to-morrow on the motion standing in his name.

Mr. T. V. Seshagiri Ayyar : Of course, Sir, when you have given a ruling, it is not open to any Member to contest it; but may I draw your attention to this fact, that I wanted a Committee composed of Members of the Legislature and the word ‘co-opt’ merely means, as we know, that when the Committee sits it could take the assistance of one or two members from outside. I respectfully submit that that is not the same as a Round Table Conference. It was not in that light certainly that I put in my Resolution. I find, Sir, moreover, that in this amendment that I have put in the word ‘co-opt’ has been altogether omitted; and if my Resolution is already covered by the amendment of Dr. Gour, I am in this unfortunate position that I cannot move my amendment and I cannot move my proposition.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : Also I should like to inquire what will be the position of those people who are entirely in favour of Mr. Seshagiri Ayyar's Resolution but are not in favour of the amendment of Dr. Gour.

The Honourable Sir William Vincent: Sir, may I suggest one possible solution? I do not know whether it is possible under the rules, but I should have no objection at all if Dr. Gour is allowed to withdraw that portion of his amendment which deals with a Conference and leave it to be discussed to-morrow on Mr. Seshagiri Ayyar's Resolution. I do not know whether this will be in accordance with the rules; but we should have no objection.

Mr. W. M. Hussanally (Sind: Muhammadan Rural): As it is a late hour, Sir, now and several gentlemen wish to speak, if you like, the subject may be taken up to-morrow. There might be some sort of compromise arrived at by these amendments being withdrawn. I think that will answer the purpose.

Mr. President: What the Honourable Member has proposed is very reasonable, and I should prefer to proceed by the spirit of the rules rather than by the letter. But it will be setting a bad precedent if I allow the Assembly, after having discussed—and I think the House is my witness that they have discussed it pretty fully to-day, the issue of a Round Table Conference as linked with the so-called repressive policy of Government, to repeat that discussion to-morrow and possibly to arrive at a contrary decision. These rules are framed in such a way as to provide for a considered opportunity of debate on public policy, and when that considered opportunity arises and has been exhausted, then the opportunity cannot arise again in the same Session.

Rao Bahadur T. Rangachariar: I move, Sir, formally that the debate be adjourned till to-morrow on this Resolution.

Mr. Muhammad Yamin Khan: May I point out that the amendment which is standing in the name of Dr. Gour is not standing in the name of Dr. Gour alone, but that it stands in the name of Dr. Gour and others, and Dr. Gour has got no authority to withdraw it.

Mr. President: No Member has authority to withdraw an amendment except by leave of the House. An amendment once moved cannot be taken out of the cognisance of the House except by the will of the House expressed in a division. A motion has been moved that the debate be now adjourned till to-morrow.

The Honourable Sir William Vincent: Sir, I understand that the proposal is that this debate should be adjourned until to-morrow. That action is, in my humble opinion,—of that you are a better judge than I am—a violation of the rules, because you cannot put down on a non-official date business which has not obtained a place in the ballot and neither this Resolution nor this amendment has been ballotted for. But there are other objections. The whole question has been debated now at very great length; there is nothing more to be said. (Cries of 'No'.) If there are other Members who wish to speak—and I dare say there are—they must remember that if every Member in this Assembly wishes to speak on every Resolution, we shall not earn the reputation of being a very practical body. At any rate, Sir, if the feeling is that the debate should continue, let it continue to-day and let us finish it once for all; let us not have any adjournment and fresh proposals and complications; let us consider to-day and settle the plain issue which is before the House, and let us finish the debate if we have to sit till midnight.

Mr. J. Chaudhuri (Chittagong and Rajshahi Division : Non-Muhammadan Rural) : May I make a suggestion, Sir? Sir William Vincent has referred to certain facts in Bengal and to certain facts which transpired in the Repressive Laws Committee. I feel that those statements of facts are somewhat different from the facts within my personal knowledge, and therefore I feel that I am entitled to state the facts within my recollection and as at this late hour I do not like to tire the patience of the House, may I suggest that the debate be adjourned?

Mr. President : That is not a point of order. The Honourable Member is airing a grievance which every Parliamentarian has to suffer many times in his career, viz., that of finding that the subject is exhausted before he rises to his feet.

Lient.-Col. H. A. J. Gidney : As the Honourable the Home Member said, let us thrash out the matter to a finish to-night. I therefore propose that we adjourn for half an hour for tea or some refreshments and re-assemble.

Mr. President : The motion moved by the Honourable Member from Madras on my left is perfectly in order. But I should like to point out that the provision to move an adjournment of the debate is one which ought only to be used when a substantial difficulty has arisen.

Now no difficulty has arisen as far as I can see except the one created by the course which Members themselves have chosen to take. In my view the debate on the subject is exhausted. I do not mean that each individual Member's right of speech is exhausted, but the subject is substantially exhausted. I suggested to the Honourable Member from Allahabad about three-quarters of an hour ago that he should take into consideration the desirability of rising to his feet as soon as he caught my eye in order that he might exercise his right of reply. As I said to the Honourable Member from Bengal, I must remind other Members who may feel aggrieved that it is impossible for the Chair to give each individual Member the full exercise of his right of speech in this Chamber on every debate.

Rao Bahadur T. Rangachariar : In that view, Sir, I beg leave to withdraw my motion.

The motion was, by leave of the Assembly, withdrawn.

Munshi Iswar Saran : Sir, at this late stage I do not think I should inflict a long speech on the House, but there are one or two observations which I should like, with the permission of the House, to make. Some time ago I happened to read in the papers that a certain enterprising District Magistrate in the United Provinces issued a circular to his subordinate Magistrates that at this critical moment there could be only two parties, namely, those that were with the Government and those that were against the Government. He further said that those who expressed lip sympathy with Government but did not give it their full support were traitors. I imagine he was referring to moderates. I felt at the time that it was some bureaucrat saturated with bureaucratic notions, but, Sir, I have been surprised that the same principle has been enunciated in this House to-day. Sir, let me say at once that the position will be intolerable for us if it is expected that those who are here should support Government through thick and thin regardless of the fact whether that support is justified by the action and policy of the Government or not. I

must say at once that as far as that kind of support is concerned, it cannot now come from the educated people, but it can come from classes whom I should be sorry to characterise. Sir, the whole debate has unnecessarily taken place, because according to the learned constitutional lawyer from Bombay these non-co-operators are outlaws and they are not entitled to either freedom of speech or freedom of association. That being so, he would have conferred a great boon upon this Assembly if he had enunciated this constitutional principle at the outset of this debate and had relieved us of the trouble of discussing this matter threadbare for the whole day. Sir, the Honourable Sir William Vincent has told us that pathetic sympathy is futile. Yes, the Honourable the Home Member would have been satisfied if we had all shouted instead of 'Gandhi Maharaj ki jai', 'Government ki jai'. Now, let me say clearly that when we do not feel any sympathy we will not hesitate to say so, and when we say that we are interested in the maintenance of law and order, we mean it, and the moment we change the present view we will not hesitate to say so either to the Honourable Sir William Vincent or to this House or to the whole world.

Sir, a great deal has been said about reports having come from the various provincial Governments. We have some experience of these reports in our own province. Speaking, I think, at the Lucknow Durbar, His Excellency the Governor of the United Provinces expressed his satisfaction with the result of the policy which he had inaugurated in the United Provinces. He said the inauguration of this policy had given general relief to the people, and what was the result? At once there was a manifesto issued by 25 prominent men of Allahabad controverting the statement made by His Excellency and that manifesto was followed by other manifestos in various other places. I shall ask the Honourable the Home Member not to consider that every information that comes through official sources is and must in every case be accurate. These are not facts which have been tested by cross-examination. Most of them are matters of opinion and impression, and I submit it is not impossible even for an I. C. S. Governor of a province to make mistakes about his own impressions and opinions. Sir, let the Honourable the Home Member give us non-officials the credit of knowing our own respective provinces as do the rulers of those provinces. I submit, Sir, that a non-official has more sources of knowing the actual, the inner state of affairs than the Governor of a province between whom and the people exists a great and impassable gulf, Sir, now we understand the position of Government. The position is this, that the Government is out to fight non-co-operation and these are the weapons which the Government has adopted. Sir, I must frankly confess that I was not under that impression so far, but if that be so, then let me say most clearly that the weapons which Government has chosen are feeble and weak. You cannot crush, you cannot destroy non-co-operation by the Criminal Law Amendment Act, by the Seditious Meetings Act, by the Defence of India Act and by the Press Act. If you wish to embark on a warfare like this, I ask you to choose stronger and more violent weapons, because these feeble weapons create irritation, they create indignation and resentment; they do not achieve the aim that you have in view. But as far as this Honourable House is concerned, I shall beg the Members to consider whether this policy which has been inaugurated has succeeded or not. We have been asked: what alternative remedy have you got to suggest? I say, consult us. Let there be a meeting—I am not thinking of a Conference; let there be a meeting.

[Munshi Iswar Saran.]

between the officials and the non-officials; let there be a heart-to-heart talk. Let us see if we can devise some means of easing the situation. But the mere fact that I am not able, on the spur of the moment, to suggest an alternative remedy does not argue that the remedy that you have employed is the correct remedy. I say the narrow issue which this House at this moment has got to decide is, is this policy in the interests of the country? Has it succeeded? And, knowing the conditions of the country as we do, do we feel that it will succeed? If you feel that it will not, then it is your clear duty to say that this policy should be abandoned.

Sir, there is only one word more I wish to add and I will then sit down. The Honourable Member from Karachi has said: 'Don't vote in favour of this Resolution or in favour of the amendment' moved by my Honourable friend, Dr. Gour, because people outside will say 'these people are not fit for Self-Government.' My answer is this. I do not care a straw what people outside think. My own feeling is that I should act in conformity with the dictates of my conscience, and as soon as I have done that, the opinion of the outside world is a matter of no consequence to me, and I hope the House will consider the question also from this point of view. I entreat you to think of the thousands upon thousands of men who are waiting eagerly to learn the result of this debate. The eye of the whole country is upon you. You know the irritation, the indignation that has been caused in the country, and I say: 'Please realise your responsibility, think correctly and vote rightly!'

The Honourable Sir William Vincent: Sir, there are very few points on which I wish to reply, but I am particularly anxious to answer the points raised by my Honourable friend, Sir Sivaswamy Aiyer, as his speech was marked, I think, by a very patent desire to achieve peace. His amendment was one many points in which will, I believe, commend themselves to all sides of this House and it was really a matter of regret to me that I was unable, in circumstances—which he as an ex-official will appreciate, to agree to its being moved. I should be very glad to have been able to do so; after reading his amendment again, however I think I shall be able to show that many of the points he has raised are already being met by Government. One criticism which has been raised against us—I think my Honourable friend, Dr. Sapru, met it—has been that trials are held *in camera*. Well, we have asked that, as far as possible, trials should be held in public, although I must remind Honourable Members that this is not always possible and that in some cases public trials held not only under the Criminal Law Amendment Act but also under the Penal Code,—as Members who come from the Province of Sind will doubtless know, have caused most undesirable excitement, and indeed very nearly promoted disorder. Again, we have been told that these trials are not always carefully conducted; instructions have been issued on that point also. Individual cases of injustice have been mentioned. Now the Government of India does not accept responsibility for individual cases; they can only lay down a general policy. But Local Governments have been asked, wherever there is reason to doubt the legality or justice of any conviction, to review those sentences carefully in consultation with their legal advisers. I believe in at least one case in the Punjab this work has already been taken up; Honourable Members who come from that Province will know whether that

is correct. Similarly we have put to Local Governments the question of special treatment being accorded in certain cases to political prisoners—I dislike the term and should say, prisoners convicted under these two Acts; I believe also the Assembly is aware that in almost all Provinces, special instructions have been so issued. Now that is not an indication—and no one can say it is an indication—that Government wishes to treat these prisoners with undue severity. (A voice: 'Go further'.)

No doubt the Honourable Member would go further and release all criminals. Finally we have said—and this is more important still—that we are as anxious as any one in this House not to prosecute an unduly large number of foolish individuals. Consequently we have suggested to Local Governments that they should, as far as possible, exercise the power of arrest only in the case of volunteers guilty of obstruction, violence and intimidation and leaders of such organizations. Honourable Members will realise that we have taken all these steps in order to avoid excessive or over-drastring treatment, and I think the House will give us credit for our anxiety to prevent this. On the other hand, we are anxious to maintain law and order and we cannot and will not have the authority of the law defied. (Applause.) This is a duty of every administration. Honourable Members know that every civilised Government has to maintain law and order; it is in this respect that I want this Assembly now to support us. On the other hand, we have no desire to avoid our clear responsibility—our paramount duty—of seeing that justice is done, and, that is a point on which His Excellency the Viceroy has been most insistent; I think I have used his very words. We are prepared to ask Local Governments to inquire into any specific cases of undue severity or improper prosecutions or excesses brought to notice. It has been said: 'Why don't you maintain law and order in some other way, by some other method?' I repeat my answer to this charge. No one has suggested any other method of meeting the difficulty, but as my Honourable friend, Dr. Sapru, told you—I was prevented from doing so because I had exceeded my time limit in my last speech—Government are now examining the law relating to those unlawful associations in order to discover whether some other equally effective method of preventing associations practising systematical intimidation is possible, which may at the same time avoid the criticisms which rightly or wrongly have been levelled against them. Does that indicate an unreasonable attitude on the part of Government?

Now, I want to turn for a few moments to another point: this question of a Conference. Now, I should have been only too willing, if it were in accordance with the rules, to have had a debate on this point to-morrow, but I understand it is not possible and if I may say so I entirely appreciate the reasons of the Honourable the President for this decision. But what is the position in regard to a Conference? Honourable Members have, I am sure, all seen what Sir Sankaran Nair has said on the subject. He was a Member of the Executive Council and I have some experience of his political views. Indeed, I think Sir Sankaran Nair and I have differed more than any other two Members of the Executive Council in this century. He is certainly not the kind of man who would give up the idea of a Conference, such as was suggested, lightly. What did he say? He showed clearly that any Conference at this juncture and under the proposed conditions was out of the question and useless. And, in truth, if Honourable Members consider the facts, there are certain essentials for any idea of a Conference—the first of which is to create a proper

[Sir William Vincent.]

atmosphere. Well I have read the proposals of the Bombay Committee and Mr. Gandhi's letter cited by Mr. Seshagiri Ayyar and I do not see anything about a truce in the letter, though I see a great deal in it of what the Government is to do. (*A voice* : 'Read it again.') I have read it twice and I defy any person to show me where any cessation of activities by non-co-operators is mentioned. The proposals put forward in that letter in any case are impossible. There is, however, no question of closing the door and I have no authority to suggest that even, but it would be idle at this moment to discuss the question of a Conference on the conditions proposed by the Committee, a Conference further to which, as far as I can see, Mr. Gandhi would not be a party, and to the conclusions of which, even if he were a party, he certainly could not bind the Congress Members. I want to be quite clear on this point. I have no authority to suggest that the Government would agree to a Conference, and I have no authority to close the door to the possibility of such a thing in happier circumstances. All I am authorised to say is that it is futile to discuss it at present. Now, I apologise for having detained this Assembly so long, and I will conclude by expressing the hope that they will not by their decision to-day send out a message to the country which will be taken by the forces of disorder, whatever the Honourable Mover may say, as a direct encouragement and cause of triumph which will discourage all our officers, which will dishearten all lawful citizens, and which will make the administration of this country impossible.

Mr. President : The original question was that :

'This Assembly recommends to the Governor General in Council the immediate abandonment of the policy of repression inaugurated in the country'

since which an amendment has been moved to substitute the following :

'While strongly deprecating the aggressive form of non-co-operation manifested by some non-co-operators and the resort to violence by them in some places as also the menace of mass civil disobedience, this Assembly strongly disapproves of the recourse by Government to a general policy of repression without previously consulting this House and recommends to the Governor General in Council the immediate abandonment of the policy of repression inaugurated in the country, the reversion to the policy announced to this House on the 23rd March, 1921, the release of all persons in detention in pursuance of that policy and the convening of a Conference comprising the representatives of all shades of opinion with a view to concert a practical plan for the restoration of peace in the country and for ensuring its political progress in consonance with its national aspirations.'

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—36.

Abdul Majid, Shaikh.
Agarwala, Lala G. L.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahmed Baksh Khan, Mr.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Chaudhuri, Mr. J.
Das, Pandit R. K.
Faiyaz Khan, Mr. M.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.

Joshi, Mr. N. M.
Lakshmi Narayan Lal, Mr.
Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Shahani, Mr. S. C.
Singh, Babu B. P.
Sinha, Babu L. P.
Sohan Lal, Bakshi.
Subrahmanayam, Mr. C. S.
Vishindas, Mr. H.
Yamin Khan, Mr. M.

NOES—52.

Abdul Rahim Khan, Mr.
 Abul Kasem, Maulvi.
 Aiyer, Sir P. S. Sivaswamy.
 Akram Hussain, Prince A. M. M.
 Bradley-Birt, Mr. F. B.
 Bray, Mr. Denys.
 Bryant, Mr. J. F.
 Chatterjee, Mr. A. C.
 Clarke, Mr. G. B.
 Cotelingam, Mr. J. P.
 Crookshank, Sir Sydney.
 Dentith, Mr. A. W.
 Faridoonji, Mr. R.
 Fell, Sir Godfrey.
 Gajjan Singh, Sardar Bahadur.
 Gidney, Lieutenant-Colonel H. A. J.
 Habibullah, Mr. Muhammad.
 Hailey, the Honourable Sir Malcolm.
 Hajeebhoy, Mr. Mahomed.
 Hullah, Mr. J.
 Hussanally, Mr. W. M.
 Ikramullah Khan, Raja M. M.
 Innes, the Honourable Mr. C. A.
 Jamnadas Dwarkadas, Mr.
 Jejeebhoy, Sir Jamsetjee.
 Kabraji, Mr. J. K. N.

Keith, Mr. W. J.
 Lindsay, Mr. Darcy.
 Maung Maung Sin.
 McCarthy, Mr. F.
 Mitter, Mr. K. N.
 Muhammad Hussain, Mr. T.
 Muhammad Ismail, Mr. S.
 Mukherjee, Mr. J. N.
 Percival, Mr. P. E.
 Rao, Mr. C. Krishnaswami.
 Renouf, Mr. W. C.
 Samarth, Mr. N. M.
 Sapru, the Honourable Dr. T. B.
 Sarfaraz Hussain Khan, Mr.
 Sharp, Mr. H.
 Sim, Mr. G. G.
 Singh, Raja K. P.
 Singh, Rana U. B.
 Sircar, Mr. N. C.
 Spence, Mr. R. A.
 Ujagar Singh, Baba Bedi.
 Vincent, the Honourable Sir William.
 Waghorn, Colonel W. D.
 Way, Mr. T. A. H.
 Webb, Sir M. dePomeray.
 Zahiruddin Ahmed, Mr.

The motion was negatived.

Mr. President : The question is :

‘That this Assembly recommends to the Governor General in Council the immediate abandonment of the policy of repression inaugurated in the country.’

The Assembly then divided as follows :

AYES—33.

Abdul Majid, Shaikh.
 Agarwala, Lala G. L.
 Agnihotri, Mr. K. B. L.
 Ahmed, Mr. K.
 Ahmed Baksh Khan, Mr.
 Ayyar, Mr. T. V. Seshagiri.
 Bagde, Mr. K. G.
 Bajpai, Mr. S. P.
 Barua, Mr. D. C.
 Bhargava, Pandit J. L.
 Bishambhar Nath, Mr.
 Chandhuri, Mr. J.
 Das, Pandit R. K.
 Ginwala, Mr. P. P.
 Gour, Dr. H. S.
 Iswar Saran, Munshi.
 Jatkar, Mr. B. H. B.

Lakshmi Narayan Lal, Mr.
 Man Singh, Bhai.
 Misra, Mr. P. L.
 Mudaliar, Mr. S.
 Nag, Mr. G. C.
 Nand Lal, Dr.
 Neogy, Mr. K. C.
 Rangachariar, Mr. T.
 Reddi, Mr. M. K.
 Shahani, Mr. S. C.
 Singh, Babu B. P.
 Sinha, Babu L. P.
 Sohan Lal, Bakshi.
 Subrahmanayam, Mr. C. S.
 Vishindas, Mr. H.
 Yamin Khan, Mr. M.

NOES—53.

Abdul Rahim Khan, Mr.
 Abul Kasem, Maulvi.
 Aiyer, Sir P. S. Sivaswamy.
 Akram Hussain, Prince A. M. M.
 Bradley-Birt, Mr. F. B.
 Bray, Mr. Denys.
 Bryant, Mr. J. F.
 Chatterjee, Mr. A. C.
 Clarke, Mr. G. R.
 Cotelingam, Mr. J. P.
 Crookshank, Sir Sydney.
 Dentith, Mr. A. W.
 Faridoonji, Mr. R.
 Fell, Sir Godfrey.
 Gajjan Singh, Sardar Bahadur.
 Gidney, Lieutenant-Colonel H. A. J.
 Habibullah, Mr. Muhammad.
 Hailey, the Honourable Sir Malcolm.
 Hajeebhoy, Mr. Mahomed.
 Hullah, Mr. J.
 Hussanally, Mr. W. M.
 Ikramullah Khan, Raja M. M.
 Innes, the Honourable Mr. C. A.
 Jamnadas Dwarkadas, Mr.
 Jejeebhoy, Sir Jamsetjee.
 Kabraji, Mr. J. K. N.
 Keith, Mr. W. J.

Lindsay, Mr. Darcy.
 Maung Maung Sin.
 McCarthy, Mr. F.
 Mitter, Mr. K. N.
 Muhammad Hussain, Mr. T.
 Muhammad Ismail, Mr. S.
 Mukherjee, Mr. J. N.
 Nabi Hadi, Mr. S. M.
 Percival, Mr. P. E.
 Rao, Mr. C. Krishnaswami.
 Renouf, Mr. W. C.
 Samarth, Mr. N. M.
 Sapru, the Honourable Dr. T. B.
 Sarfaraz Hussain Khan, Mr.
 Sharp, Mr. H.
 Sim, Mr. G. G.
 Singh, Raja K. P.
 Singh, Rana U. B.
 Sircar, Mr. N. C.
 Spence, Mr. R. A.
 Ujagar Singh, Baba Bedi.
 Vincent, the Honourable Sir William.
 Waghorn, Colonel W. D.
 Way, Mr. T. A. H.
 Webb, Sir M. dePomeray.
 Zahiruddin Ahmed, Mr.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 19th January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

THURSDAY, 19th JANUARY, 1922

Vol. II—No. 19

OFFICIAL REPORT



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DELHI
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LEGISLATIVE ASSEMBLY.

Thursday, 19th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

UNSTARRED QUESTIONS AND ANSWERS.

RATES AND STANDARDS OF RAILWAYS IN INDIA AS COMPARED WITH FOREIGN COUNTRIES.

198. Sir P. S. Sivaswamy Aiyer : (a) With reference to the statement in paragraph 2 of the Report of the Railway Committee, 1921, will the Government be pleased to furnish a statement showing the railway rates and fares in the United States, Japan and the principal European States for which information may be available ?

(b) What are the other countries in which railway rates and fares are about the same level as the Indian Railway rates and fares ?

(c) Is the Government in a position to state whether in point of efficiency and providing for the convenience of the public the railway systems in the countries referred to in clauses (a) and (b) are superior or not to the Indian railway systems ?

Colonel W. D. Waghorn : (a) A statement giving such information as is available in regard to passenger fares and goods rates with a view to comparison is laid on the table.

(b) The passenger fares and goods rates in India were lower than those in any other country in the year 1917-18 (the latest for which these comparative figures are available), Japan approaching most closely to India in respect of passenger fares and Canada in respect of goods rates. In other countries the passenger fares and goods rates were considerably higher than those in India.

(c) Government are not in possession of sufficient information to justify the expression of an opinion on this point.

Statement showing average receipts per passenger mile by railways of different countries calculated in cents (American).

	1918 or 1917-18 Receipts per passenger mile.
United States of America	2.45
Holland	2.27
Canada	2.10
South Australia	1.44
Norway, 1916-17	1.42
Switzerland	1.33
New South Wales	1.21
Japan	0.67
India	0.51

Statement showing average receipts per ton mile by railways of different countries calculated in cents (American).

	1918 or 1917-18 Receipts per ton mile.
United States of America	0.86
Holland	2.13
Canada	0.74
South Australia	2.64
Norway, 1916-17	2.29
Switzerland	3.17
New South Wales	1.86
Japan	0.87
India	0.62

FORFEITURE OF 'RELIGIOUS FATWAS OF THE ULAMAS.'

199. **Mr. Mohammad Faiyaz Khan:** (1) With reference to the reply* given by the Government to the Question No. 73, re the forfeiture of the leaflet entitled 'The Religious Fatwas of the Ulamas,' asked by the Honourable Syed Reza Ali in the Council of State on September 6th, as promised by Honourable Mr. H. D. Craik to supply further information on the subject if desired by any other Honourable Member, will the Government be pleased to state (a) if it consulted any Maulvi or Maulvis as to whether the said leaflet was based on the Islamic Doctrines or not; (b) if it did consult any Maulvi or Maulvis, what are their names?

(2) Is it a fact that the said Fatwa was drawn up and signed by 500 Ulamas of all parts of India?

(3) Is it a fact that on 8th August, 1921, the joint offices of the Jamiatul Ulama and Khilafat Committee at Delhi were searched, and that 812 copies of the Fatwa were confiscated and removed by the Police?

(4) If the Fatwa or a part of the Fatwa of the Jamiatul Ulama was not proscribed, then why were the offices of the Khilafat Committees and the Jamiatul Ulama searched under the orders of the Delhi Government?

(5) If the confiscation took place under some misunderstanding of facts, then why was not the mistake rectified immediately and the confiscated copies returned?

(6) Are the Government aware that the Jamiatul Ulama have challenged that each and every item of the said proscribed Fatwa is based upon clear and unequivocal Qoranic injunctions and the Traditions of the Holy Prophet (may peace be bestowed on him)?

The Honourable Sir William Vincent: (1) (a) and (b). No.

(2) So far as is known, there were two editions of the Fatwa, one issued soon after the Ulamas Conference in November 1920 with 116 signatures and the second edition with 463 signatures, from various parts of India.

(3) Yes. The copies confiscated were copies of the second edition.

(4) and (5). It is understood that the Honourable Member questions the legality of the action of the Police in searching the offices and seizing the

* Vide Council of State Debates, Volume II, page 122.

copies referred to. If he will refer to section 12 of the Indian Press Act, he will see that the Police are entitled to seize a document which has been proscribed wherever it is found. Before the date of the search another Local Government had issued a notification proscribing the leaflet and any document containing the matter of the leaflet. The action of the Delhi Police was therefore legal.

(6) Yes, but several other pronouncements by persons describing themselves as Ulamas have appeared from time to time in the Press and elsewhere, challenging the accuracy of the statements made and the injunctions contained in the Fatwa.

ADOPTION OF RESOLUTIONS OF THE INDIAN LEGISLATURE.

200. Rai Sahib Lakshmi Narayan Lal: (a) Will the Government be pleased to state which of the Resolutions of the Indian Legislature during the last two sessions have been adopted by the Government and what practical steps, if any, have so far been taken in respect thereof?

(b) Will the Government be pleased to state the reasons for non-adoption in respect of each of the Resolutions not adopted by the Government?

(c) Will the Government be pleased to consider the advisability of regularly publishing these statements?

The Honourable Dr. T. B. Sapru: With reference to part (a) the Honourable Member is referred to the statements laid on the table on the 16th instant in reply to a similar question put by Mr. Agnihotri in September last. Further information covered by part (a) and the rest of the question will take some time to collect, and when it is complete the reply to the Honourable Member's question will be laid on the table.

BALLOT FOR BILLS.

Mr. President: I have to announce that the ballot for Bills for the 7th of February, which was previously fixed for 10-30 on Monday morning, the 23rd, is postponed to 10-30 on Tuesday morning, the 24th, owing to the cancellation of Monday's meeting. A circular will be issued without delay to Honourable Members.

STATEMENT OF GOVERNMENT BUSINESS.

The Honourable Sir William Vincent (Home Member): Sir, may I make a statement of the legislative business for the 25th of January. It is proposed on that date to take into consideration the Report of the Joint Committee on the Indian Income-tax Bill and, if the Assembly agrees, to pass the Bill as amended. It is also proposed, if time permits, to take into consideration the Report of the Select Committee on the Indian Emigration Bill and, if the Assembly agrees, to pass the Bill as amended. If time permits,

[Sir William Vincent.]

there may be a motion to refer the Delhi University Bill, which was introduced on the 16th of January, to a Joint Committee of both Chambers.

RESOLUTION *RE*: APPOINTMENT OF A COMMITTEE TO EXAMINE SECTIONS 124-A, 153-A AND 500 OF THE INDIAN PENAL CODE AND SECTION 108 OF THE CRIMINAL PROCEDURE CODE.

Rai Sahib Lakshmi Narayan Lal (Bihar and Orissa: Nominated Non-Official): Sir, the Resolution which I am going to move stands as follows:

'This Assembly recommends to the Governor General in Council that a Committee be appointed to examine sections 124-A, 153-A and 500 of the Indian Penal Code and section 108 of the Criminal Procedure Code and to report in what manner these sections should be amended so that the rights of the State and the public or any section or member thereof may be safeguarded against abuse of their power by journalists, while, at the same time, protection is afforded to the latter against unwarrantable and unreasonable interference by either judicial or executive authority.'

This is a very important Resolution for the consideration of this House. The liberty of the press is a *sine qua non* for the healthy growth of a nation. Even after the inauguration of the Reforms the Indian Legislature will be greatly handicapped in the due discharge of its responsibility without the aid of a free press for boldly bringing to notice the real state of affairs obtaining in the country. I do not mean to say that there should be no reasonable restraint for controlling the press, but what I mean is that the press should enjoy a reasonable protection against arbitrary action. An eminent judge in addressing the jury was pleased to observe:

'You should recollect that to the public political articles great latitude is given. Dealing, as they do, with the affairs of the day, such articles, if written in a fair spirit and *bona fides*, often result in the production of great public good. Therefore, I advise and recommend you to deal with these publications in a spirit of freedom and not to view them with an eye of narrow criticism. You should not look merely to a strong word or a strong phrase but to the whole article. You should recollect that you are the guardians of the liberty of the press and that, whilst you will check its abuse, you will preserve its freedom.'

I ask myself and all the Honourable Members of this House: 'Does the press of India enjoy this freedom. The Indian press has been labouring under great disadvantages which should not be perpetuated after the inauguration of the Reforms. It is a matter of great satisfaction that the Government have been pleased to take this important matter into their kind consideration. We are grateful to the Government for appointing a Committee to examine the Press and Registration of Books Act, 1867, and the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908. We are also thankful to the Honourable Members of the Committee for giving the care and attention which the importance of the matter deserves, and for recommending the repeal of the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908. But it is evident that, although the repeal of these Acts is very necessary, their repeal will not entirely remove the real grievances of the Indian press so long as sections 124-A, 153-A and 500 of the Indian Penal Code and section 108 of the Criminal Procedure Code, which have been applied with varying degrees of rigour at different times, are not placed on a proper footing so that the freedom of the press will be preserved while its abuse may at the same time be checked.'

There is a genuine popular demand for improving those sections of the Indian Penal Code and Criminal Procedure Code in the light of the new constitutional position created by the Reforms. This improvement is necessary for the growth of a healthy spirit of responsibility in the present, as well as for the gradual evolution of responsible government. The principle underlying the recommendation for the repeal of the Press Act of 1910 and the Newspapers (Incitements to Offences) Act, 1908, substantially support the necessity for some such modification of the provisions of the sections covered by my Resolution as may sufficiently improve them to suit the altered circumstances created by the Reforms, and the committee of inquiry sought to be appointed shall find out and recommend the modifications which it may deem expedient to be made for such improvement.

These sections can be improved in many ways—for instance, in order to have some check over vexatious complaints against journalists, provision can be made that the complaints shall be ordinarily made at the place where the paper is published, or at least the Courts may be invested with powers to determine the place for trial after hearing the representations of the accused. It is very hard for the journalists to be tried in Courts far removed from the places of their publication, and it is necessary that some provision be made for removing this hardship.

Then again, in order that journalists may not suffer on account of any antagonistic attitude of any executive authority, it may be provided that all transaction instituted by an executive authority should have the previous sanction of a majority of the Governor's Council, including the Ministers. Or it may be provided that every journalist against whom a prosecution is instituted by an executive authority should have the option of claiming trial by jury in a Sessions Court if he so desires.

There is considerable public opinion in favour of these provisions and a reference to the debate on the Bill for the amendment of the Indian Penal Code will show that there was considerable public opinion in favour of jury trial even at that time, which should be given effect to at least now after the inauguration of the new Reform Scheme in which, in the words of His Excellency Lord Chelmsford, the author of the Reform Scheme, for the first time the principle of autocracy which had never been wholly discarded in all earlier reforms, was definitely abandoned.

I crave the indulgence of the House while I quote some portions of the said debate covering the matter under discussion. The Honourable Mr. Allan Arthur, representing the European Mercantile Community, while supporting the Bill, was pleased to observe as follows :

'With reference to the remarks made by the Honourable Mr. Chambers with regard to giving Magistrates and Presidency Magistrates power to try sedition cases under section 124-A, I feel bound to mention that there is a strong feeling against giving Magistrates such powers under this section.'

Again, the Honourable Rai Bahadur P. Ananda Charlu in opposing the Bill made the following observations :

'Even assuming that it is the English Law, it would produce no harm in the face of an effective guarantee which exists in England, for, under the system by which a criminal is tried in England, an unanimous verdict of a jury of 12 men is among other safeguards a great protection. Well has Abbot C. J. said that it is one of the peculiar advantages of our (English) jurisprudence that the conclusion is to be drawn by the unanimous judgment and conscience of 12 men conversant with the affairs and business of life. With such a

[Rai Sahib Lakshmi Narayan Lal.]

guarantee as this, the most stringent law must be sufficiently innocuous. If I may be pardoned a simile, this guarantee is like a coat of mail, against which the most rigid law will, like the sharpest sword, fail to do undue harm; with that armour the sharpest sword may be a negligible weapon. Without it, as in this country, it will prove nothing less than a veritable sword of Damocles.'

And the Honourable Mr. Sayani while opposing the Bill was also pleased to observe similarly. He said :

' But the proper course is that the rigour of the law should be softened and its provisions should be so hemmed in as to prevent the law from operating harshly. It must also be remembered that India is a peculiar country and that it is inexpedient to put it under all the rigorous measures of Europe, and that if it is necessary to import some of these measures, care should be taken that simultaneously with the introduction of such measures all the concomitant safeguards obtaining in Europe should also be introduced. It is inadmissible, for example, to work the proposed law relating to seditious offences and offences against public tranquillity without at the same time giving the accused the privileges which are given in England where a grand jury, consisting of the fellow subjects of the accused, has first to find a true bill, then the accused has to be tried before a jury of his fellow subjects and the persons prosecuting him, the persons giving evidence against him, the persons judging him, are all his fellow subjects, and the whole thing moreover is keenly watched by a strong public opinion, and lastly, Parliament is near at hand to put in an immediate and effective interference.'

With these remarks I commend my Resolution to the consideration of this House. It is a very modest one. It is simply for the appointment of a Committee to consider what are the principal modifications which should be introduced under such circumstances.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : While I generally sympathise with the intention of the Mover of this Resolution, I feel that it is ill-conceived. My learned friend who has moved this Resolution is probably not aware that the object he has in view cannot be attained by a mere amendment of the Indian Penal Code, and if such an object were possible it would not achieve its purpose so far as regards offences to which the journalists as a body are subject. It seems to have been assumed by the learned Mover of the Resolution that these offences are directed against journalists; but if he refers to his Penal Code and to the Code of Criminal Procedure he will find that these are general offences which are not particularly directed against journalists. Section 124-A and its analogue, section 153-A, are intended to punish all persons who disseminated seditious or other matter which is either defamatory of the State or is calculated to arouse racial hostilities. Section 500 of the Indian Penal Code punishes defamation, and I do not think the Mover of this Resolution can say that only journalists commit the offences comprised in these three sections. I, therefore, submit that the amendment of these three sections and also of section 108, which is cognate to section 124-A of the Indian Penal Code, would not serve the purpose. But assuming for the sake of argument that what he really intends is the amendment of the processual law, he wants first of all a safeguard as regards the place of the trial of the journalist. Let me remind the Honourable Mover of this Resolution that, so far as regards journalists in this country, they are exactly in the same position, as regards the place of trial, as journalists in England, and he who defames a person or a body of persons in England is liable to be prosecuted in any place where the defamation was published. While journalists are entitled to a reasonable protection, the Mover must not forget that the party aggrieved is equally entitled to a reasonable protection. And if a journalist in Rangoon were to defame

Member of this House in Delhi does the Honourable Mover suggest that in order to enable him to embark on a prosecution at Rangoon he has to travel all the way to Rangoon and lay the offending journalist by the heels there? He further suggests that the sanction of the Governor acting with his Executive Council and Ministers must be a *conditio sine quâ non* to a prosecution. I venture to submit that this is a requirement of law which obtains in no place in the jurisprudence of any of the colonies or of England; and I do not see why the journalists in this country should be given a special immunity. Lastly, he says there should be an extension of trial by jury.

Now, as a general question I am in entire sympathy with him. But if he desires the offending journalist should have a special privilege of trial by jury, I beg to demur. The question of trial by jury is at present agitating the public mind and is under consideration by a Sub-Committee of this House, and I have no doubt that when the conclusions of that Sub-Committee are published they will satisfy the public mind. The Honourable Mover says that in England the sharp sword of the Legislature is blunted by the action of the Government. My submission is that nothing that the Mover has said will in the slightest degree blunt the sharp sword of the Penal Code, and the only blunting weapon that is required is the amendment of the Code of Criminal Procedure; and, as I have already said, that course is under discussion. I said at the beginning of my remarks that I was in general sympathy with the Mover of this Resolution. Now, Sir, section 124-A and section 153-A of the Indian Penal Code were not an original part of the Code; they were subsequently added, and I admit that the additions to the Indian Penal Code at a later stage were not the subject of that careful examination to which the Penal Code itself was subjected; and I certainly commend the proposition of the Honourable Mover to the Leader of the House for consideration. The whole of the Penal Code is over 60 years old, and I strongly feel that the whole of it requires to be re-cast and a fresh up-to-date re-drafted Code is what the country requires. There are a number of sections of the Indian Penal Code which require redrafting, and the fact that there are no less than 7,000 cases interpreting various sections, phrases and words of the Code scattered throughout the law reports of this country, is my best justification for asking the Honourable the Home Member to take into consideration the early revision of the Indian Penal Code. Numerous amending Acts load our statute book, which must be purged of these amending Acts. What the country requires is one complete Criminal Code which the Judges can understand, which the people can understand, and which requires no adventitious aid of the law reports to explain and administer. Section 500 of the Indian Penal Code is the section dealing with defamation. When Lord Macaulay's Committee was drafting the Indian Penal Code, a question was agitated as to whether defamation of character should be made a penal offence. In England slander and libel is not criminally punishable except in certain cases. But for the reasons which the Law Commissioners gave, defamation was made a criminal offence, and I think subsequent events have justified their decision. So much for the three sections of the Indian Penal Code.

Turning now to section 108 of the Criminal Procedure Code, the Honourable Mover must remember that it is a preventive section. Its utility is manifest. It punishes nobody, but ensures the public against a repetition of the offence of which the delinquent has been found guilty. We cannot purge from the Code Criminal Procedure offences dealing with such and similar preventive action.

[Dr. H. S. Gour.]

We have sections 107, 108 and 110, not to mention sections 143, 144 and 145. All these provisions of the Code of Criminal Procedure are intended to be used as a preliminary warning to offenders, and they have a wholesome effect upon the persons brought to book. All the same, when the new Code of Criminal Procedure comes up for consideration, these sections will be before this House, and it will be time for it to consider as to how far the amendments proposed and made by the Select Committee now sitting upon that Code require alteration. I therefore think that the Honourable the Home Member might accept the principle of the Resolution, but in the terms in which it is worded, I submit, it is unacceptable.

The Honourable Sir William Vincent (Home Member): Sir, it is not often that I fail entirely to understand what the object of the Mover of a Resolution is and what line he is going to take, but on this occasion I must confess I have fallen into that mistake, and the reason is not very far to seek. We in the Home Department have been delving and diving into sections 124-A, 153-A and section 108 of the Criminal Procedure Code, the language used and the reasons for these enactments, and so forth, and now from the Mover's speech I find that he has not suggested one single amendment which touches one of those sections. There is not—I challenge any lawyer in this House to contradict me—in the speech of the Mover any single statement which relates to those sections. He has proposed certain amendments in the Code of Criminal Procedure, as was pointed out by the last speaker, but not a single indication of the particular sections specified in his Resolution.

In the opening part of his remarks, the Mover, however, made a statement I cannot allow to pass unchallenged. He said that the two Committees which had recently sat, one on the Press Act and the other on Repressive Measures or the so-called repressive measures now on the Statute Book, suggested an amendment of those sections of the Penal Code. I was a member of those Committees. Dr. Gour was on one; Mr. Seshagiri Ayyar was also a member, if I remember aright, and there were many others here who were on those Committees. I cannot remember anything in the reports submitted by these bodies which suggested an amendment of these sections of the Penal Code.

Now let me turn to the particular recommendations which the Honourable Mover suggests. The first suggestion regarding the place of trial has already been dealt with, I think, sufficiently by that learned lawyer, Dr. Gour. May I remind the Assembly also that it is not always that the publisher of a paper finds it convenient to have his case heard in the place where the paper is published. I remember the case of a famous gentleman, Mr. Mahomed Ali, who was not at all anxious to have a case against him tried in Delhi if he could avoid it; he took his application down to Calcutta.

The next point that the Mover raised related to previous sanction. He suggested that the previous sanction of the Governor in Council should be taken to all sedition cases. Now, that is the law at present, but the only addition is section 196 of the Criminal Procedure Code. It is the Governor in Council or the Local Government that sanctions a prosecution. He, however, suggested that the sanction of Ministers should also be obtained to such prosecutions. Now, that may be a very desirable change when the constitution is altered. But every one in this Assembly knows that, although it is permissible and desirable to consult the Ministers on reserved subjects,

the responsibility for administering those subjects must, under the present constitution, rest with the Governor in Council. That is a correct statement of the constitutional position at present.

And now, Sir, I turn to the proposal regarding section 500 of the Penal Code. When I saw the terms of the Resolution, in fact up till this morning till I read it again, my idea was that the mention of section 500 in connection with sections 124-A and 153-A of the Penal Code, and section 108 of the Code of Criminal Procedure, was a misprint. I thought the Honourable Member really meant section 505, but it was not so, for he says that he intends to get an amendment of section 500 which deals with ordinary defamation. Now, why a newspaper should be entitled to any special protection, in regard to defamation in this country, any more than a private person, I cannot understand. To defame a private person is one thing, and for a newspaper to publish a libellous letter addressed to 20 people is another. But why should special protection be given to the newspaper in circumstances of that kind?

The Honourable Mover went on to suggest that all cases under the sections he mentions should be tried by a jury. Now, that is a matter again which is mainly not one needing legislation and certainly not an amendment of the Penal Code. It is largely a matter for the Local Governments to decide and on which the local Councils can make their wishes felt. As a matter of fact, trials before the High Courts are now held under section 124-A, I believe with the aid of a jury, and the law does provide very considerable safeguards in all such trials. In the first place, no one can prosecute under section 124-A or under any of these sections without the previous sanction of the Governor in Council, and that is always only given after very careful consideration and examination by the best legal authorities available. I can testify to that. I have had reason, even recently when prosecutions under these sections have been under consideration, to know that the utmost care is taken to get the best legal advice. There is also another safeguard against injustice in the Code already, in that an appeal from a conviction under section 124-A lies to the High Court direct. So that not only is there this previous sanction, but there is also the additional protection afforded, in that the appeal is heard by two Judges of the High Court. Sir, I notice that Dr. Gour has used the debate to suggest that this Resolution might be made the basis for a revision of the whole Penal Code. I think that is stretching the scope of this Resolution unreasonably. I thought that we were here to deal with certain sections relating to sedition. I understand, however, that there is a body, called the Statute Law Revision Committee, of which the Honourable Dr. Gour is a member, and I hope I am revealing no secret when I say—I have been told un-officially—that the question of the consolidation of the various Acts now making up the Penal Code is under the consideration of that eminent lawyer, Dr. Gour. But when he supported this proposal by the argument that Courts would thus avoid multiplicity of rulings, why, surely the Honourable Member must be laughing at the Assembly. What country in the world with any system of law has escaped a great mass of judge-made law, a mass which is of the greatest value to every one? If, moreover, there are some thousand rulings under the Penal Code, there are hundreds of thousands of rulings under every civil Act, which do afford, I venture to say, a very salutary aid to those who have to interpret those laws in Courts.

As to the amendment of the particular sections mentioned in the Resolution, I do not think it is necessary for me to deal with the provisions of the

Sir William Vincent.]

law, because no one has really attacked them. If any one does so later, I may have to deal with the point. But any one who reads actually the judgment, for instance, of Mr. Justice Fletcher in the well known case of Manmohan Ghose will see what protection the law does afford at present to journals under section 124-A. In that case, a man was accused under section 124-A of sedition and attack on racial political parties. After a careful examination of the whole facts, Mr. Justice Fletcher laid down a very salutary principle, which, I believe, has been accepted by the Courts in India, namely, that any reasonable criticism, even severe and unfair criticism, is permitted so long as there is no attempt to excite hatred and contempt of Government. I do not want to enter into the matter at length. It really has not been raised, and if I have to do so, I will do it at a later stage.

There is, however, one point, Sir, to which I would refer, and that is the question of amending sections 124-A and 153-A of the Indian Penal Code and section 108 of the Code of Criminal Procedure at the present juncture. I do not believe there are any Members of this Assembly who would say that this is an opportune moment for undertaking such a task. We have in Committee now recommended the revision and repeal of a large number of so called repressive measures. We have before this Assembly the question of repealing the Press Act. I want to ask this Assembly to consider carefully whether they wish further to weaken the authority of Government by any proposal to amend the law relating to sedition. In conclusion, I venture to suggest to the Mover that his Resolution is really misconceived, and that the object which he seeks to attain could not be secured by the methods which he proposes. Moreover, to appoint a Committee at this moment to revise the law relating to sedition could, in my opinion, only create an impression that this Assembly is seeking to weaken the hands of Government in dealing with a dangerous political crisis, when many men are openly advocating not only disloyalty, not only civil disobedience, but even violent uprisings against the authority of the Crown.

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : Sir, I am equally at a loss, like the Honourable Sir William Vincent, to know why an amendment of section 500 of the Indian Penal Code has been proposed. Section 500 of the Indian Penal Code only provides the punishment for defamation. An amendment of that section without an amendment of section 499 which defines defamation will be absolutely unnecessary. I cannot see how section 500 can be amended which only provides the punishment. I suppose most of the Members of this Honourable House are aware of this section, but for the information of those who might not have seen the section, I might read it. The section runs as follows :

‘Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.’

I am at a loss to see why the Honourable gentleman wishes to amend this section. Is it because he thinks that the punishment which is provided is not sufficient? I think that the simple imprisonment for two years which is provided in this section is the only thing that can be amended. To allow

anybody to live in jail for two years at the expense of Government—that seems to be the unnecessary portion that I can think of. Section 499 really gives the definition of defamation, for which punishment is provided in section 500.

I have known, Sir, that there is really a difficulty about section 499. That section has been discussed, but I find that most of the Honourable High Courts are silent on that point. That is really a very contested point and requires that the Legislature should explain or re-draft the section in such a way that there will be no ambiguity in the minds of the Courts while deciding cases of a complex nature which come up before them. Take, for instance, a witness going into the witness box. He starts defaming a person. Under the Indian Evidence Act, he is quite at liberty to say (what he likes) when he is questioned about certain facts, but he is not protected under this section. That has led to great difficulty, undoubtedly, as far as the case law is concerned. The Honourable the High Court of Allahabad decided this question a few years ago and dealt with the point in a very elaborate judgment, but I think that point also is not very clear. If this section requires any change, it requires a change only on that point. Otherwise, for the purpose which my Honourable friend suggests, I think it is hardly necessary that we should change the section at all. As regards sections 124-A and 153-A, I quite agree with the Honourable the Home Member that this is not the time when we should ask for their being amended. While we are asking for a repeal of the repressive laws, there should be some measure of protection under which the Government can proceed against the acts of those persons who commit sedition. ('Hear, hear.') We should not take away this weapon, because if this is taken away and the repressive laws are also repealed, there will be very little law remaining for the Government to protect the law-abiding citizens and preserve law and order in the land. As regards section 108 of the Criminal Procedure Code, I think that requires a little change, but it is inopportune for this Assembly to suggest what change there should be in that section before we have got the report of the Select Committee which is dealing with the whole of the Criminal Procedure Code, and therefore we had better wait till we get the report of that Committee. My Honourable friend, Dr. Gour, has pointed out that these are preventive sections, namely, sections 107, 108 and 110 of the Criminal Procedure Code. We know that there is a large volume of conflicting decisions on section 110, and there are so many different rulings of the various High Courts as to the real and correct view which the Legislature took at the time of its passing, that they are really bewildering. Again, section 110 cannot be amended without section 117 and section 118 of the Criminal Procedure Code. But that matter is to be dealt with later on by the Select Committee which is sitting to revise the Criminal Procedure Code. I quite agree with my Honourable friend, Dr. Gour, that the whole of the Indian Penal Code really requires reconsideration and amendment on certain sections. The Honourable the Home Member has pointed out that this Resolution cannot be made the basis of overhauling the whole of the Indian Penal Code. That is true, but I think that my Honourable friend mentioned only casually, simply drawing the attention of the Government and of the Honourable the Law Member to this point. He did not mean that this Resolution should be made the basis of it, but from what I could gather, the matter came to his mind at the moment he mentioned it and he pointed out that that requires some consideration too, and I

[Mr. Muhammad Yamin Khan.]

think he is quite right. Anybody who is practising on the criminal side can understand the difficulty one is in when one reads the various decisions of the High Courts on the sections of the Indian Penal Code. Therefore, while I have every sympathy with the Honourable Mover of this Resolution, I regret I cannot support it.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : I rise to say that I do not in the least agree with the motion which has been put before the House. I want to speak entirely in the interests of journalists; and I shall address my remarks to this House solely from the point of view of journalism; from their point of view I do not think this motion is well-conceived. I do not think that the press is now enjoying full liberty under the law. If the Press law is repealed, I feel no doubt that the press in this country would have as good facilities for carrying on its work as the press in any other part of the civilised world. There are difficulties, and there have been difficulties, not because of the stringency of the law or of the wording of it, but because of the spirit in which the law has been administered. For example, while the Committee of which I happened to be a member has recommended that the Press law should be repealed and while the Government has brought in a Bill for its repeal, we find that pending repeal the law is being applied by various Magistrates and various provinces. That shows, not that there is anything wrong with the law, but that there is a spirit abroad which is not prepared to treat the press as indulgently as it should be treated. I think, Sir, that the amendments suggested are absolutely unnecessary for preserving the liberty of the press. The liberty of the press will be safeguarded so long as the spirit of the administrators is not adverse to freedom of speech. As against an abuse of the law you can never make amendments. The law is there, and the only recourse to correct abuses which we can have is to a higher tribunal which will set the Magistrate or the Sessions Judge right. It is not possible by amending the law in any way to make it so perfect that it would not be abused, and therefore I think, in the interests of journalism it is not desirable that this motion should be accepted by this House.

There are one or two observations made in the course of the previous speeches which I should like to refer to. For example, the Mover said that it is desirable that a man who writes in a particular place should be tried in that place alone and should not be compelled to defend himself in any other place. The Honourable the Home Member has given exceedingly good reasons and my friend, Dr. Gour, has also given good reason why such a suggestion cannot be accepted, and I wish to suggest on behalf of journalists that they would not like that the law should be so stringent as to say that there should be a trial only in the place where the writing takes place, because the atmosphere there may become so very tense that the journalist may not get a fair and impartial trial. The journalist himself may desire to move the proper authorities to remove the case from the place where the article was written to some other place where the atmosphere will be quieter and where he can get a fair trial. Therefore it is undesirable in the interests of journalists that there should be a fixed rule that the case should be tried only in the place where the article was written.

There is only one other observation that I wish to make. That does not very much concern the matter before us. An observation has fallen from my

Honourable friend Dr. Gour, that the Indian Penal Code should be amended totally, and that the whole Code should be re-cast. Sir, I have been brought up in the tradition that the best drafted legal enactment in the whole of British India is the Indian Penal Code. ('Hear, hear'). It is not disparagement to the various successors of Thomas Babington Macaulay to say that none of the other enactments has approached the carefulness and the scrutiny which that great man has employed in drafting the Indian Penal Code, and any attempt made to re-cast it will be regarded by a large portion of the thinking public as a work which should, in no circumstances, be undertaken.

Therefore I hope that the Statutory Law Revision Committee, to which the Honourable the Home Member has referred, would not take upon itself this impossible task of recommending a revision of the Indian Penal Code. It would be a disastrous day when some apprentice hand takes upon himself the task of re-casting one of the most monumental legal works in India. I hope no such attempt will be made. There may be necessity, now and then, to revise portions of the Code, but to undertake a wholesale alteration of the Penal Code is a stupendous task which should not be attempted. It cannot be either in the interests of the litigant public or of the lawyers; and I hope that no such attempt will be made by the Statutory Law Revision Committee.

Mr. B. H. Jatkar (Berar): Sir, the amendments which stand in my name are as follows:

- (a) After the word 'Committee' add the words 'consisting of at least $\frac{2}{3}$ th non-officials'.
- (b) For the word and figures 'section 108' substitute the words and figures 'sections 107, 108 and 144'.
- (c) After the word 'amended' insert the words 'or repealed'.
- (d) Omit the words 'the State and' and the words 'against abuse of their power by journalists while at the same time protection is afforded to the latter'.

The amended resolution will read thus:

'This Assembly recommends to the Governor General in Council that a Committee consisting of at least $\frac{2}{3}$ th non-officials be appointed to examine sections 124-A, 153-A and 500 of the Indian Penal Code and sections 107, 108 and 144 of the Criminal Procedure Code and to report in what manner these sections should be amended or repealed so that the rights of the public or any section or member thereof may be safeguarded against unwarrantable and unreasonableness by either judicial or executive authority'.

The principal part of my amendment is about including sections 107 and 144 of the Criminal Procedure Code. It is, I think, very doubtful whether the Joint Committee which is considering this subject will consider these sections also, because I think in last session the question was raised whether the Joint Committee would be at liberty to consider the provisions in respect of which no change has been suggested in the draft. I believe it was Mr. Ginwala who suggested that. These two sections and particularly section 144 of the Criminal Procedure Code have been very freely used recently and the latter section has been worse in its operation than the Seditious Meetings Act itself. In spite of what has been said by my Honourable friend, Mr. Samarth, yesterday, it is extremely doubtful if this section 144 was ever meant to give such wide powers to the Magistrate to stop public meetings and to gag the mouth of public speakers. Wholesale areas in a tahsil or district or sub-division have been banned under this section arbitrarily. In some cases the powers were used so

[Mr. B. H. Jatkar.]

mischievously as to provoke a breach of the peace. I know of a case in my own province where a police officer, with an order in his pocket actually allowed a public meeting to be called, allowed the people to gather and, just when the proceedings were commenced, came up with this order and stopped the meeting. The House can imagine what the sentiments of the people were who had assembled there, and it was only due to self-restraint of the people shown in walking away quietly that violence was averted. Such exercise of power was never meant to be given by section 144 when it was enacted. The exercise of power under 144 proves a great temptation to break the law and promote civil disobedience, which is very natural when a large number of people who are assembled for a public meeting are dispersed on the spur of the moment by an order under section 144. I therefore think that this section at least should be amended or repealed, so as to confine the provisions of that section to the purpose for which it was meant. With these words, Sir, I recommend these amendments to the consideration of the House.

Mr. President : I will take the first of the Honourable Member's amendments which raises the question of the composition of the Committee. I will put the other amendments separately. The first amendment is that the words 'consisting of at least $\frac{1}{3}$ th non-officials' be inserted after the word 'Committee'. The question is that that amendment be made.

(Rai Sahib Lakshmi Narayan Lal rose to speak.)

Mr. President : Does the Mover rise to express an opinion on the amendment ?

Rai Sahib Lakshmi Narayan Lal : Am I required to speak on the amendment ? I do not accept the amendment.

Mr. P. P. Ginwala (Burma: Non-European) : Which part of the amendment are you referring to ?

Mr. President : Was not the Honourable Member in the House when I put the amendments in the name of Mr. Jatkar ?

Mr. P. P. Ginwala : I did not follow you.

Mr. President : The amendment I put to the House was :

'After the word 'Committee' add the words 'consisting of at least $\frac{1}{3}$ th non-officials'.'

The question is that that amendment be made.

The motion was negatived.

Mr. President : Further amendment moved :

'For the word and figures 'section 108' substitute the words and figures 'sections 107, 108 and 144'.'

Mr. P. P. Ginwala : My Honourable friend, Dr. Gour, and the Honourable the Home Member appeared to me to be somewhat 'previous'—if I may be permitted to use an American expression—when they opposed the original Resolution moved by my learned friend on my left. I can quite understand my Honourable friend Dr. Gour doing so because he thinks it his duty to enlighten the House on all questions of law, and therefore he is expected

to be in a hurry to enlighten it, and sometimes he is in such a hurry that he does not even have the time to prepare himself. Perhaps it is pardonable in a gentleman so learned, who has written so much and who has read so much, but I cannot imagine, Sir, how it is that he has not even the time to look at the agenda before he rises to oppose a proposition. If he had examined the agenda and just waited a little, he would have had ample opportunity of enlightening the House upon the Resolution in the light of the amendment that has been since proposed by my Honourable friend Mr. Jatkar. Sir, I rise to support the amendment of my Honourable friend, Mr. Jatkar, because it involves a substantial question of principle which I raised at the last Simla session. The Honourable the Home Member may remember that he was moving a Resolution before the House to refer to what I may call the obsolete Criminal Procedure Code Amendment Bill to a Select Committee. I wanted to move an amendment by which I wanted to confer on the Select Committee the power to make suggestions for the amendment of the whole Code. He took objection to that on the ground of short notice, and the objection was upheld as I had not given two days' notice. I had to abide by that. Subsequently, I gave notice of a Resolution asking that instructions be conveyed to the Select Committee on those lines. That Resolution was ruled out of order because it offended against the Standing Orders. I shall raise that point when the Standing Orders are under consideration, but the point still remains that there are important sections of the Criminal Procedure Code which, as my learned friend has pointed out, will not receive careful examination because of the decision given by the Chair that an amending Bill confines itself to the sections covered by the amending Bill.

I shall deal only with section 144, for that, I think, is the most poisonous in the armoury of what is known as the ordinary law of the land, and has been used, I submit, Sir, in a most poisonous fashion in some of the provinces. I will go so far as to say that, if this section was sufficiently abused, the Executive Government could do without any extraordinary law. This section was used, in my province, in substitution of the Seditious Meetings Act, and meetings were stopped for two months in the town of Rangoon under its provisions. It was used recently in substitution of this moribund Press Act which is about to be repealed, in my province. Newspapers were forbidden to write on certain topics—I will not mention those topics for the present—but it is a fact that this section was used with a vengeance for this purpose. I say, Sir, that these provisions have been horribly misused and it is time that this House examined these provisions. It is no use the Honourable Home Member telling us that we have to be careful in recommending the repeal of these provisions. We know very well that it would be dangerous for us to deprive the Executive Government of some protection, but we do object to a provision of the law being misapplied and distorted, when people have no remedy against such misapplication or distortion, and the right of appeal to the High Court is denied. A District Magistrate or other Magistrate may make the order, and the order stands. Of course, when you are prosecuted for disobeying the order and you are convicted under the Indian Penal Code, you may have the right of appeal and question the propriety of this order, but by that time you probably have suffered jail and nothing would be gained even if the High Court decided it was unfair and set it aside.

Now, Sir, I shall deal briefly with section 500 of the Indian Penal Code. The Honourable the Home Member always, I am glad to see, stretches a point to

[Mr. P. P. Ginwala.]

find out what an Honourable Member intends when his Resolution is otherwise not clear, but unfortunately to-day he did not go far enough in this direction—for, had he done so, he would have found that the Honourable Mover meant section 499 though he referred to section 500. Taking 499 as the section intended, I submit that that section requires amendment. The Honourable Member from Madras says that journalists are sufficiently protected under the present law. His reputation as a judge entitles him to the greatest weight, but his opinion, I submit, is not supported by authority. If a newspaper in this country reports the proceedings of a public meeting at which defamatory statements are made, and even if the report is absolutely correct, still the newspaper is liable to be prosecuted for defamation. In this House we have by statute the fullest liberty of speech, but if a newspaper gives a correct report of our proceedings including some defamatory statements, it runs the risk of being prosecuted. Of course, the law says you must be careful, you must take legal advice as to whether you are justified in reporting such statements. That may be so, but all the same, newspapers should have the right of protection, such as they have in England where special Acts were passed several years ago for the protection of newspapers which made substantially correct reports of proceedings at public meetings. This, I submit, is a real grievance, which ought to be remedied without further delay, because now-a-days innumerable meetings take place throughout the country, and newspapers have got to make reports and newspapers have got to run the risk of being prosecuted for giving a substantially correct account of what is said at these meetings. I submit we should examine this law in detail, not only for the protection of newspapers but in the interest of the public. Sir, I would ask the Honourable the Home Member to read section 500 as if it was section 499 and accept the Resolution with the amendment moved by my Honourable friend, Mr. Jatkar.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I rise to speak on this amendment, as I feel I am in a large measure responsible for authorising the use of those sections in the Code and in a position to know of the abuse and misuse of sections 107 and 144 of the Criminal Procedure Code during the last few months. There does not pass a week, when I go to my club, when the finger of scorn is not pointed to me, "here is Rangachariar's ordinary law; notices under section 144 are served on the whole public and a whole city and a whole area, prohibiting public meetings, prohibiting public speakers from speaking and such other various acts." Sir, I little anticipated that the sections could have been used in the way in which they have been used. I know of a case, Sir, in which the District Magistrate was passing down a street in the Northern Circars. He saw a house flying the *swadeshi* flag. It pained his eyes. Section 144 came to his rescue, and he pulled down the flag. It was disobeyed a number of times, and people were sent to jail. I know section 144 was used against picketting in several cases; it was used by a Sub-Magistrate who had a personal quarrel with his neighbour. Unfortunately, Sir, these non-co-operators treat all Courts with indifference; they would not test the validity of these orders, and therefore they never came to the Courts in order to have these extraordinary things tested. Section 107 again has been used in a novel manner, even for the purpose of arresting a passenger in a train—a passenger who was travelling from one end to another was arrested simply because there was no time for a warrant to be issued to arrest him. Thirdly, Sir, such misuse and abuse could

have been disavowed by the Government, but I have not seen a single notification of any Local Government or of the Government of India in that matter. Well, Sir, we did not protest against such abuse and misuse because we know troublous times were before us and it would not have been right on our part to raise any difficulties. But having waited so long, and having hoped that the Government should have taken steps themselves to have prevented such abuse and misuse of these sections, I think the time has come when some steps ought to be taken in that direction. But, Sir, I do not think that the remedy proposed by my Honourable friend, the Mover of this amendment, is the proper remedy.

I have myself given notice of an amendment to sections 107 and 144, which will come up next month, to provide a safeguard against the misuse and abuse of those powers by providing that the matter must be sent up to the High Court in each case where these sections are used for prohibiting public meetings or dealing with political agitation, even without the application of parties; so that the High Court may have the power of examining the proceedings and setting them right in case of misuse or abuse. That Bill will come up as soon as the notice expires, and I dare say it will be examined carefully by the Select Committee which will be appointed and necessary amendments will be made in those sections. I do not think it is necessary that a Committee should be appointed. So many of us here are lawyers and it is open to us to suggest what amendments should be made in the various sections which have been mentioned in the Bill. Therefore, Sir, I do not think it is necessary to appoint a Committee to examine these sections. I merely stood up here to point out that these sections are being misused and require amendment.

The Honourable Sir William Vincent: Sir, I only want in reply to deal with one or two points raised, I believe, by Mr. Ginwala. The original proposition that came before us and on which I spoke, did not include section 144 of the Criminal Procedure Code. That section was first mentioned in the amendment of Mr. Jatkar. I think section 107 was also first introduced in that amendment. Therefore, if I was premature in speaking on the original motion, it was not for the reasons mentioned by Mr. Ginwala, who simply attacks these two sections, which came under discussion after I had spoken. I still affirm, and I have no doubt I have the support of this Assembly, all that I said regarding the original motion. I observed that Dr. Gour was also attacked for speaking prematurely. He was, however, let down more lightly on the ground that it was his duty to enlighten this Assembly on points of law. I do not know how he appreciates the compliment. I noticed that another Member, when Dr. Gour's suggestion about consolidating the Penal Code was under discussion, suggested that it was undesirable that a prentice hand should be allowed to take this work in hand. Now, I hope the Honourable Dr. Gour will not think that I was in any way a party to the suggestion that he, the author of monumental works on Hindu Law and the Criminal Codes, is a prentice hand.

And now as to this amendment relating to sections 107 and 144, I still submit that the appointment of a Committee is unnecessary. In the first place, we have this Bill of Mr. Rangachariar's coming in and, in the second place, both these sections are being amended in the Bill now before a Joint Committee of this House and the Council of State. I do not know what the ruling of the President of that Committee will be, but if it is that any amendments can be

[Sir William Vincent.]

made in sections of the Code which it is proposed to modify in the Bill, then the points raised by Mr. Ginwala can very well be considered at that time : if indeed Mr. Rangachariar's motion has not rendered that unnecessary.

There is one point, however, in Mr. Ginwala's statement which is deserving of very careful consideration. I admit that the law in this country does differ from the law in England, in regard to the protection given to newspapers publishing accurate reports of public meetings, and I will undertake on behalf of the Government to have that question carefully examined by the Government. But I submit to this Assembly that, in view of the facts that have been put forward, as no one has given any reasons for the amendment of sections 124-A, 153-A and 500 and also having regard to the fact that you have already separate proposals before you for the amendment of sections 107 and 141, it would be idle for this Assembly to recommend the appointment of a Committee to examine those matters.

Mr. President : The amendment moved is :

'For the word and figures 'section 108' substitute the words and figures 'sections 107, 108 and 141.'

The motion was negatived.

Mr. President : A further amendment moved is :

'After the word 'amended' insert the words 'or repealed.'

The motion was negatived.

Mr. President : A further amendment moved is :

'To omit the words 'the State and' and the words 'against abuse of their power by journalists, while at the same time protection is afforded to the latter.'

The motion was negatived.

Rai Sahib Lakhshmi Narayan Lal : Sir, I may say a few words in reply to what the Honourable Members of this House have been pleased to say in connection with my Resolution. Most of the Honourable Members I find are in sympathy with the spirit of my Resolution ; but still I am sorry to see that they are not ready to support it as it stands. It has been suggested by my Honourable friend and colleague, Dr. Gour, that the sections do not apply to journalists only. I know that ; but that is no reason why the Resolution which relates to journalists only should not be accepted. The sections may apply to others, but when a Resolution has been moved with regard to certain sections in so far as they relate to journalists, and if a case is made out, it should not be lost on that ground alone. Then it has been also suggested by more than one Honourable Member that it is better to amend the whole of the Indian Penal Code and the Criminal Procedure Code. I welcome such a suggestion, but that is also no reason why a particular Resolution regarding particular sections should not be adopted if there are grounds for amending the same ; the more so, because the House is fully aware that there are a good many Resolutions relating to amendment of certain sections of the Indian Penal Code and the Criminal Procedure Code which have already been adopted by this House.

Then it has been said by some Honourable Members that no case has been made out for these amendments. I beg most respectfully to submit that I have suggested some amendments, and though they are not exhaustive, still in

my opinion, when those amendments are introduced, they will go a great way to remove the grievances of the journalists. It has been said by some Honourable Member of the House that if the place for the trial of the journalist is the place of publication of his paper, then the complainant, who may be an inhabitant of a distant place, will suffer. I have not suggested that the trial should be at the place of publication of the paper. If possible, let this amendment be made, if it is not convenient to have the trial at that place, the Courts may be empowered to fix a place convenient both to the complainant as well as to the accused. The paper may be published at Calcutta or at Allahabad or at Delhi and the complainant may be in Ceylon. Is it proper to try the journalist in Ceylon? Is it not the greatest possible hardship for that journal to look after that trial at Ceylon or in any such part of British India? An amendment like that is very innocent. I do not think it affects the powers that the Executive possesses at present for controlling the journalists or for meeting sedition. Simply some provision has to be made for the convenience of the journalists. Otherwise, Honourable Members will find that a paper can be harassed in a thousand and one places, because his case is not like that of an individual complainant. His paper is published in every part of British India. He can be tried in Ceylon, at Madras, at Bombay, in every distant corner of British India. These things are fit to be considered by a Committee, and a Committee will be the proper and competent body to consider these matters. It has also been said that in the present political situation of the country it is not advisable to amend these sections. I most respectfully submit that my Resolution does not seek to repeal any of these sections. I have simply moved that a Committee may be appointed to consider whether any provision can be made for the convenience of the journalists or not. When the Government has found it necessary to repeal the Press Act, I do not think there is any good in taking away one fetter of the press and keeping another. I have not even stated what the personnel of the Committee should be. The personnel has been left to the Government. Expert lawyers may form that Committee and examine these sections and take everything into consideration and recommend such modifications as may find acceptance.

Mr. President: The question is :

'This Assembly recommends to the Governor General in Council that a Committee be appointed to examine sections 124-A, 153-A and 500 of the Indian Penal Code and section 108 of the Criminal Procedure Code and to report in what manner these sections should be amended so that the rights of the State and the public or any section or member thereof may be safeguarded against abuse of their power by journalists, while, at the same time, protection is afforded to the latter against unwarrantable and unreasonable interference by either judicial or executive authority.'

The motion was negatived.

RESOLUTION *RE*: ELECTED STANDING COMMITTEES WITH THE GOVERNMENT OF INDIA.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I beg to move the Resolution that stands in my name and which runs as follows :

'This Assembly recommends to the Governor General in Council that Standing Committees, elected by the Members of the Legislature, be associated with the different departments of the Government of India other than the Army and the Foreign and Political Departments.'

[Mr. K. C. Neogy.]

Sir, this Resolution has been ridiculed by a leading Indian journal as an instance of the inability of certain Members of the Indian Legislature to discriminate between legislative and executive functions.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Name?

Mr. K. C. Neogy: The '*Pioneer*.' I do not claim the infallibility of the '*Pioneer*', but, if I have erred in this matter, I can claim that I have erred in very good company. The suggestion was first of all made by Mr. Montagu and Lord Chelmsford in their Report on Indian Constitutional Reforms. Subsequently, it formed the subject-matter of considerable discussion by Provincial Governments as also the Government of India, and I shall try to show to this House that at least at one time the Government of India were not altogether unfriendly to this suggestion. Then, Sir, above everything else we have got a conditional recommendation made by the Joint Select Committee, which was appointed to consider the Government of India Bill, which goes to say:

'It may often greatly assist the political education of India if Standing Committees of the legislative bodies are attached to certain Departments of Government, but they only express this opinion on the understanding that the appointment of such Committees, their composition, and the regulations which govern their procedure, shall be matters wholly and exclusively within the discretion of the Governor General.....'

Therefore, Sir, I am not quite ashamed of my Resolution. As I do not claim any originality in the idea underlying this Resolution, I propose to use as few words of mine as possible in its support.

First of all, let us turn to the Montagu-Chelmsford Report. In paragraph 235 of the Report, Mr. Montagu and Lord Chelmsford say with reference to the proposal of having Standing Committees in the Provincial Governments, as follows:

'Our next proposal is intended to familiarise other elected Members of the Legislative Councils, besides Ministers, with the processes of administration; and also to make the relations between the executive and legislative more intimate. We propose that to each department or group of departments, whether it is placed under a Member of the Executive Council or under a Minister, there should be attached a Standing Committee elected by the Legislative Council from among their own Members. Their functions would be advisory. They would not have any administrative control of departments. It would be open to the Government to refuse information when it would be inconsistent with the public interest to furnish it. We do not intend that all questions raised in the course of day-to-day administration should be referred to them; but that they should see, discuss and record for the consideration of Government their opinions upon all questions of policy, all new schemes involving expenditure above a fixed limit, and all annual reports upon the working of the departments,'

and so on.

Later on in paragraph 285, they make a suggestion that similar Standing Committees should be associated with the different Departments of the Government of India as well. They say:

'We wish to apply the procedure of Standing Committees, described in the last chapter, as far as may be to both portions of the Indian Legislature. The Committees would be drawn jointly from the Assembly and the Council of State. We do not overlook the difficulties entailed by the nature of many of the subjects with which the Central Government is concerned, and also by the comparative infrequency with which, owing to considerations of distance, such Committees can assemble. The fact that many matters of ordinary internal administration will in future be left to provincial Governments also limits the scope of

utility of Standing Committees in the Central Legislature. We would leave it to the Government of India to decide with what Departments Standing Committees can be associated; and to the Member in charge to decide what matters can be referred to the Committee. Our idea is that the non-official Members of the Assembly and Council of State might elect by-ballot in proportion to their respective strength two-thirds of the Members of each Committee, while Government nominates the remaining one-third. It is obvious that these Committees cannot play such an important part in the work of the Government as the Committees which we have suggested in the provinces. It will be difficult to obtain their assistance in practice, except during the session or immediately before or after it, but we think there should be no difficulty ordinarily in obtaining their views on important new projects, whether legislative or administrative. Their functions might be determined by regulations to be made by the Governor General in Council.'

Then, Sir, we come next to the first despatch which was sent out from here by the Governor General in Council in regard to the Reforms. Referring to the question of associating Standing Committees with the Departments in the Provinces, the Government of India state first of all the several objections that have been urged against the proposal, and then they say :

'These apprehensions seem to us exaggerated. This idea of Standing Committees was first put forward as a means of associating the Legislature with an irresponsible executive; and even after the appointment of Ministers had been proposed, it was decided to retain them as a means of providing a certain number of people with some acquaintance of administrative methods, as a means of training them to fill the office of Ministers. We propose, therefore, to retain them; but we wish to make it perfectly clear that we do so only for educative purposes.'

The Government of India, thereafter, took exception to the proposal in so far as it affected the Government of India itself. In paragraph 120 of the first despatch, the Government of India say :

'We come next to the devices proposed for establishing a closer connection between the Executive and the Legislature in the Government of India. These are akin to those we have already considered in connection with the provinces. The proposal that Standing Committees of the Government of India should be set up has met with little opposition. We have in paragraph 92 stated the arguments which have been urged against the establishment of such Committees. In their application to provincial Committees we considered that the objections had been exaggerated, but in the case of Committees of the Central Legislature we feel that they apply with much greater weight. There would be much more difficulty in arranging the assembly of Committees in Delhi and Simla than at provincial headquarters. Delays would also be more serious and vexatious than are likely to occur in the provinces, nor in view of the nature of the business done is there the same justification for the Committees as there is in the provinces.'

Later on they say :

'Our present purpose is to develop responsible government in the provinces; but the Government of India is to remain amenable to Parliament, and there is therefore no need to introduce into it an arrangement which we can justify in the provinces only on the ground of its educative value.'

So, the Government of India do not seem to think that we here have any claim to political education so far as these Standing Committees can give it.

In his note of dissent Sir Sankaran Nair took quite a different view.

'I do not agree,' says he, 'with my colleagues in discarding the provision about appointing Members of the Assembly to positions analogous to that of Parliamentary Under Secretaries or the Standing Committees. At present, or under the new scheme, there is no means of non-official Members acquiring that knowledge which can be acquired only by holding an office. The knowledge of Indians in the public services will not be available to non-officials for criticism of Government proposals. The Ministers will have intimate knowledge only of the transferred departments, and that also only in the provinces. These Under Secretaryships and Standing Committees will enable the non-officials to acquire that

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information which they would otherwise lack. In the earlier stages of discussion, it was generally admitted that these would form a good training ground for future administrators. It is undesirable, therefore, to drop them.

The first despatch is dated the 5th of March, 1919. It seems that later on the Government of India somewhat modified their views on this matter, because we find that, when, on the 13th of October 1919, Lord (then Sir James) Meston was called in for the third time before the Joint Parliamentary Committee as a witness on behalf of the Government of India, he mentioned that he had received some additional instructions on certain points, and on page 544 of the Evidence Volume we find that he stated that—

‘In regard to the Standing Committees with the Government of India and the Parliamentary Under Secretaries they (the Government of India) would ask that, if those institutions are accepted by the Joint Committee, an exception should be made in the case of two Departments, the Army Department and the Foreign and Political Department.’

Well, Sir, my demand to-day is nothing more nor less than this, that the position which Lord Meston took up on the 13th of October, 1919, should be maintained. Then Sir, I have already read out the Report of the Joint Select Committee which shows that, after Lord Meston's evidence on this point, the Joint Committee made a recommendation that these Standing Committees would be a useful instrument for the political education of non-official Members, although the Committee have left the various questions relating to the constitution and appointment and other things to the discretion of the Governor General.

Sir, since coming to this House, I made an inquiry on the 1st of March as to what was intended to be done in regard to this proposal to associate Standing Committees of the Indian Legislature with the different departments of the Government of India, and the reply was as follows :

‘A Standing Finance Committee of this Assembly has been appointed. It is not proposed, at present at any rate, to appoint any other Standing Committee of the Legislature.’

So I did not lose heart, and I have brought forward this Resolution to-day. Now, Sir, so far as the question of principle is concerned, I think that by the appointment of the Standing Finance Committee, the Government stand committed. And, if I remember aright, the Honourable the Finance Member paid a glowing compliment to the Standing Finance Committee in Simla for the valuable assistance that it had rendered to his Department in connection with the supplementary estimates. Therefore, Sir, it seems to me that some, at least, of the apprehensions which found expression in the Government of India despatch are baseless. As I promised I would not use very many words of my own to commend this Resolution to this House, I do not propose to speak further.

Mr. Sambanda Mudaliar (Salem and Coimbatore, *cum* North Arcot : Non-Muhammadan Rural) : Sir, I rise to support the Resolution which has just been moved by Mr. Neogy. I think the principle of appointing Committees is rather familiar to many of us here. Under the Municipalities Act and even under the Local Boards Act, various Committees are appointed, such as Finance Committees, Sanitation Committees and various other Committees, and the function of these Committees is to advise the Executive in their work of administration. Such Committees, if appointed here, will, I daresay, be of the greatest use. If I am correct, I remember having seen in the papers that the Madras

Provincial Government has recently appointed two or three Committees, such as Abkari Committee's Forest Committee and other similar Committees also ; and I think that the same experiment may also be made here. As the learned Mover has just said, the Standing Finance Committee's work has been appreciated by the Honourable the Finance Member himself, and I therefore do not see why similar Committees should not be appointed, the members of which may associate themselves with the various other Executive Council Members who are in charge of different portfolios. I think that this would be a very good thing. Moreover, the appointment of these Committees will have an educational value also, because it will be a training ground for Honourable Members who will be able to accustom themselves to official business also and acquire a grasp of principles. If such Honourable Members should ever rise to be Ministers or Executive Councillors, they will be better acquainted with official business than they are at present. For such men it would afford an excellent training in the principles of the art of Government, so that, in the event of their being subsequently appointed to these high offices, they will find the work easy. I therefore heartily support this Resolution.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I also rise to support the Resolution which has been moved by my friend, Mr. Neogy, and for the reason which he has placed before this House. I will just supplement that reason by one or two observations which occur to me at the present moment. Apart from the educative effect of the motion, if carried, I may submit to this House that here is an opportunity for the Government to show the country that it is quite willing to associate the people in the administration of the country without any sacrifice of official power and authority. That is a very weighty consideration so far as I am concerned, and the Government cannot afford to lose such an opportunity under circumstances which I have had the honour of pointing out to this House. I therefore hope that there will be no opposition to this Resolution and that it will be carried by this House.

Rai D. C. Barna Bahadur (Assam Valley : Non-Muhammadan) : Sir, I beg to support this Resolution most heartily. Unless opportunities are given to the Members of this House and to the members of the public at large to learn the art of Government, how can the Reforms be expected to be successful? It is very important that this Resolution should have the cordial support of the Government also, so that the desired object be attained, namely, that the people may be fitted to govern themselves. If the request should be refused, then, Sir, a good opportunity will be lost both by the people and by the Government. In these circumstances I beg to support the Resolution.

Mr. J. F. Bryant (Madras : Nominated Official) : Sir, I merely wish to call attention to a statement made by the Honourable Member behind me (Mr. Mudaliar). He quoted the analogy of Madras, and he led us to believe that the Standing Committees there were elected by the Madras Council. My belief is that Committees, where they exist in Madras, are nominated by Government, which is a very different thing.

Mr. Sambanda Mudaliar : Sir, I never said that the Said Committees were elected.

The Honourable Sir William Vincent (Home Member) : Sir, the Mover of the Resolution, Mr. Neogy, has very properly put before the Assembly full citations from the Montagu-Chelmsford Report and also from the first despatch of the Government of India on Constitutional Reform in relation

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to this subject. Some of the points which are made in that first despatch are of the nature of practical criticism, with which I will deal later. The first point, however, to which I wish to draw attention is that under the Joint Committee's Report the question as to whether these Standing Committees should be appointed or not, is left entirely to the discretion of the Governor General in the case of the Government of India. When I came to scrutinise this Resolution, I was a little doubtful as to whether it was primarily the function of the Governor General in Council to advise the Governor General as to what his duties were. I still doubt it, and, if we had detected the objection in time, perhaps we should have pressed it further, but it is too late to do so now. The practical objections or rather practical criticisms—for there are no insuperable objections as regards these Committees—are numerous. In the first place, there is the difficulty of getting people to attend. Now, we have at present a Standing Finance Committee; we have also at the moment a Committee sitting on the privileges of European British subjects in criminal proceedings; I believe I am right in saying that, on a date fixed for the meeting of the Standing Finance Committee the other day, three members were present.

Rao Bahadur T. Rangachariar: That was most exceptional. On the other hand, we sacrificed a lot of time in attending these meetings frequently. I refer to it only because the Honourable Member has referred to it.

1 P.M.

The Honourable Sir William Vincent (Home Member): I have no knowledge of the particular circumstances: I am merely stating the facts. I daresay they are capable of explanation and I am quite sure that Mr. Rangachariar would not neglect a public duty of that character if it was avoidable, and I did not mean to suggest it. But there is the fact that you cannot get men to attend Committees regularly. As to the Committee relating to the removal of racial distinctions in criminal proceedings, I had fixed tentatively the 4th of January for a meeting of that body; immediately I got protests from non-official Members, and quite reasonable protests, saying that they could not come up when the sessions were not sitting. During the sessions the difficulties are equally great; you know what is happening now. That very Committee is sitting to-day; it sat yesterday and half of us were unable to get away to attend it. Yesterday four witnesses were examined and Dr. Gour and myself, who were members—unimportant members no doubt, but still members—were unable to get down there to hear them at all.

Members of the Assembly are also aware that during the session, a great part of the time is taken up with Select Committees on Bills; and I think the Secretary to this Assembly will find it very difficult indeed to fit in time for them without attempting to find time for numerous Departmental Committees. Another point which this Assembly has to consider, is whether there is a sufficient number of men in this Chamber who are prepared to sacrifice their time and attend frequently in Delhi and in Simla, for some time, to deal with the ordinary problems of administration. There is an essential difference in this respect between the provinces and the Government of India. In the provinces you can get men, generally in the Presidency towns, in the headquarters of the province or in the immediate neighbourhood, who can come and attend Committees when required, but it is very difficult to get men to come up from Madras or Assam or some other of the remote provinces, to Delhi or Simla to attend Committees of this kind when required.

There is another point to which I want to draw attention, though it also is not an insuperable objection. It is the increased work which such Committees impose on the Secretariat. Now, the Secretariat of the Government of India, at the present moment, is over-worked to an extent that I do not believe is realised by any Member of this Assembly. Our officers are at work early in the morning and late at night; they take home work to do at night and many of them—I believe my Honourable colleagues will bear me witness in this House—are on the point of breaking down. If you propose to appoint Standing Committees which they will have to attend, they will have to procure papers, issue circulars, record conclusions and make various inquiries; those, therefore, who want to see such Committees must be prepared to pay for a considerable increase in the Secretariat staff. Whether it is desirable or how far it is desirable to do that in the present financial position, is not a matter for me to deal with.

Then there is a third point, *viz.*, that the appointment of Standing Committees of this kind must lead to great delay in disposing of cases. They cannot meet oftener, say, than once in two months; you could not expect a gentleman from Madras to come up oftener than once in two months to Simla for this purpose.

Now all these are not purely theoretical objections that I have evolved myself. They are practical criticisms which deserve careful attention. May I cite also to the Assembly what the experience of these Committees in other countries has been? I have had inquiries made as to the effect of this system in France and America. Speaking of America, Lord Bryce said:

'The scrutiny to which the departmental Committees subject the department is so close and consistent as to occupy much of the time of the officials and seriously interfere with their duties. Not only are they often summoned to give evidence, they are required to furnish minute reports on matters which a Member of the Congress could ascertain for himself. Nevertheless the House Committees are not certain to detect abuses or peculation, for special Committees of the Senate have repeatedly unearthed dark doings which had passed unsuspected the ordeal of a House investigation.'

He goes on to say:

'This system destroys the unity of the House as a legislative body; it prevents the capacity of the best members from being brought to bear on any one piece of legislation, however important; it cramps debate; it lessens the cohesion and harmony of legislation. It gives facility for the exercise of underhand and even corrupt influence. It reduces responsibility. It lowers the interest of the nation in the proceedings of the Congress. It throws power into the hands of the Chairmen of Committees. They practically become a second set of Ministers before whom the departments tremble and who, though they can neither appoint nor dismiss a postman nor a tide-waiter, can by legislation determine the policy of the branch of administration which they oversee.'

These are not my criticisms. But I put them to the Assembly as the observations of a great authority. Nor in any case would Committees of this Assembly exercise the same power, under the present system at any rate; but these are criticisms which this Assembly, I think, will do well to weigh. As regards Europe, the committee system is stated by a competent observer, Professor Lowell, to have sapped the authority of the Ministry and weakened the Government in more than one nation of Continental Europe. He also cites Monsieur Dupriez in his work on Ministers of the principal countries of Europe and America as painting in very strong colours the evils of the French Committee system. This writer points out how little influence the Ministers have with the Committees who often regard them almost as the

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representatives of a hostile power in the State. He shows that, while the Ministers have no right to be present at Committee meetings and are invited to attend only when they wish to express their views, the Committees claim the right to examine the administrative officers, insist on seeing books and papers and volunteer advice. Indeed, he goes on sarcastically to remark at the end that the Government and the Committee are never in perfect accord except when the former submits to the latter. Now, that would not be the case exactly here, because any Committees appointed would be advisory. But at the same time any Member of the Government might be put in a very difficult position by members of a Committee. They ask for papers and the Government says 'No, they are not going to be put before you'. 'Very well, my friend,' the Committee say, 'you wait till we get the Assembly down on you; you are not going to accept our views on the subject; we will see what the Assembly has to say to that.' In this way a Committee could in fact establish indirectly very great control over the Executive Government, a control which is not contemplated by the Government of India Act at all. I admit, on the other hand, the assistance of Committees has proved eminently useful to Government on many occasions, and I do not want to depreciate the value of the Committees with which I have been associated—Committees such as the Repressive Laws Committee, the Press Committee, this Committee which is now sitting, where, I believe, matters will be thrashed out satisfactorily regarding these racial distinctions. Similarly, I myself think and have thought for some time that, in the Home Department a committee to examine proposals for legislation generally would be of very great value. At present Dr. Sapru and I have to deal with a great number of Bills submitted by non-officials, of which it is very difficult indeed to form an opinion. Now, I cannot but think that the association of a number of eminent Members from this Assembly would be of the greatest assistance to Government in considering questions of that kind; I believe also the question has been considered as to whether a Committee might not be of any use in relation to other subjects, such as railways, but I have no authority to speak about that. I suggest, therefore, to this Assembly that the proper way to utilise the services of Members of the Assembly is not to appoint Committees in the manner suggested, but in some cases to appoint *ad hoc* Committees, if I may use that term, for the investigation of particular questions, and in other cases, to appoint general Committees to deal with particular subjects in any Department. As I said now, in the Home Department it would be quite impossible for us to carry on our current work in the political section with the assistance of a Committee. We have to act at once, and, indeed, a great deal of the papers with which we deal are of a very confidential character. But there are many subjects, at any rate there are some subjects certainly, in which the assistance of a Committee might be very useful. That, however, is only my personal opinion. As I said, the matter is really one for decision by His Excellency. In the conclusion of his speech the Mover referred to the Standing Finance Committee and suggested that that affords a precedent for appointing Standing Committees in the various Departments. Now I venture to put it to this Assembly that there is no analogy between the two bodies. The Standing Finance Committee is a very different thing from a Standing Committee attached to a Department. I understand, for instance, that the Finance Committee has nothing whatever to do with anything on the revenue side. It merely examines certain items of expenditure which are in any case coming before the Assembly in the

form of Budget grants at a later stage. With the more intricate and scientific side of the Finance Department's work, or indeed with the connection between the Finance Department and the Local Governments, I think the Standing Finance Committee has no concern whatever. It is a mistake, therefore, to suppose that the Standing Finance Committee would afford a precedent for appointing Standing Committees to take part in the whole of the work of any particular Department. Indeed, in my Department, and I am sure in other Departments as well, for instance, in the Foreign and Political Department, it will be quite impossible to have a Standing Committee to deal with all the various subjects with which we are in touch. There is another Committee now already in existence, namely, the Statute Law Revision Committee, on which some of the Members of this Assembly sit. That is a very small Committee, I think there are about five members, but even they find it very hard indeed to attend to their duties on that Committee without sacrificing a considerable amount of time which they find it difficult to do, having regard to their private business. In the circumstances, I suggest that the Assembly would be wise in recommending a trial of a Committee or Committees on particular subjects, but certainly not Standing Committees attached to all the Departments in the Government of India. If you have Committees of seven or eight attached to each Department, this would involve a burden on the time of the Members of this Assembly which they could not possibly bear. Further, I suggest the real method in which a Legislature ought to exercise control over the Executive is that which obtains in Great Britain. You have there, I suppose, the most powerful and the most successful form of legislative constitution. The Parliament is able to bring the greatest influence to bear on the Legislature in many ways which are perfectly open to this Assembly. I believe that it would be to the benefit of the Government of this country, whether democratic or in its present form, that the Assembly should follow British lines in that respect rather than adopt American or French lines. It may be possible for Committees, such as are proposed, to do admirable work in the provinces, but now and in the future, when India acquires a greater measure of responsible Government, I believe that it will always be essential that the Central Executive Government should be a strong Government, able to come to rapid decisions and see immediately that they are carried out, and that the control of the Legislature over the Government should be exercised as it is in the British Parliament. Perhaps some Honourable Members of this Assembly are aware of the advice that John Stuart Mill, the great constitutional authority, gave on these points. He said that :

'When a public body knows what it is fit for and what it is unfit for, it will more and more understand that it is not its business to administer, that it is its business to see that the administration is done by proper persons and to keep them to their duties. * * * It is more consistent with the capacity of a popular Assembly, to see that the business is transacted by the most competent persons; confining its own direct intervention to the enforcement of real discussion and the publicity of the reasons offered *pro* and *con*; the offering of suggestions to those who do the work, and the imposition of a check upon them if they are disposed to do anything wrong.'

That is a method in which, I believe, this Assembly could properly act. I have in my mind a statement made by Sir Sivaswamy Aiyer yesterday. Honourable Members will remember that Dr. Gour suggested that before the Executive Government had taken action in regard to certain activities of the non-co-operation party, we should have obtained the direct assent of this Assembly. Sir Sivaswamy Aiyer then seemed to me to get at the point at

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once, and he said that this was not the constitutional way of looking at it; it is necessary that Government should have power to act immediately and decisively, and the proper way in which control is to be exercised by this Chamber is by attacking, criticising, opposing and even censuring the Government in the House on its action later if it considers that it has done wrong.

I hope that if I give the Mover of this Resolution the assurance that I have given, namely, that the Government are prepared to consider this question of appointing tentatively a Committee on particular subjects, he will not find it necessary to press this Resolution further. To appoint Standing Committees to every Department of Government, even if the Army and Foreign and Political Departments are excluded, will be imposing upon the Members of the Assembly a greater task than they can possibly carry out, and will involve great delay and considerable expense and dislocation of the public business.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, it is very refreshing to hear the very sympathetic, though very disappointing, reply of the Honourable the Home Member, but as a practised speaker and a lawyer, he must be aware of the weakness of his case, because he knows that the argument of *non possumus* is resorted to by people who have nothing better to say. Let me place before this Assembly the various reasons he has given for opposing this very modest and reasonable Resolution. I have categorised them, and I propose to deal with his several objections in their order.

The first objection of the Honourable the Home Member is this. He says : 'Gentlemen, I speak in your own interests and for the dignity of your own House.' Quoting Mill and Bryce, he says : 'You will not attend'. He gives two instances of Committees in which there has been an absence of members. Now, I am a member of both. First of all, referring to the Racial Distinctions Committee, the Honourable the Home Member said that out of deference to the official members, he fixed provisionally the 4th of January as the date for the assembly of that Committee at Delhi. But he quite unconsciously forgot to mention as to when he intimated that date to the members concerned. He knows that the majority of the members are busy lawyers and would he be surprised to hear that he did not give more than 48 hours' notice for some members to come up from long distances? He could not therefore be surprised if he found that the members were not ready to employ an aeroplane service to reach Delhi within 48 hours of the notice given to them. As regards the Statute Law Revision Committee, does the Honourable the Home Member know that the notice given to the members of that Committee was even shorter? I appeal to my colleague, Munshi Iswar Saran, to verify the fact. We were in Calcutta and we were told at the last moment that the Committee would meet on a certain date. So far from there being any anxiety to shirk the work of these two very important Committees, there is every desire to serve upon them, but the shortness of the notice given to the members accounts for the absence of some of them. That is with reference to the two instances which the Honourable the Home Member has given.

Then, secondly, he mentioned the question of cost which would be necessarily involved in having to increase the Secretariat work. I think this is an old chestnut, a stale argument with which this House is very familiar. Meetings take place for three days and four days

a month, and when protests after protests are made by this Assembly we are being treated to this argument that the Secretariat is insufficient to cope with the work of this Assembly. My Honourable friend has not told us what would be the increased cost and whether this Assembly would not be prepared to defray the extra cost involved and the Honourable the Finance Member has not got up and said that, if the proposal of the Honourable Mr. Neogy is carried, he will not survive the shock or that the British Indian Exchequer will have to sue for insolvency. I therefore submit that the question of cost need not detain us.

Then comes the question of delay. Now, Sir, the Honourable the Home Member may take an assurance from the Members of this House that, far from there being any delay, it will facilitate the disposal and despatch of work. At present the work is done by the Departments concerned. It is then discussed and agitated and re-agitated in this House, and I am perfectly certain that the Honourable the Home Member will himself admit that much of this time, while the Assembly and the Council of State are in session, is spent on the floor of this House. All that time would be saved. (*Mr. N. M. Samarth*: How?) I hear an ejaculation from a most unexpected quarter, from a gentleman who proceeded to England and could not be unaware of the confabulations and deliberations of the Joint Parliamentary Committee. It is there stated that, if Council Secretaries are appointed, they will bring the Government nearer to the Assembly and save the time of the permanent officials, and the Standing Committees will thresh out matters and thereafter explain to this House what the permanent officials have now to do. After this statement, it is a question of addition and subtraction, and I can be sure that my Honourable friend, the interjector, is not above it.

Now, Sir, I pass over the two eminent authorities which the Honourable the Home Member has cited. But I beg to ask the Honourable the Home Member: 'How far are we from America?' If I were to ask you, Sir, to open the windows because it is warm, the Honourable the Home Member would read to me the latest Reuter's telegram and say: 'No. There are snow storms in London. You cannot open the windows here'. He might just as well have cited Bryce to apply to the entirely anomalous, unprecedented constitution of this transitory body called the Legislative Assembly. Neither Mill nor Bryce nor any constitutional lawyer ever thought of the weird constitution of which this India of transition is for the time being possessed.

Now, Sir, I think his argument was moving in crescendo. The last argument was really his real argument and that was that the appointment of Under-Secretaries or Parliamentary Secretaries and Standing Committees . . .

The Honourable Sir William Vincent: May I make a correction? I never said anything about Council Secretaries. I was purely dealing with Standing Committees.

Dr. H. S. Gour: That the appointment of Standing Committees means so much loss of power. That is the crux of the whole case. He should have put that argument first. But he brought you, in his extremely subtle way, to the reception of that argument by first of all appealing to you in your own interests not to join this Parliamentary Committee, and he told you how you will lose your time and how precious your time is and how, after all the discharge of public duties and the onerous responsibilities that you bear upon your shoulders you would not suffer from a hunchback if you came and

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sat on these Standing Committees. If these arguments do not convince you, then he asks you to remember that the appointment of the Standing Committees would be incompatible with the present system of the Government of India and that it was not contemplated by the Government of India Act. Now that is the real question. That is the real issue, and upon that I join issue with the Honourable the Home Member. If the House of Commons and the British Parliament had been convinced of the reasons given by the Government of India in its despatch of the 5th March, that the appointment of these Committees and the association of the Members of the two Houses with the practical work of administration of the country, would detract from the bureaucratic character of the Central Government and was incompatible with it, then they would not have made a provision which they have in the Government of India Act, for the appointment of Standing Committees. I, therefore, submit that the fact that this is part of the statute law betokens a desire on the part of the British Parliament that the people of this country must be trained in the practical art of administration, and out of deference to the objections of the Government of India and of the then head of that Government, the question was left to the discretion of the Governor General. I submit the mere fact that there is a provision made in the Act, the mere fact that the question was debated and examined by a responsible body and the conclusion is registered in the solemn Act of the British Parliament is my best justification to support this Resolution, and the burden of proof is upon the Government to show why they should not appoint Standing Committees. Then, Sir, we are told, 'We are perfectly prepared to throw at you odd crumbs from the rich man's table, but we would not admit you to our dinner table. We will give you small jobs to do and you should be satisfied because we can safely entrust you only with such doles as we can make from time to time.' Now, Sir, I submit, I ask the Honourable the Home Member, has he really and seriously considered what it means? Do you think that the Honourable Members of this House will be content to serve for such purposes and on Committees which the Departments may call upon them to do, when they have been expressly denied, as they have been denied to-day, the right and privilege of being associated with the various departments of the Government of India? I think, Sir, the fact that we have come here and have worked upon the Committees upon which we were appointed, the fact that we have done our best for the purpose of furthering the Reforms, the fact that we have done our best for upholding the executive Government, should be our best justification for asking that Government to give us, at any rate, an opportunity of learning the practical art of government. (*An Honourable Member*: 'Hear, hear.') You will remember the other day a discussion was raised in this House on the question of further reforms, and the English newspapers and the '*Statesman*' said that the Assembly lacked administrative experience. I ask this House to see that if these Standing Committees are appointed, the administrative inexperience from which it suffers would be soon dispelled.

One word more and I have done. The Honourable the Home Member quoted Mill. I am a student of Mill. May I ask the Honourable the Home Member to read the portion in that very book where he points out that this system applies to constitutions where the final and ultimate decision rests with the representatives of the people. Is that so here? Are we the final judges of all actions of the Executive Government? And as we are not the final

judges of the policy of the Executive Government, and as we are being trained to administer our country, I think both wisdom and expediency demand and dictate that this Resolution should be accepted by the Government.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock. Mr. President was in the Chair.

The Honourable Sir Malcolm Hailey (Finance Member): Sir William Vincent gave the House this morning some of the reasons for objecting to this Resolution, and entered into some of the difficulties we should have to encounter were we to put into force the procedure which has been recommended by it. I am for the present concerned rather with the criticisms which were directed by Dr. Gour against the speech of my Honourable friend. Now, Sir, this is an important question and one which may have great influence on the practical working of Government, and I must register a protest against any proposal to set aside those objections with the airy gesture adopted by Dr. Gour. It is all very well to tell us, Sir, that *non-possumus* is a weak argument in legal circles and that every lawyer knows it to be a weak argument. I am not very well versed in the arguments which that astute body uses to dispose of its opponents, but I do know that in the practical affairs of life *non-possumus* is a final argument, for if a scheme cannot be carried out for practical reasons, then it falls to the ground. It is all very well, Sir, for Dr. Gour to resent Sir William Vincent quoting to us the conclusions of Bryce in regard to the working of the committee system in the United States or warning us of the failure of that system in France. I am astonished that any one here should brush aside so lightly the lessons to be learnt from the constitutional history of other countries, for to do so would deprive us of one of the greatest safeguards that we can ourselves adopt to obviate difficulties in the development of our own constitution and its conventions. Nor is it possible to accept what he has said regarding the difficulty pointed out by Sir William Vincent in securing the regular attendance of members of our Select Committees with a view to the proper despatch of the business of those Committees. It may be well assumed that I am not opposed in any way whatever to the fullest association of the Members of the House in the work of Government; I should be the last person to resent the suggestion that it is desirable to educate the Members of the House in administrative work. I took the earliest opportunity myself of asking the House to constitute a Standing Finance Committee to deal with certain definite classes of our expenditure work. As far as that is a concession of principle, I am willing to stand by it. I have been associated with that Committee throughout and have derived the utmost assistance from it; equally I believe that the Members of that Committee in the course of their many and arduous labours have learnt much regarding the administrative work of Government. But the fact remains that we have had no little difficulty in securing a full attendance not only at the meetings of that Committee but of many other Committees with which we are associated. If you need any further proof of that, Sir, may I read from a paper which I placed on the table of the House yesterday? It is the Report of the Select Committee of both Houses on the Income-tax Bill, a measure of no little

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importance to the country. I quote it in particular reference to the remark of Dr. Gour. One of the paragraphs reads as follows :

‘Dr. Gour and Mr. Narayan Das Girdhardas were unable to attend the meetings of the Committee.’

Now, Sir, that Committee assembled only a few days before this session, and it sat throughout the earlier meetings of this session. That other important work engaged the energies of my Honourable friend at the time, I am well aware; he has given his time freely to Government and Committees of this Assembly; I merely adduce this fact as illustrating the truth of the contention that difficulties do actually occur in securing full attendance on these Committees. I ask you now to magnify the problem and imagine what would be the difficulties if we were to ask this House to give us something between 50 and 60 Members to attend constantly at the headquarters of Government and assist in its current work. For, Sir, if a Standing Committee is to be associated with each Department of Government, as suggested by the Resolution, and is to take a serious grasp of the work of that Department, it must take part in the current work of the Department. The work of Government is continuous; you cannot always isolate questions of policy and questions of detail; they are inter-woven and involve a continuous series of connected decisions. Many of the matters dealt with are urgent. It would be quite impossible for us to defer, until some convenient occasion such as the meetings of this Assembly, the many an important questions with which the Department has to deal in its current operations. Let me repeat, Sir, that to carry out this proposal in full would require the attendance of at least 50 or 60 Members practically throughout the year at the headquarters of the Government of India. Now, Sir, attach what value you will to the legal value of the argument of *non-possumus*; my reply is that I have there a practical *non-possumus* which must be faced. So much for the working difficulties of the proposal. As Sir William Vincent pointed out, they may not necessarily be insuperable, and he put before you an alternative; but before I come to that, I desire to put before the House in somewhat fuller detail what constitutes the work of a department, and to analyse the exact value which the Standing Committee would afford both to the operations of Government and as to the education to the Members of this House. I take by preference my own Department, though this is in some sense an exceptional case. For, Sir, while the operations of other Departments only come up for occasional review (this is perhaps less true of the Home Department than of other Departments) by means of Resolutions and questions, my Department is one which stands in a peculiar position, for once a year the whole of our operations come under review and very complete review by this House. We have to explain what we have done with the money voted by the House during the past year. We have to explain whether our anticipations of revenue have been fulfilled or not. We have to explain to it why and how in any particular case we have exceeded the grants made to us. We have to lay before the House a very complete scheme of operations, not only of revenue and expenditure, but of ways and means finance for the coming year. We have to justify this to the House, and we have to obtain practically every penny of it in the form of a direct demand for a grant. In this sense my Department stands on a special basis, and the Assembly is to this extent already associated very fully with its operations. But it has much in common with

other Departments, and the lessons to be drawn from examining the work of that Department will be of general value. One branch of that Department is concerned purely with expenditure work. Proposals for new expenditure are first examined in full detail in that branch, and if they are passed by the Department, come before the Standing Finance Committee. But I wish to point out that this is work of great volume and great detail. It would be quite impossible for any Committee to sit with us day by day and go through the whole of the great volume of cases that come up to us. It is not possible to do more than to assemble a Committee to go through the more important cases which have passed through the scrutiny of our Department and have been admitted by it.

The second branch of my Department is concerned with such matters as financial rules, financial regulations and relations with the Provincial Governments. Now, Sir, while on questions of general financial policy the advice of a Committee might be both of importance and of interest, yet I think it will be granted that few Members of this House would care to attend day after day and month after month purely for the purpose of revising financial rules and financial regulations. Then comes a very important branch, I mean that relating to what we call pure finance, that is all those questions relating to the provision of ways and means, the adjustment of remittance transactions, the paper currency issue, the raising of loans, and the provision of every day finance by means of Treasury Bills, advances from the Bank, and the like. Now, that is work which demands that we should frequently take immediate action; a great part of it is conducted by telegraphic communication; there are frequent consultations with experts, and part of the work is of a class which must essentially be conducted with the utmost secrecy. I put it to any business Member of this House whether it would be possible for us to lay before a Committee meeting at considerable intervals of time proposals for increasing or lowering the rate of Treasury Bills, whether it would be possible for us to discuss with any Committee the terms on which we propose to issue a loan. It would astonish me to learn that such matters are put before a Committee in any country in the world, and would ask any Member of the House to say whether in his opinion such proposals could reasonably be discussed with a Committee. Yet if a Standing Committee were to be associated with the current work of the Department, that is the class of work which would come before it.

(A voice: Not necessarily—who wants them?)

Then what else would you place before it?

Now, Sir, I have analysed the work which is discharged in my Department; as I have pointed out its operations are continuous and while they occasionally involve questions of policy, it is difficult to isolate policy and its execution. I am free to admit that on important questions of policy it might be well to seek the advice of a Committee convened for the purpose. But I maintain that for the current work of the Department and for the ordinary administrative work of the Department, a Committee is not a suitable form of assistance. I maintain, further, that it would be impossible to keep with us a Committee of sufficient numbers really to represent the opinion of this House, or carry weight with it. That is a practical and outstanding difficulty to which myself can see no solution whatever. And let me repeat again, Sir, that in pronouncing this difficulty to be insuperable, I am not speaking as an intransigent opponent of the general

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principle that Members of this House should be associated in the work of Government, for, as I said before, I have given proof, and practical proof, to the contrary.

I have made one reservation, Sir, and that is, on questions of general policy the work of a Committee would frequently be of the very greatest assistance to us. I can well conceive that in many Departments it would be of the highest value if a Committee—a Standing Committee if necessary—were appointed to deal with definite subjects. I can well conceive, for instance, that in connection with the Department of Commerce it may be well that there should be a Standing Committee to advise Government on many questions of policy relating to railways. I am not going to make any suggestions to my Honourable friend Mr. Sarma, but I can well conceive that emigration is a subject on which a Committee could frequently advise with excellent results, because emigration is a subject dealing largely with questions of policy. Here negotiations have to be carried on with other Governments and Dominions, and time is available for the full discussion of such questions: the questions of policy involved are of the very deepest interest to this House. On such points, therefore, namely on points of policy, I can well imagine that it would be of the greatest value if Committees dealing with definite subjects were appointed. But what I do protest against, Sir, is any suggestion that Standing Committees should be appointed to deal with the current and everyday work of a Department. That, Sir, is my point: and again I say, when I make that point, I base my objections to the Resolution on the safe ground of practicability: and I appeal to Members of this House, as practical men, not to support a proposition, which, as it stands, would be of so little assistance to the House and so entirely unworkable in practice.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): Sir, I see a great deal of force in what the Honourable the Home Member as well as the Honourable the Finance Member have pointed out to us in their speeches. I think the original proposal of having Standing Committees associated with the Government of India had nothing to do really with the current business of the Departments, and the idea was really to associate Standing Committees in order that they may advise the different Departments, except the Army and Foreign and Political Departments, and to that extent I take it that the Government of India will be pleased to recommend to His Excellency the Governor General the appointment of such Committees. And I may remind the Honourable the Home Member and the Honourable the Finance Member that, whatever their views were before, when Sir James Meston went to give evidence, the President, Lord Selborne, asked him first, 'I think the Government of India have instructed you to put forward some more evidence,' and he said 'Yes'. And then he put forward some more evidence in modification of the previous views of the Government of India in their despatch: and on this subject of Standing Committee he said:

'Then in regard to Standing Committees with the Government of India and Parliamentary Under Secretaries, they'

that is, the Government of India,

'would ask that if these institutions are accepted by the Joint Committee, an exception should be made in the case of two Departments, the Army Department and the Foreign and Political Department. They think that the danger, to put it quite frankly, of leakage in those very important Departments, where secrecy is of such high importance, justifies them in recommending special treatment.'

That was their view, and I take it that they adhere to that view. The Joint Parliamentary Committee then recommended :

'That the Committee think that it may often greatly assist the political education of India if Standing Committees of the Legislative bodies are attached to certain Departments of Government. But they only express this opinion on the understanding that the appointment of such Committees, their composition and the regulations which govern their procedure shall be matters wholly and exclusively within the discretion of the Governor General.'

I, Sir, with your permission beg to propose an amendment to this Resolution, so as to bring it into line exactly with the idea which the Joint Parliamentary Committee had and which the Government of India, through Lord Meston, put before that Committee. My amendment is this :

'After the words 'Governor General in Council' add the words 'to be pleased to approach His Excellency the Governor General with the recommendation.' And then delete the words 'elected by the Members of the Legislature,' and substitute the words 'of the Indian Legislature.' And at the end of the Resolution, after the word 'Departments,' add the following words : 'their composition and the regulations which govern their procedure, being matters wholly and exclusively within the discretion of the Governor General.'

I think, Sir, that gives ample scope to the Governor General to so frame the regulations that the Standing Committees will really have nothing to do with the ordinary current business, or interfere with the working of the Departments. The regulations may also be so framed that these Standing Committees will have nothing to do with the Departments where leakage of information is such an important consideration ; and they need only be called upon from time to time to advise on matters of policy. Now, so far as this amendment is concerned, I hope there will be no objection on the score of notice, and there should be no objection to the proposal being accepted by Government. I had absolutely no time to give notice.

The Honourable Sir William Vincent : If I may interrupt the Honourable Member for a moment, Government certainly will make no objection on the score of want of notice.

Mr. N. M. Samarth : Then, Sir, I beg to propose the amendment which I have read out.

Mr. President : There being no objection on the score of notice, the amendment is accepted. The amendment is :

'After the words 'Governor General in Council' insert the words 'to be pleased to approach His Excellency the Governor General with the recommendation'; to delete the words 'elected by the Members of the Legislature', and substitute the words 'of the Indian Legislature'; and after the word 'Departments' at the end, add the following words 'their composition and the regulations which govern their procedure, being matters wholly and exclusively within the discretion of the Governor General.'

Mr. R. A. Spence (Bombay : European) : Sir, I think the Resolution which has been moved to-day is one which commends itself from one point of view very much to Members of this House. I think it is a Resolution which gives expression to that feeling we all have that we should gradually be trained in the administrative work of Government. But I think that the arguments which have been adduced by the Honourable the Home Member and the Honourable the Finance Member are very strong arguments against the appointment of Committees attached to various Departments instead of

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having Committees attached for special purposes. But I am still very keen indeed on seeing Members of the Legislature taking their place more and more in the administration of Government. We know from practical experience what difficulty there is in getting several people to come up to Delhi or Simla and serve on a Committee. That difficulty would, I consider, be very much lessened in the case of single individuals serving as Secretaries. And if I am in order, Sir, on such a Resolution as this, I should like to give expression to my feeling that we should try and train up in this country what at Home, I understand, are known as Parliamentary Under-Secretaries. I do not think that if Members of this Assembly or of the Council of State were attached to the various Departments as Secretaries there would be that danger to which our attention has been drawn by the Honourable the Finance Member. I do not think also that there would be the same expense which large Committees would necessarily involve; and I think that these Secretaries would be able to save the time of Members of Government attending this Assembly by answering questions and being always there ready to give expression to Government's policy. It seems to me that what we want is that the Government Secretaries, I mean the men of the regular services, should be relieved and given more leisure to carry on the work of their great Departments. We do not want them to suffer by having to attend here day after day, day after day. What would meet the case, I think, is if Members of this Assembly or of the Council of State were appointed as Parliamentary Under-Secretaries—if I may use an expression which last session was objected to as un-Parliamentary;—they said we were not in Parliament because we never spoke. I do not know, Sir, whether the same indulgence will be given to me as was given to the previous speaker to move an amendment. But if permission were given to me, the amendment which I should like to move is that this Resolution should read as follows:

'This Assembly recommends to the Governor General in Council that Members of the Legislature, nominated by His Excellency the Governor General and approved by the Legislature, be associated with the different Departments of the Government of India, other than the Army and the Foreign and Political Departments, as Parliamentary Under-Secretaries, in order that they may be trained up in the administration of Government and relieve the Government Members and Secretaries of a part, at least, of the work in the sessions of the Legislature.'

Now, why I should like to see those Parliamentary Under-Secretaries nominated by the Governor General, is because, first of all, it is essential that the person whom the Legislature is going to approve of as a Parliamentary Under-Secretary should be one who is likely to turn out a successful Secretary. We do not want the election of Parliamentary Under-Secretaries to be merely a matter of politics, or just voting for the most popular man. Therefore I suggest that nomination in the first place should come from the Governor General; but as the gentleman selected is to represent in the House the views more or less of the Legislature, the Legislature should therefore be allowed to approve his appointment.

Whether my amendment is acceptable or whether it is out of order, I do think that that is the line we should adopt. I think we have heard definite evidence on the subject of these Committees, and I think, in view of what has been said, we cannot vote for this Resolution as it stands, but I do feel that more opportunity should be given to Members of this House to take part in the administration, and I think that the appointment

of Under Secretaries would be to the benefit of Government Members. If I have your permission and that of the House to move the amendment I will do so ; if not, I will simply give it as my expression of opinion.

The Honourable Sir William Vincent: I think the Assembly will realise that amendments proposed at the very last moment even in the Assembly put the Member of Governments in charge in a very difficult position. I was quite willing to accept Mr. Samarth's amendment, waiving the question of notice, because that arose out of the Resolution. But this is entirely a new question which Mr. Spence has raised. If I enunciate to the Assembly the manner in which Government decide the action to be taken upon Resolutions, I think they will appreciate, at any rate, my difficulty. All important Resolutions go before the whole body of the Executive Council, less important Resolutions are taken up to His Excellency, but in no case is the matter left with any individual Member to decide, not at any rate in the Home Department, and I believe this is true of the other Departments. I am therefore in great difficulty in publishing a decision on the part of Government on an entirely new question of this kind when I have not had an opportunity of consulting my colleagues. If it would meet Mr. Spence, I shall be quite prepared to undertake to put this question up before the Government for their consideration. But I really must ask, Sir, if new questions of this character are brought in, that we should receive notice.

Mr. R. A. Spence: I withdraw the amendment.

Mr. President: I can remove the Home Member's difficulty.

The proposal of the Honourable Member from Bombay is to associate with Government Members of this Assembly in a more or less executive capacity, that is to say, it creates certain new executive offices. The proposal before the House is to associate in a consultative capacity Members of this House in the form of Committees with the Executive Government. Now, his proposal goes beyond the strict terms of this motion and ought to be made the subject of a separate proposal standing by itself.

Rao Bahadur T. Rangachariar: Sir, I am afraid a great deal has been read into this Resolution, which is not there. All that this Resolution recommends is that Standing Committees be associated with the different departments of the Government, excepting the Army and the Foreign and Political Departments. The Resolution does not say that the Standing Committee should consist of ten members, so as to mount up the figure to 50, as the Honourable the Finance Member would have it, nor does the Resolution say that the Standing Committee should be associated with every-day current work of the Department. These are the two large assumptions which have been made on behalf of the Government as having been embodied in this Resolution, on which they have based their practical objections. Sir, speaking as a member of the Finance Committee, I quite realise the practical difficulties and the great sacrifice which we members have to make in undertaking duties of this sort. Reference was made, Sir, to the difficulty about the Finance Committee, and Mr. Spence takes it as evidence of the difficulty. I expected the Honourable the Finance Member to have made a statement with reference to the actual position of the Finance Committee; I am surprised he did not. What are the facts with reference to the Finance Committee? We had sittings for

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nearly ten days in June. Most of us attended and gave our valuable time to that Committee. Again, Sir, most of us attended the sittings in September and gave our valuable time to it, nearly a week and over. Sir, first of all the last meeting was announced to take place on the 12th of December when some of us on the Finance Committee were also asked to serve at Calcutta on the Railway Accounts Committee between the 2nd and 10th of December, and again to come up here on the 12th of December. That is why that meeting could not be held. Then the meeting was posted to the 2nd of January. At that time Mr. Joshi was away in England doing public work. Mr. Venkatapathi Raju was on his way to Fiji to do public work. Mr. Jamnadas Dwarkadas was away on public duty on some Committee. I was assigned a house in Raisina for the purpose of staying with the Finance Committee. On the day I booked my passage, there came a letter cancelling the quarters. I was to come here, Sir, in December, and take my chance of getting a quarter in the cold season. I refused to do it. I intimated the fact to the Honourable the Finance Member through the Secretary of the Finance Committee. I am yet to receive an explanation for this treatment. I had to cancel the booking of my car, I had to cancel my berth in the busy Christmas season; we could not get conveyances and carriages and I was put to a lot of inconvenience. I hear some mention was made of this difficulty in the newspaper. I did not see it. I was surprised that any reference was made to it. We have been ungrudgingly giving our time, and I may say I have been doing so to my cost, and doing our work. Therefore, I quite realise the practical difficulties. Having bargained, I expect my Honourable friends here elected by their constituencies will not grudge giving the time. I wait for an answer from all the Honourable Members that they are prepared to give the time necessary for learning the work and devoting care and attention to the discharge of the duties which they have undertaken at the hands of their Constituencies. (*Voices*: 'Yes'.) Sir, it is not necessary that the Committee should be large. A Committee of two is a Committee. What is the practical difficulty in this Assembly electing a panel of 20 members or 25 members out of about 100 and odd members, and from out of the panel distribute the work for each session. What is the difficulty? It is possible to enumerate and magnify practical difficulties. I will take it up for one session. Some other Honourable Member will take it up for another session. In that way really the work can be managed. I know the value of being on Committees. I know by my own practical experience of the great benefits which I have derived from being on the Finance Committee, of the valuable instruction which I have received in the practical difficulties of administration from every head of the department who appeared before the Finance Committee. Sir, if I were making a budget speech this year, I would not be making it in that airy fashion in which I did last year. (*Laughter*.) That is due to the experience which I have gained. Sir, I want my Honourable colleagues to gain that experience. Without it you will find that the Government will be in more difficulties than now. It will pay the Government to take Members into confidence. The Honourable the Home Member referred to confidential papers. Are you not going to take us seriously into confidence? Are we such irresponsible people that you are afraid of placing confidential papers in our hands? Are you not placing most confidential papers in the hands of the members of the Racial Distinctions Committee? Have you not placed

confidential papers in the hands of the Press Laws Committee? Have you not placed confidential papers in the hands of the Repressive Laws Committee? Have they broken your confidence?

What is the fear of placing confidence in the Members of this House? The more confidence you place in them, the more response you will get and the more work you will get from them. You should be delighted to get work from them. The Honourable the Finance Member has handsomely acknowledged the assistance which he derives from the Standing Finance Committee. Out of the hundreds of papers which pass through the Honourable the Finance Member's Department, how many does he see? Perhaps the Deputy Secretary and the Under Secretary disposes of most of them. That is not the sort of thing we want. We want to be acquainted with the inner workings of each Department in order to know what are their practical difficulties or the various ways in which they have to contend with various questions, questions of policy and questions of finance. The Honourable the Finance Member referred to the difficulty of questions of policy in regard to finance. It is on these questions that I ask him to take the assistance of Members. If he had had that assistance, he would not have committed the blunder of issuing a loan in the London market without taking the Indian public into confidence.

The Honourable Sir Malcolm Hailey: Which loan?

Rao Bahadur T. Rangachariar: The last loan but one of 7½ millions. (*A voice:* 'He had nothing to do with it.') I know that, but if he had a Committee to assist him, his protest to the Secretary of State would have carried greater force and weight. Therefore, it is no use exaggerating the difficulties. If you are not willing to do a thing, you will always find difficulties. Where there is a will, there is a way, but where there is no will you always exaggerate and say how difficult it will be. I appeal to my Honourable colleagues, the elected Members of the Assembly, that they are taking a serious responsibility in passing this Resolution. We must be serious in our promise when we say that we are prepared to work, and if we are serious, and if we are prepared to sacrifice time, money and health, then by all means let us go in for it. It is worth going in for us, it is worth going in for the Government. Therefore, all these difficulties should not stand in the way. My Honourable colleague, Mr. Samarth, has come forward with an amendment objecting to the election by this House. I am surprised, Sir, that an elected Member of this House should do so. (*A voice:* 'He is not an elected Member'.) On the other hand, I have seen tabled on the list of Resolutions here a Resolution to the effect that every Committee appointed should be elected by this House. They will not command confidence if you merely leave it to Government to nominate Members. Look at the practical difficulties in making appointments to these Committees. The Government appoint me to three or four Committees and ask me to serve on them. How am I to serve? They are so enamoured of me that they ask me to serve on these Committees. How can I do justice to that work? If, on the other hand, you leave it to the Legislature, they will take jolly good care to elect people who will do the work. Therefore, I say that these difficulties should not be exaggerated. I strongly and earnestly appeal to Government to accept the Resolution. You have already accepted the principle of it. It is not said that you should all at once appoint to all the Departments. Appoint to two or three. Do make a beginning;

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try it, and we are prepared to make it a success. We are anxious to co-operate with you provided you are willing to co-operate with us, but as long as you show a tendency not to take us into confidence, we will not have any confidence in you.

Therefore, I earnestly appeal to Government to accept this Resolution.

Mr. S. C. Shahani (Sind : Jagirdars and Zamindars) : Sir, this is a very important question, and I rise to draw attention to one aspect of it which has not been so far noticed by the Members of the Assembly. The Government ought to be thankful to the Assembly for suggesting that they should associate Standing Committees with the different Departments of the Government. I find in the first despatch of the Government of India on constitutional reforms that the primary object with which the idea of Standing Committees is entertained is to control the irresponsibility of the executive.

When I see that the Home Member questions the accuracy of this my statement, I feel that it is just possible that I have misunderstood the thing ; but I will be reading the passage in question to the Assembly, and in doing so I should be able to fix the interpretation that is to be put upon the passage. 'These apprehensions,' urged against the creation of Standing Committees, 'seem to us exaggerated. This idea of Standing Committees was first put forward as a means of associating the Legislature with an irresponsible executive.' So runs the passage. And then the passage goes on to say that the irresponsibility of Provincial Governments is to a certain extent reduced by the appointment of Ministers. But in the Central Government no Ministers have so far been appointed. This will be an additional ground then on which the Standing Committees proposed by my friend Mr. Neogy may find favour with the House.

I have said that the subject is an important one. On that account I would say something more with regard to the objections that have been raised to the acceptance of this proposal. The Honourable the Finance Minister has emphasised the necessity of the current or ordinary work being done by the Government without the help of the Standing Committees. The details I have no doubt might rightly be left to the Government ; but all business is transacted according to certain general ideas, and if these general ideas are considered by the Standing Committees, the transaction of even ordinary or current work will be a great deal facilitated for the Government.

It has been said with equal emphasis that 50 to 60 Members composing the Standing Committees from among the Assembly or from among the two Houses may not reasonably be expected to frequently attend at the headquarters of the Government for the work that will have to be done by them. This objection has been sufficiently answered by my friend Rao Bahadur Rangachariar. It is not desirable to appoint unwieldy Committees. He has also rightly remarked that the principle of election with regard to the appointment of these Standing Committees is to be preferred to the principle of nomination. We find that the same 3, 4 or 5 Members are selected for all kinds of Committees to the exclusion of the rest of the Assembly. How are the Committees then to do their work promptly and properly ? As a matter of fact, even some of those that are nominated to several Committees do not like it. One can hardly understand the reason why choice is limited to only a few. The principle of election is a vitally important principle to the realisation of responsible Government, and

I think, so far as we can help it, we should go in for it. One reason why the institution of Standing Committees elected by the two Houses or by the Assembly should find favour with us is this—that nomination will thereby have been reduced to some extent.

It has also been said with a great deal of force that the cost will increase, and in these days it is not good to add to the cost. I want to state that if 20 or 30 Members of the Indian Legislature are associated in the work of the Government, it will become easier for the rest of the Members to derive their information from them, and that the number of questions with which Government are now inundated will thereby be a great deal lessened. From this point of view, too, I think I would be right in saying that the cost would be decreased if the proposal of Standing Committees is accepted.

It has been further said that there has been no precedent for such an institution—that the Standing Finance Committee may not rightly be considered as a precedent. I suppose now only two Standing Committees are appointed—a Committee of Public Accounts, and a Committee of Finance, the nature of which is somewhat different. What does it matter if there have been no precedents? As a matter of fact, this very Assembly is a new institution, and if the institution of Standing Committees is a desirable one, it might be created without any regard being paid to the fact that there have been so far no precedents for it.

These are then some of the objections that have been urged against the acceptance of the proposed institution. The advantages that have been enumerated are the advantages of help that the Government will derive from the members of the Standing Committee, and the advantages that will accrue to the Indian Legislature from the connection that its members will come to have with Government. It has been also rightly said that it will be a great political education for the members of the Indian Legislature, and I have just now added that the irresponsibility of the executive government would be to some extent reduced if this institution finds favour with the Indian Legislature and is created. If we then put the objections on the one side and the advantages on the other, the preponderance will obviously be on the side of the advantages. The Honourable the Home Member himself evidently feels that the advantages will preponderate over the disadvantages, since he is prepared to recommend at once a tentative scheme of one or two Committees. I fail to understand why the scheme should be confined tentatively to two or three Committees. We might reasonably appoint Committees for all the Departments, except of course those that have been excluded by the proposer, and I cannot see why any fears should be entertained as to the success of the experiment. My own idea is that the experiment is bound to succeed, and that it will be an easy way of extending the constitutional reforms. With these remarks I beg to resume my seat.

The Honourable Sir William Vincent: Does the Honourable Member propose the amendment that stands in his name? He has not done so.

Mr. S. C. Shahani: My object in proposing the amendment of which I have given notice is that in the other House there may be a difference of opinion. Here, too, I feel that the opinion is divided. In the circumstances there is no reason why we should provide that the Committees should consist of members derived from both Houses. We should confine ourselves to

[Mr. S. C. Shahani.]

our own Assembly and pass a Resolution which will have reference to it only. If the other House approves of the scheme, the scheme may be brought forward in that House, discussed and accepted.

Mr. President: The Assembly had better take the amendment which has been moved by Mr. Samarth first of all, which raises the issue whether the Committee shall be appointed by the Governor General under regulations framed in that behalf, or whether it shall be elected. The amendment standing in the name of Mr. Shahani is not merely whether it shall be elected, but whether the election shall be confined to the Non-official Members of the Indian Legislative Assembly.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, so far as the amendments are concerned, I go to support Mr. Shahani's amendment. But I may be permitted to speak on the Resolution as well. So far as the necessity of this Resolution is concerned, I think it (Resolution) commends itself. This is a very useful Resolution. It will relieve the Government of a great amount of responsibility, and it will give very great satisfaction to the Legislative Assembly. On various occasions many of us raised our voice criticising the steps taken by the Government, and the answers given to us were 'that the Government had no time to consult us.' Only yesterday there was a debate in which this issue was raised, and the answer given by the official members was that there are some very urgent affairs and in such matters it is impossible to summon the assistance of the Members of the Assembly: Here this Resolution solves that difficulty. We volunteer ourselves to assist the Government, we are quite prepared to sacrifice our time. The Honourable the Home Member becomes very sympathetic with us and tells us, 'Oh, you have not got time to spare; it is not a very convenient job'. In reply to those very kind words, we submit that we are quite prepared to sacrifice our time and energy ('Hear, hear'), because, by giving our time in this manner, we shall be able to do a great deal of work for Government. On the occasion of Budget debates, we have seen that we have had to spend days and days, and when we criticise the Honourable the Finance Member's demands, he would come forward and say, 'Oh, you do not know the practical phase of it, and, therefore, you are raising these sort of questions,' and to this the present Resolution is the answer. This Resolution very respectfully submits before this House that we will be able to curtail the time which is otherwise spent in criticisms, and, as I have said, we are quite prepared to sacrifice our time and give the necessary help and assistance to the Government. We submit that we may be given an opportunity of acquiring this training. The art of administration really requires training, and we want it, and we can give assurance to Government officials that we shall be of very great help to them. We are not those who will take months to learn: some of us will learn it within a few days ('Hear, hear'). Give us any work, we are sure to do it, but allow us sufficient time. Do the official members mean to say that we shall take long to learn? (Laughter.) They need not fear on that score at all. We require hints, and when we go through all the papers and statistics, we will be able to have a faithful grip of the subject and we will be of the greatest possible assistance to Government. Government should thank the Honourable Member who has moved this very useful Resolution. It will disarm us, it will disarm the public, so far as public criticism is concerned. It will assist the

Government very materially, and therefore I cannot see any force or reason in the arguments which have been advanced on behalf of Government. Their main points have been put before this House. One of them is this : current work, heavy work ; we don't want to work as copyists, we don't want to work as accountants. We shall help you ; we shall see how you spend money, and in what manner your system is working. There is a mass of criticism that the system of work in Government Departments is very defective. We want to share that responsibility. When we, after experience, shall be convinced of the soundness of aforesaid system then we will tell our people, ' Oh, your criticism is absolutely wrong : we have associated ourselves with the Government, and we have seen the system which is in vogue, which is the best system.' Will it not materially help the Government ? Public criticism will be stopped at once. Therefore, a mass of discontent on account of the defective system in the Government Departments shall cease to exist. That criticism will be stopped, and I cannot see for a moment why the Honourable the Home Member and the Honourable the Finance Member should come forward with their luminous arguments and debate over these points which do not require any controversy at all. The suggestions, contained in the Resolution, if accepted by the Assembly, will be useful to both the Members of this Assembly as well as to Government. Of course, it is a question on which much can be said for both sides no doubt. But when we weigh the arguments *pros* and *cons*, we are forced to the conclusion that this Resolution deserves the sympathy of all Members of this Assembly, and I consequently hope it will be acceptable to every one, and I very strongly support this Resolution.

Mr. Darcy Lindsay (Bengal : European) : Sir, in associating myself with the views expressed by my Honourable Friend, Mr. Spence, with which I entirely agree, it appears to me that there has been one point omitted this afternoon in discussion, which is of considerable moment to the House, and that is the loss which will be suffered by the removal from our midst of some of our chief free lances in debate. It is an extraordinary fact that any one who enters the portals of the Secretariat undergoes a softening influence. There is something in the air of the Secretariat that affects them. You have only to look at our friends on the Government bench to realize this. Can you imagine what we should be without the refreshing criticisms of such stalwarts in debate as the Honourable Mr. Raugachariar, Dr. Gour, Munshi Iswar Saran, Dr. Nand Lal, whom we have just heard in fierce debate, my friend Mr. Ginwala, and last but not least, that doughty champion of freedom, Mr. K. Ahmad, all of whom would doubtless be elected to the Standing Committee, and in due course be inoculated with the Secretariat serum. I gather that if the members of the Standing Committees are to be of any assistance in the work in which the House is interested, they must devote their full time to the work, and not only when this House meets. Can we ask them to give up so much of their time ? We have heard from my Honourable friend, Dr. Nand Lal, that we all offer ourselves for this great service. But would it not be wise, Sir, to ascertain beforehand how many of our Members are willing to give up their time before we force this Resolution on the Government ? (' Hear, hear. ') With these few words, Sir, I do not support the Resolution as it stands, although in some respects it has my sympathy.

Mr. President : I think we had better dispose of the amendment standing in Mr. Samarth's name. Honourable Members do not seem inclined to address their remarks to that particular issue.

The Honourable Sir William Vincent: Sir, I want in the first place in my reply to draw the attention of the Assembly shortly to the Joint Committee's Report which is accepted always by Government at any rate as of great weight, if not of binding authority. There it is clearly laid down that any Committee which is appointed is to be appointed by the Governor General. The method of appointment of the Committee in Mr. Samarth's amendment is not down there, but I think the other words of his amendment, *viz.*, 'its composition and procedure being matters for the Governor General' have been taken from the Joint Committee's report. The Government, therefore, could not, in accordance with the weight of the recommendations in the Joint Committee's report, accept any question of electing members to these Committees. But I want also to deal with the general question of the appointment of Committees, because once it accepts this amendment, Government will be placed in a very difficult position. Dr. Gour tells me that there would be no difficulty about securing attendance, and he justified his absence, his failure, his inability to attend a particular meeting of the Racial Distinctions Committee, because, he said, he had not an aeroplane and he was given only 48 hours' notice. My recollection is that he was given very much longer notice than that, and that he insisted that the Committee should be postponed until the 15th, that is, some days after the sessions of this Council had begun. He was not even prepared to attend on the 10th when the sessions, as he well knew, began. So it was not altogether a question of notice. Again I believe I am right in saying that Dr. Gour did not attend a single meeting—if I am wrong I will apologise at once—a single meeting of the Joint Committee on the Income-tax Bill, not one meeting. That illustrates how difficult it is to secure the attendance of a busy man who, of course, is earning large fees down in Nagpur practising before Courts, and that is a difficulty that occurs in the case of many others. It is no good telling me that Members will attend. I, who have summoned many Committees, know that you cannot get men to come on any fixed date.

Mr. S. C. Shahani: If appointed to several Committees.

Dr. H. S. Gour: How many Committees have I attended and how many days have I spent with you?

Rao Bahadur S. Rangachariar: These are personalities.

The Honourable Sir William Vincent: If I have been personal I trust I have not been offensive, but I will discontinue any personal remarks and not refer any further to the Racial Distinctions Committee. Let me turn to the real question before the Assembly. In regard to that, Sir, all that I am prepared to do in this matter is, as I put it to Mr. Samarth just now, I will ask the Government of India to consider the question of appointing standing Advisory Committees on particular subjects. I believe, as I have said, that the system of attaching Advisory Committees to each Department is entirely wrong in principle. If you take a Department like the one presided over by my Honourable colleague, Mr. Sarma, it is far more suitable to have separate Advising Committees for separate subjects where they can usefully advise Government, than to have a departmental Committee. In the Home Department I still maintain that there is a great deal of work which has to be done at once, which is confidential and for which it is essential that

the Government should accept sole responsibility. (At this stage Mr. President vacated the Chair and Mr. Deputy President occupied it.) If we do wrong and we are criticised, we do our best to face the music here. Nor would the consent of 2 or 3 or 4 Members secure us from criticism in this Assembly. Mr. Rangachariar said that if we had an Advisory Committee in the Finance Department, the Honourable Mr. Hailey might have been saved from a lot of criticism over a loan of the Secretary of State. So far as I know—I have nothing to do with the Finance Department, and therefore, I am not giving away some secret here—that loan was arranged by the Secretary of State. In any case, if I put it to any business man, I put it to Mr. Samarth, I would put it to the Deputy President if he had not been occupying the Chair, I put it to Mr. Spence, to any business man here, would they recommend the Government to place the terms of a proposed loan before any Advisory Committee of this Assembly elected by the Members—a Committee in reality not responsible to anybody? I should like to have an answer to that. It is no good talking big about not being trusted, for there are papers in the Secretariat that will never pass beyond two or three Members of Council, there are others—that never pass out of Members' hands and do not go even to the Secretaries. It is not a question of trusting the honesty of men of their being careless and allowing information to leak out and every one knows this perfectly well. If it is proposed to select an Advisory Committee in the Finance Department to advise on the prices of treasury bills, on the prices of loans issued and on such other matters, on opium sales and the like, I think this Assembly is embarking on a very dangerous course indeed.

Mr. S. C. Shahani : Not dangerous.

The Honourable Sir William Vincent : I do not suggest any dishonesty. Nothing of the kind, but I do know that the mor- men you have in the Committee the greater is the danger of information leaking out. The particular case that I mentioned, namely, that of the loan, is, I believe, an excellent instance, for I do not believe any business man would recommend Consulting a Committee on such a point. Mr. Shahani then said, 'Oh, this Committee that I am going to put up is going to control the Government.' That is really what he wanted and he referred to the Joint Committee's Report. I believe I am open to correction, that the passages he read there referred to the Provincial Governments and not to the Government of India.

Mr. S. C. Shahani : I am quite cognisant of that.

The Honourable Sir William Vincent : Well, Sir, the position of a Minister in the Provincial Governments is entirely different from that of a Member in the Government of India. The responsibility of the latter according to the constitution is to Parliament and to the Secretary of State for India in Council, and that responsibility cannot under the law be shared or controlled by any one. When the constitution is changed or if it is changed, the position may be different. My friend, Dr. Nand Lal, again suggested that the appointment of a Committee would avoid delay. Does any Member of this Assembly, who has practical experience of Committees, think they would expedite business? If you put any matter before a Committee, you have to wait until the various members can assemble; they then take time to examine the papers and generally call for further information on one thing and another, with the result that whole proceedings are delayed for weeks and months, and it is idle

[Sir W. H. Vincent.]

to say Committees would expedite business. Nor is that the way in which Government executive business can be done. Further, as a matter of fact, in all important business there is an Advisory Committee for each Member in the shape of the Governor General's Council before which important cases are taken. It is quite true it is not in the same position as an Advisory Committee of this Assembly, but I think the help we all receive from our colleagues is always of very careful weight and value on all questions. In conclusion, I will again ask the Assembly to accept what I have undertaken to do, namely, to request the Government of India to consider the question of attaching Advisory Committees not to departments *qua* departments, but on particular subject where the advice of such a Committee will be useful.

Mr. W. M. Hussanally (Sind : Muhammadan Rural): I want to speak a few words on this Resolution, Sir.

Mr. Deputy President: I will put Mr. Samarth's amendment to the vote. The question is that the following amendment be made:

'After the words 'Governor General in Council' add the words 'to be pleased to approach His Excellency the Governor General with the recommendation.' And then delete the words 'elected by the Members of the Legislature' and substitute the words 'of the Indian Legislature.' And at the end of the Resolution, after the word 'Departments,' add the following words: 'their composition and the regulations which govern their procedure, being matters wholly and exclusively within the discretion of the Governor General.'

The motion was negatived.

Mr. Deputy President: I call upon Mr. Shabani to move the amendment of which he has given notice.

Mr. S. C. Shahani: Sir, I feel that no useful purpose will be served by my moving this amendment, and I therefore withdraw it.

Maulvi Abul Kasem (Dacca Division : Muhammadan Rural): I want to say a few words on the original motion.

Mr. Deputy President: You will have an opportunity of doing so.

The question is that leave be granted to Mr. Shabani to withdraw his amendment.

The amendment* was, by leave of the Assembly, withdrawn.

Bai Bahadur S. P. Bajpai (Lucknow Division : Non-Muhammadan Rural): Sir, I beg to withdraw my amendment.

Mr. Deputy President: The question is that leave be granted to Mr. Bajpai to withdraw his amendment.

The amendment† was, by leave of the Assembly, withdrawn.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural): I want a ruling from the Chair whether it is necessary that leave should be given to withdraw an amendment before that amendment is moved.

Mr. N. M. Samarth: He could have moved it, but instead, he says 'I withdraw it'.

* 'Substitute for the words 'the Members of the Legislature' the words 'the non-official Members of the Indian Legislative Assembly.'

† 'Delete the words from 'other' in the third line to 'Departments''

Mr. W. M. Hussanally : Sir, I will only take a few minutes of your time in regard to the motion made by my friend Mr. Neogi. I heartily support it. I was going to say a few words against the amendment moved by Mr. Samarth, but I need not say anything about it now as that amendment has failed.

In regard to the motion, Sir, the chief objection which has been raised is that the work in the Secretariat will be increased. In this connection I would refer to a conversation I have had with a gentleman, Member of this Honourable House, who a few days ago happened to go to one of the Departments on business. He told me that he was there for about three-quarters of an hour, and during all this time two or three clerks were talking the whole time and smoking, and were doing absolutely not a bit of work during all the time that he was there in the office. Sir, I think there is a general impression amongst the Members of the Assembly that the establishments of the Government of India are far too many and that they ought to be curtailed.

In regard to the difficulty of getting gentlemen for the sub-committees to attend, I think, Sir, that is not an insuperable difficulty, if only small Committees were appointed, and if all those gentlemen were consulted beforehand, i.e., before fixing a meeting. The last difficulty that has been put forward is about secret documents—about their being such as could not safely be placed in the hands of the members of the Standing Committee. That again, Sir, I say is a very minor point. Rules could be framed as to what kind of work can be placed in their hands and what not. That I think will considerably remove the difficulty. My friend, Mr. Shahani, referred to the executive being irresponsible. But I think if Committees of this kind were associated with the work of the various Departments of the Government of India, much of the irresponsibility of the Assembly here would also be removed; because many of those gentlemen who are appointed to the Standing Committees will gain sufficient experience and information which they will communicate to their friends here, who will then talk here with a greater sense of responsibility than what some of us have been doing hitherto. In that respect it will do a considerable amount of good to my friend Mr. K. Ahmad, whose name was mentioned a little while ago.

There is also an impression abroad among some of the Members of the Assembly that there is considerable room for retrenchment in the expenditure of the Government of India. Now, in regard to that, if some of us are associated with the inner working of the Departments, we will be able to gather information which will throw light on whether retrenchment is possible or not. Therefore I say, Sir, that Committees of this kind would be very useful in giving us information about the inner working of the various Departments of the Government of India.

Sir Godfrey Fell (Army Secretary) : Sir, I had not intended to take part in this discussion, but I cannot pass over in silence the attack which has been made by the last speaker upon one of the most deserving classes of men in the Government of India: I refer to the clerical establishments of the Secretariats. I do not know what the authority is for the Honourable Member's statement; but I have personally been associated with the Government of India Secretariat for a number of years, and I have no hesitation in assuring this Assembly that there are very few servants of Government, in this or any other country, who are more devoted and who work longer hours and more arduously

were imposed that of helping Advisory Committees to understand the nature of the difficult administrative problems which come up every day, of preparing papers for them, of furnishing them with information, and of giving them generally the training which I gather they require in the art of administration in our particular subjects, then I can only say that we should not be merely what my Honourable friend, Mr. Darcy Lindsay, has told us we are, soft-headed, but more likely candidates for the lunatic asylum.

The Honourable Rao Bahadur B. N. Sarma (Revenue and Agriculture Member) : I had not intended to speak on this subject, but there seems to be a general impression that the Government of India have not given very earnest consideration to the recommendations of the Joint Committee with regard to associating the Members of the two Houses with the administration of the country so as to enable them to acquire a knowledge of the art of administration, in order that the sphere of Self-government may be enlarged at a very early date. I shall speak mainly with reference to the Departments under me, Land Revenue, Agriculture, Public Works, Posts and Telegraphs and Emigration. The matter seems to admit of a simple solution so far as Emigration is concerned, and there would not be any very great difficulty in accepting the recommendation of this House so far as the Emigration Branch is concerned. But that merely brings us again to the proposition enunciated by the Honourable the Home Member that it would be desirable that this House should concentrate its attention upon the association of advisory bodies with reference to particular subjects and not Departments.

If the problem be attacked from two standpoints, namely, as to what branches of the Departments of the Government of India would really be benefited by the association of the Members of the two Houses with regard to the handling of the subjects that come before them and with regard also to the point that has been raised by Mr. Spence, namely, how far it would be practicable to ease the burden of the Secretaries and give practical help in learning the art of administration to Members of this House, there is much to be said for it. But, so far as the Resolution goes, it is a little too wide I fear. If we analyse the various Departments, it might be found that certain departments do not require or would not be benefited very much by the association of advisory bodies therewith. I have already alluded to the Emigration Branch as being eminently fitted for this experiment being made. Then, take the Land Revenue Department. It deals mainly with provincial subjects. We deal in the branch relating to legislation with the question as to whether we are to give our assistance inasmuch as the final control is with us. I do not think that is a sphere in which an advisory committee would be of very great value, because it is primarily for the provinces to settle what legislation they wish to embark upon, and it is only in the discharge of a final responsibility that the Governor General or the Governor General in Council comes in. Therefore, in that Department there would not be much scope.

Then, with regard to Agriculture, Forests, and so on, these are either transferred subjects or reserved provincial subjects. There again, the problems that come up before our Department are such that I do not think it would benefit by any advice being given to it, nor do I think the Members of this House would receive very much training, not the training that they would desire. Reference has been made to the Posts and Telegraphs Department. Well, there, possibly I would be very much helped by creating a large body of influential members who could tell the employees of Government who

[Rao Bahadur B. N. Sarma.]

are every day clamouring for greater emoluments, who could tell the country that the state of the finances does not permit of any large increases either in establishments or in pay. I think they could do a good bit of work for the Government as well as for the Assembly and perhaps the point can be examined as to whether it will be possible to procure for myself and for my Department that kind of assistance ; but, as regards such questions, namely, as to whether telegraph apparatus is to be purchased worth 20 lakhs or one crore, as to whether a line has to be placed between A and B stations or C and D stations, or as to whether there should be 1,000 clerks or 1,500 clerks employed in a particular range, all these are matters, I think, which are the work of every day administration and the Government of India rarely interfere with the discretion of the Director General.

It is only questions of policy that come up here largely, and occasionally during the last few months, or perhaps a year and a half, questions dealing entirely with finance with which the Finance Member has as much to do as the Member in charge : and I think the Finance Department and the Finance Committee have every opportunity of discussing that aspect of the problem, because I think the Finance Member has fortified himself with getting all his curtailments carried through the Finance Committee and turning down all our proposals for improvements in our staff, etc. I fear we feel helpless some times. Well then that disposes of posts and telegraphs. Then, again, take Public Works. Buildings and Roads are practically in the hands of Ministers. Irrigation is a purely technical question which had to be dealt with by the Secretary who is a technical expert in the Roads and Buildings Branch, or by the Inspector General of Irrigation, and consequently the Department I do not think would be very much benefited by the association of Honourable Members therewith, nor would the Honourable Members be benefited thereby. You may say I am speaking for Departments with which possibly many Honourable Members may not care very much to associate themselves, but there the fact is that the proposition advanced by Mr. Neogy requires modification and qualification before the Government of India can accept it.

Mr. S. C. Shahani : Very slight.

The Honourable Rao Bahadur B. N. Sarma : May be very slight, but there it is. Well then, take again the food policy. Even in a matter like the food question, it will be impossible for the Revenue Department to place all the papers in the hands of Honourable Members because whether from a particular port 100,000 tons are to be exported or 200,000 tons is a question of vital importance and the matter cannot be allowed to go beyond a few individuals before a decision is taken. I am only illustrating what my Honourable colleague, Sir Malcolm Hailey, mentioned with reference to Finance matters. Therefore in almost every Department there are certain subjects which must be handled only by a few and I do not think that even the Members of this Assembly would ask to be associated with questions where secrecy is of the essence of the transaction. I take it that what the Honourable Members of this House want it to be associated with the administration of the country so that they may have a grip of the details thereof for the purpose of seeing whether unnecessary expenditure is being incurred, whether any improvements can be effected and in what directions, so that they can say they have done their duty by their country and by their Government.

would therefore suggest to the House the desirability of carrying this attack by asking the Government to give them a chance of associating advisory bodies with the Departments in respect of particular subjects. It would be easy for the Government to accept a position of that kind and to see whether further assistance cannot be given to the Members of this House by appointing one or more Secretaries or Under Secretaries in particular Departments rather than in all Departments. I therefore think that the House would do well not to be over-enthusiastic and not to think that the Government are in any way hostile to helping the Assembly in their desire to learn the work of administration but to see that the Government is not hampered unnecessarily and to modify their views in the direction I have indicated.

Mr. K. C. Neogy: Sir, I propose to be very brief in my reply, because most of the points which have been raised on the official side of the House have already been met by the previous speakers. I do not think I need take the Honourable the Home Member seriously in the technical objection that he raised with regard to the Governor General being the authority in this matter and not the Governor General in Council. If I heard him aright, I believe in his last speech he said that it would be for the Government of India to decide—at least it should be left to the Government of India to decide as to which Departments should have these standing committees. Furthermore, when in March, 1921, I asked a question as to what was going to be done in regard to this proposal for the association of standing committees with Departments, the Standing Finance Committee was given as an instance of the action that the Government had taken in this matter. Well, Sir, if I may turn to the speech of the Honourable the Finance Member, when he moved the Resolution for the appointment of this Standing Finance Committee, I see that what he said is as follows :

'The proposal which I now put forward is not in pursuance of a rule, but is in pursuance of a decision at which we ourselves have arrived.'

I think, Sir, in this instance, the 'we' is the Government of India. The Honourable the Home Member has told us that the appointment of these committees will only increase the volume of work and will be a great burden on the already over-worked officials of the Government of India. Well, Sir, this is an argument for the abolition of all committees. I happen to be a member, a nominated member of a committee which is associated with a branch of the Honourable the Home Member's department, I mean the Publicity Advisory Committee. If I had known that I was only helping in increasing the burden of the already over-worked officials, I certainly for one would not have continued in it; and I do not know, Sir, if this is a broad hint to the non-official members to retire from that committee. That is one point. Then the Honourable the Home Member referred to France, America, Europe and other countries in which committees had been tried; and he attempted to show that they are either no good or they hamper the executive. I thought that the 'Canadian Fur-coat' theory had some weight with the officials; and in this case I propose to avail myself of that argument. France and America are quite different from India; their constitution is different, and the committees in those countries are not exactly advisory in their functions; they have important administrative work to do as well. The Honourable the Home Member referred to John Stuart Mill in favour of a statement that the administration should be carried on by 'proper and competent persons' and that these committees or legislative bodies should interfere as little as

[Mr. K. C. Neogy.]

possible with them. Well, Sir, in those countries, particularly Great Britain, which John Stuart Mill had in mind, these 'proper and competent persons' are themselves representatives of the people, and their position in the Government depends upon the following they have in the House. Then, it has been said by the Honourable Mr. Sarma that the Resolution is too wide and that there are some Departments whom these standing committees won't suit.

Well, Sir, I take my stand upon the statement made by Lord Meston before the Joint Parliamentary Committee. He excepted only the Army and the Foreign and Political Departments, and I think if the Government had any objection to these standing committees being associated with other Departments, these objections should have been urged before the Joint Committee through Sir James Meston. It is too late in the day to raise those objections now.

Then, Sir, it has been said: 'Oh, you will have precious little to do with the transferred subjects as they are all dealt with by the provinces.' Well, Sir, may I inquire if the Government of India have got anything to do at all in those subjects? If they have, we shall be glad to know what those things are, and, if necessary, advise Government about them. Well, when we ask for these committees, it is said that the Government of India have got little to do in Departments corresponding to the provincial transferred subjects, but you do not seem to have made any corresponding reduction in the staff and expenditure on that account in those Departments.

Then, again, a good deal has been said with regard to procedure and so forth. Well, I may remind the Honourable Members that it was never the intention of the authorities, whom I have quoted in my favour, that all and every matter should be placed before the committee, and that is not at all my intention either. Take as wide a discretion as you like in this matter. Take us into your confidence in matters where you can, and where you ought to frame your own rules in any way that may suit you; I do not mind that.

Then, it has been said that one member is very often appointed to several committees. Well, Sir, I suggest that, if necessary, make it impossible for one member to seek election to more than one or two standing committees, and as regards committees appointed by Government, do not appoint more than one member to more than one or two committees.

There is one other point, Sir, to which I should like to refer, and that is the objections on constitutional grounds and the practical difficulties of administration. These objections apply with equal force in the case of reserved subjects in the Provincial Governments, and I may inform the House that elected committees have been appointed in Bengal to every Department of Government, and I am told that this is also the case in the Punjab, the United Provinces and the Central Provinces. In the case of Madras, the committees are not elected but appointed, but that does not make very great difference, I think. I therefore appeal to the House to accept my Resolution.

Mr. Deputy President: The question is that:

'This Assembly recommends to the Governor General in Council that Standing Committees, elected by the Members of the Legislature, be associated with the different Departments of the Government of India other than the Army and the Foreign and Political Departments'.

Mr. S. C. Shahani: Are Government Members to remain neutral, Sir, on this occasion?

Mr. Deputy President: That is a question for the Government to decide.
The Assembly then divided as follows :

AYES -40.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Abul Kasem, Maulvi.
Agarwala, Lala G. L.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahmed Baksh Khan, Mr.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Chaudhuri, Mr. J.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Hussanally, Mr. W. M.
Ikramullah Khan, Raja M. M.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.

Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Muhammad Hussain, Mr. T.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Shahani, Mr. S. C.
Singh, Babu B. P.
Singh, Raja K. P.
Sinha, Babu L. P.
Sircar, Mr. N. C.
Sohan Lal, Bakshi.
Subrahmanayam, Mr. C. S.
Ujagar Singh, Baba Bedi.
Vishindas, Mr. H.

NOES-30.

Akram Hussain, Prince A. M. M.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bryant, Mr. J. F.
Clarke, Mr. G. E.
Cotelingam, Mr. J. P.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Habibullah, Mr. Muhammad.
Hailey, the Honourable Sir Malcolm.
Hajeebhoy, Mr. Mahomed.
Hullah, Mr. J.
Kabraji, Mr. J. K. N.
Keith, Mr. W. J.

Lindsay, Mr. Darcy.
McCarthy, Mr. F.
Mitter, Mr. K. N.
Muhammad Ismail, Mr. S.
Rao, Mr. C. Krishnaswami.
Renouf, Mr. W. C.
Samarth, Mr. M. M.
Sariaraz Hussain Khan, Mr.
Sharp, Mr. H.
Sim, Mr. G. G.
Spence, Mr. R. A.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was adopted.

The Assembly then adjourned till Two of the Clock on Friday, the 20th January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

FRIDAY, 20th JANUARY, 1922

Vol. II—No. 20

OFFICIAL REPORT



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The Civil Marriage (Amendment) Bill.

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SUPERINTENDENT GOVERNMENT PRINTING. INDIA
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LEGISLATIVE ASSEMBLY.

Friday, 20th January, 1922.

The Assembly met in the Assembly Chamber at Two of the Clock.
Mr. President was in the Chair.

GOVERNOR GENERAL'S ASSENT TO BILLS PASSED BY THE LEGISLATURE.

Mr. President: I have to announce that His Excellency the Governor General has been pleased to give his assent to the following Bills passed by the Legislature since the commencement of the present Session :

- The Indian Marine (Amendment) Act, 1921.
- The Indian Works of Defence (Amendment) Act, 1921.
- The Negotiable Instruments (Amendment) Act, 1921.
- The Carriers (Amendment) Act, 1921.
- The Indian Lac Cess Act, 1921.
- The Indian Post Office (Amendment) Act, 1921.
- The Indian Penal Code (Amendment) Act, 1921.
- The Cattle Trespass (Amendment) Act, 1921.
- The Maintenance Orders Enforcement Act, 1921, and
- The Land Acquisition (Amendment) Act, 1921.

THE CIVIL MARRIAGE (AMENDMENT) BILL.*

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I refer, Sir, to your ruling on the last occasion with reference to a question put by Sir Jamsetjee Jejeebhoy as to whether in referring a Bill to a Select Committee this Assembly stands committed to the principle of the Bill ?

I understood, Sir, that you said that the House stood committed to its principle. In this connection, I venture to draw your attention to the following facts. If we turn to the Standing Orders in the Manual of Business and Procedure, page 23, we find that, when a Bill is introduced, or on some subsequent occasion, the Member in charge may make one of the following motions (I leave out the irrelevant portions — 'that it be circulated for the purpose of eliciting opinion thereon'—that is to say, the Bill may be

* Continued from the Proceedings of the Legislative Assembly Debates, Vol. II, page 1630.

[Dr. H. S. Gour.]

circulated for the purpose of eliciting opinion thereon, either upon its introduction or at any later stage. Now if we turn to clause 71, we have :

'After publication in the Gazette of a Bill, as required by the Rules, the Select Committee to which the Bill has been referred shall make a report thereon. The Select Committee shall in their report state whether or not, in their judgment, the Bill has been so altered as to require re-publication.'

Then, clause 74 on page 27 :

'(1) After the presentation of the final report of the Select Committee on a Bill, the Member in charge may move (b) that the Bill as reported by the Select Committee be re-committed either (i) without limitation, or (ii) with respect to particular clauses or amendments'

And I leave out the irrelevant portion.

(c) that the Bill as reported by the Select Committee be re-circulated for the purpose of eliciting further opinion thereon. (2) If the Member in charge moves that the Bill be taken into consideration, any Member may move as an amendment that the Bill be re-committed or re-circulated for the purpose of obtaining further opinion thereon.'

It would thus appear that there are two distinct stages at which a Bill may be circulated to the public for eliciting their opinions thereon. The first stage is before it is committed to the Select Committee; and the second stage is reached after the Select Committee have submitted their report. Now, if the basic principle of circulating a Bill for eliciting public opinion thereon be to collect opinions with a view to guide this House to form its own opinion, then it follows, as a matter of logical sequence, that we cannot be committed to the principle of the Bill either before or after it is referred to the Select Committee. Otherwise it would be futile to refer the Bill for obtaining further opinions of the public if this House is adamant to all objections raised either as to its details or to its principle. I also venture to submit that a large number of Bills are introduced in this House and the Legislature recognises that in a great many of them there is no principle at all. For instance, take the Income-tax Bill or take the Court Fees Act, the Limitation Act, or what is known to lawyers as Bills for fiscal and processual purpose. They are, from all accounts, Bills which simply lay down a certain procedure, and, in the strict sense of the term, it cannot be said that they have any principle, in the sense that there is no underlying principle beyond that there is a certain procedure prescribed and that procedure must be followed in consonance with the terms and tenor of the enactment concerned. But even in such cases, which alter the substantive law, it will be sometimes difficult to ascertain where the principle ends and the procedure begins and what amount of amendment of detail would alter the principle, and the result may sometimes be that the procedure and the amendments have been so made and are so numerous as to entirely eat into the principle of the Bill, reminding perhaps Members of the House of the Irishman, who had his coat all in tatters with very little left of it except perhaps the ends of the sleeves and bits of the coat, and who, when asked what he was clad in, replied 'in fresh air.' I submit that cases may occur where the principle is overlaid with so many details that very little of the principle remains. In those cases it will be very difficult to see, after the Bill comes back to this House, as to what is the course which this House must adopt, and whether

the rejection of the Bill is possible in view of the acceptance of the principle. I would submit that if it is once laid down as a rigid rule that after the committal of a Bill to the Select Committee, this House is irretrievably committed to its principle, it would be very difficult indeed to enunciate what 'principle' means and how far it has been affected by the amendments made in the Select Committee. I would, therefore, Sir, ask you to interpret this question in a somewhat liberal sense. The whole of the Standing Orders are now before a Sub-Committee and I draw the attention of that Sub-Committee to this question, and I have no doubt that they will bring in some sort of symmetry as regards the points I am raising. But, in the meantime, I wish to point out that the Members of this House who have spoken in opposition to the Bill are all agreed, so far as I have been able to understand them. I submit I have seen everyone of them, I have seen their leading protagonists, for instance, Sir Sivaswamy Aiyer and one or two others, and they are all agreed that a *prima facie* case has been made out for some alteration in the existing marriage law, and that, therefore, this Bill should go to the Select Committee. But they desire, and it is a very natural desire which I appreciate, that the Select Committee should be free to examine the Bill in all its details with a view to provide suitable safeguards for those who have objections to its terms, and who feel that they would be prejudicially affected thereby. Now, Sir, that, I submit, is a very natural desire. Those who go forward have no business to interfere with those who are left behind. Those who are left behind have an equal right to be left behind, and those who go forward have an equal right to go forward. One should not disturb the right of the other. That, I submit, is, in short, the attitude adopted by the opponents to the Bill, and I agree that so far as this Bill is concerned, there should be a round-table conference of the supporters of the Bill and of its opponents, and we should thrash out this long-pending question which has been agitating the Legislature and the public mind ever since the days of Henry Sumner Maine in 1848. If you, Sir, can make my passage clear to the Select Committee, it will obviate the necessity of any detailed reply, and it will also facilitate the work of the Select Committee and of those who have supported or opposed this Bill.

Mr. President : The Honourable Member wishes to know whether the application of the Standing Orders commits the Assembly to the principle of a measure when that measure is referred to a Select Committee. Reference to a Select Committee does, in fact, commit the Assembly to the principle of the measure, and I am not going to be drawn into a hair-splitting competition with the Honourable Member as to what 'principle' means in that sense. But, substantially, it matters very little whether you speak of the principle of the Bill, of its scope or of its substantial purpose. Difficulties may arise on individual measures as to the exact scope of a measure, but the Chair will deal with each of these as they arise.

A further point has been raised by the Honourable Member that, in so far as the Standing Orders permit of circulation for the purpose of eliciting opinion after the return of a Bill from the Select Committee, that must imply that the Assembly is open to reconsider its endorsement of the principle of the Bill. Now the procedure under which Bills are dealt with is that, in the first place, after introduction, a debate takes place in which the principle alone can be discussed, and in which the details of the Bill may only be brought in

[Mr. President.]

incidentally to illustrate the principle. The Bill is then either taken into consideration on the floor of the Assembly, or passes to the Select Committee. In that case, the Assembly, or the Select Committee proceeds to the examination, clause by clause, of the Bill in detail. Amendments, no doubt, may be made in a measure during that stage which will considerably alter the bearing of its principle. On that ground then, when the Bill returns from the Select Committee, it is open for the Chamber to say whether this is the form in which they intended the principle to apply; and, in order that they may be given the opportunity of a final judgment in that matter, the motion is put from the Chair that 'this Bill be now passed'. At that stage, if that motion is passed, then the Assembly stands finally committed to the principle of the Bill, unless indeed the other Chamber introduces further amendments which call for reconsideration.

The application of the procedure for 'the circulation of a Bill for eliciting opinion' after the Bill has been considered by a Select Committee is only provided so that, where changes of substance have been made by the Select Committee on which the Assembly has any reasonable doubt, they may desire to have further opinion upon it. But in that case, the motion that the Bill be circulated for the purpose of eliciting opinion is a subsidiary motion and it does not stand in the same position as a motion of that character made at an earlier stage of the Bill.

The Honourable Member's difficulty arises, I gather, out of the position in which his own measure stands at this moment. But he is a good enough lawyer to know that if I were to follow the advice that he has been giving me I should be violating the principle underlying the old legal adage that 'hard cases make bad law'.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : Sir, may I also inquire about one point? I suppose the motion that the Bill be referred to a Select Committee is going to be put to the vote. At the last meeting, Dr. Gour proposed some additional names of members for the Select Committee and I should like to know whether they are to be included in the Select Committee or whether we shall be given an opportunity of proposing the other amendments which stand in our names. Because it seems to me, from a Muhammadan point of view, that it is very important, if this Bill is going to a Select Committee, to have two gentlemen on it who will put before the Select Committee the view point of Muhammadan Law.

So far as the first list submitted by my Honourable friend, Dr. Gour, is concerned, it contains only a few names of gentlemen who are perhaps committed to the principle of the Bill and who have approved of it, but the subsequent list proposed several other names who are against the Bill. I suggested in my speech on the last occasion that the motion be split up into two parts, first of all whether the Bill should be referred to a Select Committee and if that is carried, then to propose the names of the members of the Select Committee.

Mr. President : The motion at present before the House is :

'That the Bill further to amend Act III of 1872 be referred to a Select Committee consisting of the Honourable Dr. T. B. Sapru, the Honourable Sir William Vincent, Mr. Percival, Mr. Cotelingam, Mr. Joshi, Chaudhri Shahab-ud-Din and Dr. Gour.'

In the resumed debate Dr. Gour asked permission to add a certain number of names to that list, and those names have not yet been put from the Chair. If it is convenient to the Assembly that I should divide that motion, which I have just read, into two parts, I am willing to do so. Therefore the motion now before the House is :

‘That the Bill further to amend Act III of 1872 be referred to a Select Committee.’

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, I am sorry I was not here when the Bill was last discussed. I hope I may not be repeating what has been said by the previous speakers, but I think I should not give a silent vote on a question of this great importance. Sir, I think the objection to the legality of these marriages is unreasonable, and I hope to convince the House, from personal experiences, which I shall relate, that that attitude should not be adopted. Sir, last December I attended a marriage between two persons who were undoubtedly as good Hindus as anybody sitting in this House, and they had to go through the formality of declaring that they were no longer Hindus before contracting the marriage ; unfortunately I was one of those who had to sign the register of this marriage as a witness. I know that subsequently and before the marriage the couple have been living as any good Hindu can be expected to live. Now, the result of saying that as Hindus they cannot contract these mixed marriages is to drive these people to a subterfuge. Is it to the good of the country, is it to the good of the community that these people should be obliged to have recourse to this kind of subterfuge ? Sir, moreover, as has been pointed out by my friend, Dr. Gour, outside British India such marriages can be celebrated, and, why should we in British India, who profess to have advanced a great deal, denounce these marriages and drive these people to the inconvenience of going to some other place and getting themselves married there and afterwards coming and living in our midst ? Why should we allow that reproach to be made against us ? Now, Sir, there are three instances at least in Madras—well-known instances—and I believe my Madras friends will bear me out when I say that in these instances of mixed marriages, the contracting parties have been allowed to live amongst us. They are respectable people and they have been received in Hindu society as any other orthodox Hindu has been received. In one case, a non-Brahmin has married a Brahmin girl, in another case a Brahmin Barrister has married a Nayar girl, and in the third case a Madras Ayyangar Brahmin has married a Punjabee girl. All these are very respectable people. All these people are received and welcomed in society, and why should their issues be debarred from certain rights and be regarded as being beyond the pale of Hindu religion. Is it good that this thing should be done ? There are certain theories in Hinduism which have been hampering the progress of this country considerably, and, among these, is the principle of untouchability which has driven a large number of Hindus from the fold of Hinduism into other religions, namely, Muhammadanism and Christianity. Are we going to add another to the sins of Hinduism ? Are we going to drive some of the intelligentia of the country also from the fold of Hinduism, because we are intolerant and will not allow these marriages to be celebrated and considered as legal. The result would be that these people would be obliged to declare that they are not Hindus. I hope the House will ponder over this very deeply before they say these marriages are illegal ; it would be an unreasonable attitude to adopt. But I must

[Mr. T. V. Seshagiri Ayyar.]

point out that there are serious difficulties in the way, especially in regard to inheritance, and, unless these are got over, the Bill should not be allowed to proceed any further. I shall not occupy the time of the House for a very long time, but I must point out two or three instances in which a change should be made by the Mover of the Bill before the Bill is allowed to proceed to Select Committee.

Now, Sir, one point has been referred to by my Honourable friend, Sir Sivaswamy Aiyer, and that is, succession as collateral of the issues of the mixed marriage to the estate of a deceased orthodox Hindu. Now, a deceased orthodox Hindu, who disapproves of these mixed marriages, is entitled to expect from persons who inherit his property that some sort of religious oblation should be offered to him. It is true that in all cases the test of inheritance is not the capacity to offer religious oblations, but religious oblations have played a large part and are playing a large part in our laws of inheritance. Under these circumstances, if an orthodox Hindu's property is allowed to be inherited by a collateral who is the issue of a mixed marriage, it would go very much against the grain of Hindu Law. Unless you are able to make a provision that the issue of these marriages shall not lay claim to the property of the orthodox Hindu, I cannot allow this Bill to go into Select Committee. Sir, that was my view when I happened to occupy a different position and when I was called upon to give my opinion upon the Bill of Mr. Basu. I then stated that, unless a Bill which is introduced into the Legislative Assembly makes it clear that the issue of mixed marriages shall have no claim to succeed as collateral to the estate of an orthodox Hindu, the Bill should not be passed into law. That is one matter which, if it can be cleared in the Select Committee, I for one shall be prepared to vote for its going to the Select Committee.

There are two more matters and they are of equal importance. One of them relates to the management of religious endowments. Here is a private donor who endows property either to his family deity or for the purpose of some festivals in a temple or for the income being given in charity at stated intervals. The question that I ask is this. Is it right that the issue of these mixed marriages should be allowed to manage the property, to conduct festivals in a Hindu temple, to conduct the family worship or to conduct the feeding or other charities which the founder had originally resolved upon.

It is only right and proper that the orthodox relations who follow in the footsteps of the persons who founded these charities, should be allowed to manage them solely. Therefore, unless you make it clear in this Bill that the issue of these marriages shall have absolutely no right to manage these religious endowments, the Bill should not be allowed to go to the Select Committee.

There is one other matter. I am not exhausting all the points, but am just mentioning those that come readily to my mind. This one was mentioned to me by Rao Bahadur Rangachariar, and that is, Sir, that where an orthodox father has an only son and that son contracts a mixed marriage, it should be permissible for the orthodox father to adopt a son to himself.

Now I will mention to the House in a minute why that should be so. Where an orthodox father has an only son and he marries a Sudra girl or, for that matter, a Muhammadan girl, it will be impossible for the funeral obsequies of that orthodox father, when he dies, to be performed by this son. It is impossible in the eye of the Hindu Law; it is impossible according to the Hindu religion that such a thing should be done. And yet the father would like to have his funeral service performed by somebody who can take the place of his son. According to Hindu Law, if he has a son living he cannot adopt another son; and what is to be done in those circumstances? Unless, therefore, we make provision that, where the son of an orthodox father has contracted a mixed marriage, it will be open to the father to make another adoption, this Bill should not be allowed to go any further. It is a very serious matter, and I think Hindu opinion will be completely upset if this provision is not made.

It may or may not be possible to make provision for all these things in Select Committee. I personally, having regard to the frame-work of the Bill, doubt if all these amendments which I have suggested can be brought in in Select Committee. If they can be brought in, I have no objection to the Bill going to Select Committee. I wish the Legal Member were here to advise us as to whether, having regard to the nature of the Bill, it is possible to bring in these various amendments which I have suggested. But if it is not possible, then I certainly think that the Bill should not go to the Select Committee. The proper procedure then would be, having regard to the opinion of a large number of Members of this House that some law should be enacted, for the Mover of this Bill to withdraw it, and to bring forward another Bill embodying the suggestions which I have just put forward. Unless that is done, I for one would be totally opposed to the Bill proceeding any further, because it is clear that these amendments which I have suggested are of vital character. It may be said: 'We will pass this Bill and bring in a Bill as regards succession'; but that is quite unthinkable, because, if you pass the Bill, the result of it will be that it will create vested rights. The right will become indefeasible and the Inheritance Bill may not be easy to bring in and pass very soon, and the result will be that there will be a great deal of confusion. Under these circumstances, unless the Mover of the Bill, or unless the Legal Member can assure us—and I want the assurance from the Legal Member—that, if the Bill goes to Select Committee, the suggestions which I have put forward can be embodied in it there, I am totally opposed to the Bill proceeding any further in its present shape.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division: Muhammadan): Sir, I wish to support the Bill on secular grounds and to oppose it on religious grounds—from the Muhammadan point of view, and I hope the learned Mover of the Bill, and specially my Muhammadan colleagues who may follow me will satisfy me and meet my objections. I am in sympathy with the Bill and am ready to give my support to it if my objections on religious grounds are met; otherwise not. In this connection, I cannot do better, so far as my support of the Bill goes, than to quote the learned Mover of the Bill himself. I may be just permitted to read it. In page 24 of this pamphlet on the Civil Marriage Bill he says:

'At present our lives are spent in water-tight compartments. We may have, it may be, our bosom friends amongst Muhammadans and Christians, but our friendships cannot

[Khan Bahadur Sarfaraz Hussain Khan.]

develop into alliances. Each race preserves its exclusiveness by a fancied notion of its own superiority. It is jealous of the progress of another race. These inter-marrying races have for ages thrown India open to the attack of foreign powers. And India is as weak to-day as it ever was before in its history. The fact that British guns protect us from external aggression and internal strife is entirely to the presence of a superior power, the withdrawal of which may immediately bring into play those disintegrating forces which have made India a prey to foreign invasions. All lovers of our country must realize this essential source of its weakness. Nationality means unity. Unity is not possible without the recognition of equality. Equality implies the enjoyment of that elementary freedom in the matter of food, friendship and marital alliance which is the birth-right of every civilized being.'

So far as Indian nationality is concerned, and so far as the protection and safeguarding of individual liberty is concerned, I do support this Bill; but I have a religious objection too, and it is this. From a Muhammadan point of view I must say that the learned Mover's quotation of Mr. Ameer Ali is not convincing, not quite to the point and fails to meet my objection. I may, therefore, also be permitted to quote from page 26 of the pamphlet of the learned Mover of the Bill. It is this :

'The Muhammadan Law recognises the lawfulness of unions between Moslems and Non-Moslem females belonging to all moral creeds. . . . It is a mistake to suppose that under the Mussalman Law, a Moslem may marry a woman belonging to the revealed faiths *only*, by which are meant Islam, Christianity and Judaism. Marriages are allowed between Moslems and the free-thinkers . . . A Moslem may, therefore, lawfully intermarry with a woman belonging to the Brahma sect. Nor does there seem to be any reason why a marriage with a Hindu woman whose idolatry is merely nominal and who really believes in God, should be unlawful. The Moghal Emperors of India frequently intermarried with Rajput ladies, and the issue of such unions were regarded as legitimate, and often succeeded to the Imperial throne. What the Muhammadan Law requires is that any such union should not lead to the introduction of idolatry in a Muhammadan household.'

But this does not apply, in my opinion, to the case of non-Muhammadan husbands and Muhammadan wives; it only applies to Muhammadan husbands and non-Muhammadan wives. I quote, Sir, from a much higher authority, in support of my view, than that of Mr. Ameer Ali, *viz.*, the revealed book which is the main-spring and fountain-head of Islamic Law, I mean the Holy Koran. So far as my knowledge of it goes, the question of marriage is dealt with in two places of the Holy Book, and here I am addressing my Muhammadan friends chiefly, *viz.*, in Sura Baqar, Ruku 27, and in Sura Maeda, Ruku 1.

The English translation would be :

'Sura Baqar, Ruku 27: Mushrik women until they accept Iman, that is true faith, do not perform nicaah with them. Mushrik males, unless they accept Iman, do not give your women in marriage to them.'

The other is Sura Maeda, Ruku 1, of which the English translation would be :

'Lawful are the virtuous women to you who are Momina, namely Muslims, or are among those to whom revealed books have been given, before you.'

The commentators of the Koran have, by common consent, made marriages with only the Jewish and Christian women permissible. This now applies to the marrying of Muhammadan males with non-Muhammadan

females, but it is quite silent on the marriages of non-Muslim males with Muslim females, and so far as this goes, as I understand it, there is no reference to it. I do not therefore, from the purely Muhammadan religious point of view, see how these marriages can be allowed as contemplated in the Bill. I, therefore, hope that my Muhammadan friends chiefly would satisfy me on this point, or the learned Mover himself.

Haji Wajihuddin (Cities of the United Provinces : Muhammadan Urban) :

Sir, I rise to oppose the Bill on grounds, which, as far as I know, no one else has yet expressed except my Honourable friend, the Member for Karachi, Mr. W. M. Hussanally. No doubt, Sir, the House will agree with me, that religious susceptibilities carry weight and are not to be trifled with. According to several enactments, it has been effected that, in matters relating to marriage, Muhammadan Law only shall be applied to Muhammadans. It was necessary to keep up the religious non-interference policy of the Government. Now, as any marriage of a Moslem male or female with a Hindu male or female as this Bill proposes to do, is a mere nullity in the eyes of Muhammadan Law, so it is a clear encroachment upon the religion of the Muhammadan community. How astounding was it, Sir, when in the very beginning of the discussion, the Honourable the Home Member announced that Government's attitude was of neutrality, and that the Members of the Executive Council will take no part in the discussion. It would have been far wiser on the part of Government, Sir, if they would have never allowed the introduction of the Bill and would have asked the Honourable Mover first to consult public opinion and to prepare them to receive this unwholesome food.

However, what is done can never be undone. A great responsibility is placed upon our shoulders, and we should proceed as prudently and cautiously as we can.

The main argument upon which the Honourable Member has based his Bill, are, as far as I perceive, two in number. Firstly, he says that, when a civil marriage law without reference to race, religion or social distinction exist in all European countries, then there is no reason why his country should be deprived of this liberty; and, secondly, the Bill, when enacted, will help in the formation and consolidation of a united Indian nationality. To sum up this reasoning, I may say that he intends to erect in India, after the fashion of the West, a huge structure of nationality over the ruins of its religious sanctity.

But I should assure the Honourable House that it is no better than Utopia. No community, whose morality and social status has fallen low in the eyes of its fellow brethren, can ever be politically strong.

As a matter of fact, India is not Europe. One is in the East while the other is in the West. Under the circumstances, may I ask how far it will be true to say that what is good for one must also prove equally beneficial to the other.

Moreover, I cannot conceive of any Indian, who has the least germs of patriotism left in his heart, that he will ever consider for a moment of sacrificing the sacred traditions of his own country for the sake of adopting foreign ideas and principles.

[Haji Wajihuddin.]

As for this unique idea of human progress and unity, I should point out to the Honourable House that it has not even proved successful in Europe. The ever increasing number of divorce cases in Europe and America, which are surely the result of such indiscriminate unions, give us a good lesson and we should fly with horror from the idea of importing such deplorable scenes into our own mother-land under the protection of law.

In my humble opinion, the sanctity of marriage is closely connected with that of religion. No other law has power enough to check the ever rising current of human lust. So, no sexual union can ever be given the sacred name of marriage, unless it has been performed with all the solemn ceremonies of a religion. One of the supporters of the Bill told us the other day, that marriage should be a matter of love and affection and not of compulsion. But I may be permitted to say that, if nothing but love and affection are to be taken into consideration, then there will be no necessity of anything like marriage. Those who are of this opinion must know that law regulates, checks and restrains all human sentiments within proper limits.

Now, again, coming to the religious point, I should express my deep regret that some of my co-religionists, and, especially, the old Honourable Member from Eastern Bengal, have expressed their opinion in favour of the Bill. I may be pardoned, if I candidly say that those who are in favour of this Bill, know very little about the religion they themselves profess. For the Muhammadan it is not a controversial point, but a plain principle laid down in the Holy Koran in such emphatic and clear language that it has left no scope for dispute. It says (translated into English):

'Marry not women who are idolators until they believe; verily a maid servant who believeth is better than an idolator, though she pleases you more; and give not women who believe in marriage to idolators until they believe; for verily a servant who believes is better than an idolator though he pleases you more.'

Now I should like to answer the objection raised in this House by citing historical examples of Akbar and other Mughal Princes who often married Hindu and Rajput ladies. In this connection I consider it sufficient to quote the Honourable Syed Ali Imam, who said in his speech dated 7th March, 1912, as published in the Government of India Gazette, 1912, Part IV, page 87:

'That, in these instances, it was found necessary before the imperiousness of Muhammadan Law for these ladies to make a formal profession of Islam before the marriage took place.'

I shall not tire the Honourable House any longer and will conclude my remarks by observing that the Muhammadan community is not in the least prepared to accept any such enactment, which is an open attack upon their religion, and I, this very day, warn this House, warn the Government, warn India, nay the whole world, that if the Bill is ever enacted, it will surely be attended by serious consequences of the most evil description.

With these few words I strongly oppose the Bill.

Rana Umanath Bakhsh Singh (United Provinces : Nominated Non-Official) : Sir, I rise to oppose Dr. Gour's Resolution for a Select Committee

to consider his Bill. I oppose it on my behalf and on behalf of the community to which I have the honour to belong. The Resolution has already been strongly opposed by some of the Honourable Members of this House and although it does not require any further opposition, still I deem it my supreme duty to give expression to my feelings. As a Hindu and a believer in the Hindu Shastras, I think I can safely give vent to the feelings of the Hindus on this point. No Hindu who believes in his Shastras, can like the proposal of Dr. Gour. Much has been talked about the definition of a Hindu. From my point of view, that Hindu is not a Hindu who does not believe in the *Varuashram Dharam*. I do not know what Mussalmans, Jains, and other communities think upon this Bill. They are the fit persons to represent their social and religious feelings. But, so far as I have heard, I think that the other communities also do not like it. The question raised now by Dr. Gour was raised on previous occasions also, and on every occasion it evoked a strong protest throughout the country. The reasons put forth by the Honourable Mover are not cogent. He gives the example of the European countries and says that, because there is no restriction of race, religion, or social distinction in marriage in the European countries, therefore there should be no restriction of race, religion, or social distinction in this country. Also I think he is not justified in this. Let Dr. Gour understand that the manners and customs of the European countries are quite different from those of India. So the example of European countries is not applicable to this country. In European countries there is no such diversity of religious and social manners and customs as in India. Here, there are several religions and several castes, namely, Hindus, Muhammadans, Christians, Parsis, etc. Even amongst the Hindus there are several castes and sub-castes, and each caste has got a different tradition and history of its growth. The difference between the manners and customs of one caste and the other is very wide. I should like to draw the attention of the House to one most important point, namely, that marriage in our country is regarded not as a contract, but as a religious ceremony that is *sanskar*. A Hindu marriage, once performed, cannot be cancelled for life. A Hindu cannot religiously marry with a member of any other caste. If he does so, he transgresses the law of the Shastras, and his children will not be able to perform religious rites for their ancestors. The marriage of a Hindu is a sacred duty and not an enjoyment. It is incumbent on a Hindu to perform the *Shradh* of his ancestors and he is in duty bound to leave behind a legitimate issue, who will continue the proper line and will perform the religious rites. I am particularly speaking on behalf of the Hindus and am submitting before the House what the feelings of the Hindu community are on this question. In my opinion, Dr. Gour's Bill will give a strong blow to the most vital principle of Hindu society and so it can never be supported by responsible Hindus.

I submit, Sir, that this Assembly is not entitled to decide any such question or to recommend any such measure which will affect the social and religious principles of a society, and thereby will wound the feelings of the members of that society. In my opinion, the things which vitally concern society and religion should be entirely left to the social and religious organisations.

I hope the Government will fully realise the feelings of the vast population of this country on a question like this and will never give the approval to the Bill.

[Rana Umanath Bakhsh Singh.]

When the matter of the Bill is undesirable from 'the social and religious point of view, then the proposal for a Select Committee is quite unnecessary.

I hope Dr. Gour will realise the feelings of the people of India on this question and will not press the matter any further.

With these few remarks, Sir, I beg to oppose the Resolution of Dr. Gour.

Rai Bahadur Bakshi Sohan Lal (Jullundur Division: Non-Muham-
madan): Sir, from Act III of 1872 it appears that all the well-known
religions of the world, the Christian, the Jewish, the Hindu, the Muham-
madan, the Parsi, the Buddhist, the Sikh and the Jain religions, did already
prescribe certain rules and forms of marriages for persons belonging to those
religions. The question seems to have arisen in 1872 to prescribe a special
form and rules for the marriage of persons who profess not to belong to any
of these religions. So far as Hindus are concerned, the marriage is not only
a civil contract but it is a religious sacrament and it prescribes certain rules
which are based on their religion. It says that the marriage must be restricted
to the *varna*. There are four *varnas*, Brahmin, Kshatriya, Vaish and
the Sudra, and that a Brahmin must be married to a Brahmin woman.
A Kshatriya man to be married to a Kshatriya woman, a Vaishya man
to be married to a Vaishya woman, and a Sudra man to be married to a
Sudra woman.

Dr. H. S. Gour: Where do you find it? Not in the *Smritis*.

Rai Bahadur Bakshi Sohan Lal: If you want me to quote the words,
here they are:

'Udbahet devijo bharyyam savarna lakshanavitam.'

—Manu, Chapter III, Sloka 4.

There are 4 *varnas*, Brahmin, Kshatriya, Vaishya and Sudra.

Dr. H. S. Gour: That is a forgery.

Rai Bahadur Bakshi Sohan Lal: Not forged by me or by any Mem-
ber of the Assembly since this Bill was introduced. The Hindus are follow-
ing their so-called forgery as their religious precept.

Then *Manusmriti* prescribes certain degrees of prohibited consanguinity.
It says:

*Asapinda cha ya maturasagotracha ya pitooh; sa prasasta devijatinam
darakarmani maithune.'*

This means that the girl must not belong to the *gotra* of the man, and
she must not belong to the offspring within seventh degree on
3 P.M. the side of the mother of the man. That is, within the seventh
degree of generation on the mother's side and the whole *gotra* of the father's
side. So it appears that the Hindu religion restricts marriage within the *varna*
and outside the *gotra* or caste. The object of this Bill is not only to extend

the marriage to all the *varnas* of the Hindus but its object is to set aside the rules and forms of marriages of all those religions, Jewish, Buddhist, Hindu, Muhammadan, Parsi, Sikh, Christian, Jain, etc., mentioned in Act III of 1872 as not governed by the Act and to allow inter-marriages between men and women of all religions without regard to their religious precepts. That is, those who do or do not profess any religion will be allowed to marry under Act III of 1872 according to the present Bill which has been placed before this Assembly. But my friends, belonging to the Muhammadan religion, have explained in their speeches that even their religion does not allow a person to be married to one of another religion. A good deal of difficulty will arise if a Hindu is allowed to marry a woman who does not belong to the Hindu religion. According to the Hindu religion and Hindu Law, the wife is enjoined to partake with her husband in all Hindu religious functions, ceremonies and observances. How will a Mussalman or Christian wife join her husband in such observances consistently with her own religion? On marriage, the bride becomes a member of her husband's joint Hindu family. Will not this cause a disruption of the family, if, in a large family, one of the members attempts to introduce a woman of another religion as his wife? How can a Mussalman or Christian woman live comfortably in the house of a Hindu husband consistently with the precepts of Hindu religion which provides that a person who does not believe in the Vedas and Shastras will be turned out (*Manusmriti* II).

The Bill is not only to cause interference with the Hindu religion but also with other religions which do not allow a marriage with a person belonging to a different religion. A Hindu house will never be a comfortable place for a Muhammadan wife if she has to perform her *namaz* five times daily, not to speak of occasional observances such as the keeping of *rozas* during the whole month of *Ramzan*, and mourning during the *Muharram* month. Immense difficulties in maintaining peace and harmony in married life will be created by the Bill if passed into law, not only during the life time of the married couple but also after the death of one or the other. For instance, the question will arise whether the body of a deceased Muhammadan woman married to a Hindu is to be cremated according to the Hindu Shastras or buried according to Muhammadan religious rites. If a Hindu husband dies leaving a Muhammadan widow, without any sons, the question will arise whether the woman is to bury the body of her husband according to Muhammadan rites or is to cremate the body according to the Hindu Shastras. Disputes are expected to arise at every step and such immense difficulties and troubles will be created by this Bill if passed into law which I do not think can easily be solved. I recommend to the Assembly that this Bill should not be sent to any Select Committee for consideration and that it should be rejected at this stage.

Bhai Man Singh (East Punjab : Sikh) : Sir, I need not repeat the legal difficulties which stand in the way if the Bill is passed into an Act. Much abler lawyers than myself have described them. I can only say that a good many of our civil rights are governed by the personal laws of the Hindus and Muhammadans. They are Orientals, and these personal laws are the outcome of certain ideas and conceptions of life. With the advent of western education we have imbibed certain foreign ideas of freedom. They may have their own value. I have no dispute with them at present. But what is here-

[Bhai Man Singh.]

being attempted is to graft western ideas on our oriental personal laws. The Hindu Shastric lawyers made certain rules of inheritance, under which certain relations can inherit to a very great distance. Those laws exist, so far as inheritance is concerned, but we are now trying to graft quite a new system of marriage over them. For my part I think it a strange procedure. Either we should give up our personal laws and have quite new statutory laws in their place, or else, if we want to remain within the fold of Hinduism and enjoy all the rights under the Hindu Law, we must at the same time be bound by certain limitations as regards the marriage law of the Hindus. The same applies to Muhammadans. I am not going to enter into the basic principles involved in inter-marriage, but as a Sikh I have a word to say. Dr. Gour in his pamphlet on the Civil Marriage Bill has enumerated certain classes who, he says, would welcome the Bill. At page 20 of his pamphlet, Dr. Gour says :

'But apart from this, there is a definite class of persons who would welcome the Bill. Let me enumerate them.'

And number 3 of that list are the Sikhs. Well, as a Sikh, knowing all the different shades of opinion that the Sikhs hold, whatever may be said on different subjects among the different classes of the Sikhs, I could say, without fear of contradiction, that the Sikh religion does not allow the marriage of a Sikh with a Muhammadan woman. There are four cardinal offences, by committing which a Sikh does not remain a Sikh, and one of them is having intercourse with a Muhammadan woman, and, up till now, no sort of school has cropped up amongst the Sikhs which has allowed any marriage with a Muhammadan woman, so long as she remains a Muhammadan woman. Of course, when she is converted, it is a different matter. The other question is that the Sikh religion does allow intermarriage between the castes, and, so far as our demands are concerned, we could say that we do not want any change in our marriage law. Inter-caste marriage is already allowed amongst us by custom and every marriage which is performed according to the Marriage Act is legal. We are satisfied as far as that is concerned. Taking the religious aspect of the Bill, there are, in every religion, some questions of primary importance and some questions of secondary importance. I am not very well versed in the Hindu Shāstras or in the Muhammadan sacred books, but my Muhammadan friends have definitely quoted that they cannot marry an idolatrous wife. If Muhammadan law definitely prohibits any such marriage, I should say it is the primary thing. I was told by my Muhammadan friend (if I mistake not, the Honourable Member from Sind, Mr. Hussanally, outside the House of course) that there are different other customs which prohibit intermarriages between Muhammadans themselves of certain castes, between Shīahs and Sunnis. But he told me that these differences are not based on the Holy Koran itself. So if a sect crops up and says that they do not want restrictions, that would be a different thing. But I cannot understand this. A man says that he follows such and such a religion. The basic principle of that religion definitely is that, by committing such and such act, he does not remain within the fold of that religion. I cannot see how we can say here that a Sikh marrying a Muhammadan girl would remain a Sikh and not go out of the Sikh fold, because we

have got certain teachers. If they are free thinkers, they are quite welcome to be free thinkers. Nobody is forced to be within a fold, but he has no business to enforce his ideas on the whole community. There could be another phase of it. In one and the same religion, certain views may crop up and a certain people might say that certain things are not according to the religion, but other Sikhs might say they are. For example, a Sikh might say that intermarriages are allowed between different castes. There is a vast body of opinion about the interpretation of certain scripts. We would say that, if there is a vast body of opinion, let that sect have its own course. That is not the case here. From my experience in the Punjab I could say that there is absolutely no demand for intermarriages between a man and a woman of different religions. This shows that no strong body has cropped up which demands that, according to their own religion, there is no prohibition of that sort. There has cropped up a certain class of free thinkers who say: 'Let there be these prohibitions: We do not care for them'. If I do not care for that, I must be bold enough to say so. What is the use of my being afraid of saying all that and still trying to be a free thinker, and not be bold enough to say that I am not a Sikh. If I want to tread down certain principles of Hinduism I must be bold enough to say so. Now I have to submit another idea of what its effect would be on society. I have to give only one instance about my own province. In my own district especially, and in the Punjab generally, there are many Sardars who have been having wrong relations with Mirasi women, who belong to a low Muhammadan caste. These women generally sing and act as menials to the families of these Sardars and have a right of going to their houses. All these Sardars have been going wrong with them and most of them, if they were allowed, would marry these women. Surely society would not tolerate those women who are of very low character? If such marriages were allowed, they would have the effect of spoiling the whole society. This is the sentiment in my province, and, of course, if you allow this, the result would be that mostly women of bad character would have an influence over bigger people, and that would spoil society, and you would be legalising a scandal rather than be giving liberty to the people. In some cases I do say there is some demand by some persons, but let them be bold enough to say that they are not Hindus and Muhammadans.

In the end I have to submit one thing. According to the ruling of the Chair we are committed to the principle of the Bill. It is not quite clear to me, however, what we can say is the principle of the Bill. The principle of the Bill should be to liberalise the system of marriage and make the scope wider. If that is the principle of the Bill, then, I think, in the Select Committee, we could go and discuss whether we are to allow intermarriages between different religions or between different castes. If the principle of the Bill is that we are to allow intermarriages between different religions, that would be quite a different thing, and we cannot go and discuss in the Select Committee whether there should be intermarriages between different castes and different religions or not. In the one case, I do say, there is some demand in all the communities and I would allow the Bill to go to the Select Committee. In the other case, I know there is not so much demand. I would therefore request you, Sir, to clear up the point as to what would be the principle of the Bill in this respect and whether we would stand committed to the principle of intermarriage between different castes and different religions or simply to the

[Bhai Man Singh.]

principle of liberalising the sphere of marriage. Whatever may come out of the Select Committee I cannot say.

Mr. H. Sharp (Education Secretary): Sir, I see that the number of those anxious to catch the Honourable the President's eye is diminishing and I see that the Honourable the Mover is beginning to exhibit anxiety to reply. I therefore take this opportunity of saying, on behalf of Government, that Government remain in this matter absolutely neutral. I am aware that this has already been said by the Honourable the Home Member, but he has asked me to repeat it. I know that what I say will not be altogether pleasing to Haji Waji-ud-din, who is not here, but I nevertheless say it. Of course, if there are official Members here who desire to vote, it is quite open to them to vote as their reason or conscience may dictate, but the Government remain neutral.

Mr. T. V. Seshagiri Ayyar: Before Dr. Gour replies, I should like to have your ruling, Sir, upon the point which I raised. If the matter goes before the Select Committee, will it be permissible to consider the question that the man who has an only son should be allowed to adopt, and also whether it will be possible to consider the other questions raised by me, namely, that the issue of mixed marriages should not be allowed to take any share in the management of endowed properties and that they should have no right of collateral succession.

Unless those matters can be gone into in Select Committee, as I said before, I, for one, will not be able to vote for the Bill. Therefore I want your ruling, Sir, as to whether, when the matter goes to Select Committee, the amendments which I have put forward can be embodied in the Bill.

Dr. H. S. Gour: With reference to what has fallen from the last speaker, may I point out to you, Sir, that it would not be right to fetter the discretion of the Select Committee?

Mr. Harchandrai Vishindas (Sind: Non-Muhammadan Rural): Sir, I want to say with reference to the remarks which have fallen from Mr. Seshagiri Ayyar both this time and the previous time, that he appealed to the Honourable the Law Member of the Government to enlighten him as to the permissibility of these amendments which he proposes; but I think he should be able to enlighten us, he himself being an ex-Judge, as to what are his views and whether these amendments could properly be made in Select Committee or not.

Mr. President: I cannot give a ruling until I see the amendments. The whole purport of an amendment lies in the manner in which it is drafted; and I am not even prepared to give an opinion on the general subject, as that bears not so much on the rules and Standing Orders as upon the underlying principles of Hinduism, of which the Honourable Member is a better Judge than myself.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): May I rise to a point of order, Sir? As I have supported the principle of the Bill, I should like to mention that this Bill makes no provision against polygamy.

Mr. President : Order, order. The Honourable Member wished to put a point of order. He is not entitled to explain his position under the guise of rising to a point of order.

Mr. J. Chaudhuri : Sir, I was going to say that when I gave my support to this Bill, I supported the principle, not the details of it. But now it has occurred to me that this Bill makes no provision against polygamy. May I ask Dr. Gour if it does ?

Dr. H. S. Gour : It does, Mr. Chaudhuri,—Section 2, clause 1 of the principal Bill. You are asking the Chair what you should have asked the Act itself.

Sir, I have listened with very great interest to the debate on my Marriage Bill. I must congratulate my friend, Sir Sivaswamy Aiyer, and my friend, Mr. Seshagiri Ayyar, for throwing a real light on this most difficult question. I consider their attitude both natural and reasonable. They demand, and rightly demand, that, while the reformers have the right to marry under the Civil Law, they must not in any way trench upon the rights of the orthodox ; and Mr. Seshagiri Ayyar has spoken in a similar strain. Now, Sir, I wish to give my friends of the orthodox party a clear undertaking that I shall refer the following questions to the Select Committee in connection with my Bill :

- (1) the question of collateral succession ;
- (2) the question of adoption ;
- (3) the right of residence in the family dwelling-house ; and
- (4) the question relating to religious endowments.

I submit, Sir, that these are questions which do not underlie the principle of the Bill, but are necessary safeguards intended for the protection of those who still wish to marry under the orthodox law.

And as regards my Muhammadan friends, I can assure them that if after the report of the Select Committee the bulk of the Muhammadan opinion in the country is hostile to inter-marriages between Muhammadans and non-Muhammadans, I am prepared to cut out the term ' Muhammadan ' from that Bill and leave the Muhammadans to their fate.

Mr. W. M. Hussanally : May I inquire how many Muhammadan opinions you have received upon the Bill ?

Dr. H. S. Gour : My friend inquires—and this will be the first and last interruption I shall answer.

Sir Jamssetjee Jejeebhoy (Bombay City : Non-Muhammadan Urban) : Will the Honourable Member give the same undertaking for Parsis ?

Dr. H. S. Gour : And similar safeguards with reference to Parsis

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : And to Sikhs ?

Dr. H. S. Gour : To all castes and communities. As regards the question asked by Mr. Hussanally, as to how many Muhammadan opinions I have

[Dr. H. S. Gour.]

gathered, I have gathered the opinions not of individual Muhammadans, but of Muhammadan provinces, and I can assure the learned interrupter that if he will turn to that premier Native State of India, the dominion of His Exalted Highness the Nizam of Hyderabad, he will find Hindu-Muhammadan marriages customary and in vogue. That is in consonance with Islamic Law (*Mr. Hussanally* : No.)

Mr. President : I must call upon the Honourable Member from Sind to desist from these interruptions.

Dr. H. S. Gour : After that most unnecessary interruption I must resume my reply. You will find that, leaving out rational objectors, reasonable objectors, like my friend, Mr. Rangachariar, Sir Sivaswamy Aiyer, Mr. Seshagiri Ayyar, Mr. Shahani, Sir Jamsetjee Jejeebhoy and others, who are willing that this Bill should be sent to the Select Committee upon the undertakings which I have given, there remain a very few stern and unbending religious Tories and they tell us that this is a measure which trenches upon the fundamental principles of their religious beliefs.

Mr. W. M. Hussanally : I rise to a point of order; is my Honourable friend entitled to call us Tories ?

Mr. President : Quite a number of people in the world think it an honourable title.

Dr. H. S. Gour : I cannot reply to individuals, Sir, but I have collected their arguments and summarised them. I shall first deal with the Hindu objections, then with the Muhammadan objections, and lastly with the objections of my esteemed Sikh friend. I am surprised that in this 20th century a member of my own profession should rise up from his place and cite *Manu* in support of his authority and place a ban on inter-marriages. If he had read *Manusmriti* in the original, or any other commentaries of that great law-giver, he would have found that inter-caste marriages were not only customary but common, and not only inter-marriages but inter-racial marriages were common. Authorities after authorities can be cited in support of my contention, and the cumulative testimony of the authorities of the last thousand years contradicts my friend's statement. I do not stand alone in holding this view. That eminent Judge, Mr. Justice Sadashiva Aiyer, in his long, learned and luminous note printed at page 10 of the Paper No. I circulated to the Members, which I presume my friend has overlooked, has pointed out that the prohibition against inter-caste marriages was brought about by forging two verses in the *Manusmriti* and the commentaries, and that is the view also of that eminent Sanskritist and scholar, Monier Williams. If he will do me the honour of reading the Introduction to my Hindu Code, he will find a collection of authorities showing how after the revival of Hinduism in the 15th and 16th centuries, wholesale forgeries of our Shastrie books were perpetrated for an ulterior purpose, to legalise the then growing custom against inter-caste and inter-racial marriages. As a student of history my friend will see and know that the reason is obvious.

Then, Sir, it has been said that our religion is in danger. We have heard this cry for the last hundred years. (Laughter.) At any rate, we have heard

it said so. In 1868 when the Law Member, that distinguished lawyer, Sir Henry Sumner Maine introduced his Bill for the establishment of civil marriages in this country, a large volume of opinion was collected from the various parts of the country, and it was pointed out that civil marriages would deal a death-blow to Hindu society. And what was the reply of that eminent Jurist? The reply was that, if Hinduism has received any death-blow from any statute law, it has been already given by the *Lex Loci Act*, and that is the view which Their Lordships of the Privy Council in the case cited by my friend, Mr. J. Chaudhuri, have enunciated at page 365, Volume 33 of the Indian Law Reports, Allahabad. Referring to the two enactments known as the *Lex Loci Acts*, Their Lordships say :

'The intention of both enactments is perfectly clear. By declaring that the Hindu or Muhammadan Law shall not be permitted to deprive any party, not belonging to either of those persuasions, of a right to property or that the law or usage which inflicts forfeiture of rights or property by reason of any person renouncing his or her religion shall not be enforced, the legislature virtually set aside the provisions of Hindu Law which penalise the renunciation of religion or exclusion from caste.'

That is my answer to those who speak and talk about an attack upon their religion. In 1872, Sir, when this Bill was under discussion, Sir James Stephen, another distinguished lawyer, pointed out that it was the duty of the Government to provide a form of marriage to a definite class of people who objected to marry under any particular personal law. The Brahmos, who had moved previously His Majesty's Indian Government to provide them with a civil marriage law, were given the law known as Act III of 1872, and in the discussions in Council, Sir James Stephen pointed out that besides reformers like the Brahmos, there might arise other dissenting sects, offshoots of Hinduism or of other religious creeds, who may hereafter claim similar rights and privileges, to whom a similar law may be necessary; and, therefore, what was designated originally as the Brahmo Marriage Act was afterwards converted and altered into the Civil Marriage Act. That was the intention of Act III of 1872, *viz.*, to provide a form of marriage for all persons who dissented from the creed of Hinduism or Islam or orthodox Christianity, for whom, however, a separate Act had already been provided. Now, Sir, this was the state of law and Sir James Stephen did not omit to consider that when he put down in the Act the exceptional clause excluding persons who professed the Hindu, Muhammadan, and the rest of the religions, he thought that Brahmos and Sikhs, the Arya Samajists and the Prarthana Samajists and other reformant classes would necessarily be classed as non-Hindus. Therefore, he thought that he had sufficiently provided for the contingency which the growth of education and the contact with Western ideas would produce in this country. But Their Lordships of the Privy Council, in the judgment which I have cited in the Statement of Objects and Reasons appended to my Bill (31 Calcutta, page 11), on a review of the authorities, came to the conclusion that the term 'Hindu' did not exclude either Brahmos or Sikhs or other dissenting members of that religion. That brought the situation to a crisis. Even those people for whom this Bill was originally and primarily designed could not conscientiously marry, because they could not subscribe to the declaration, in the face of the decision of the Privy Council, that they did not profess the Hindu religion, when the Privy Council said that they did not cease to be Hindus by the mere fact that they were Hindu reformers.

[Dr. H. S. Gour.]

The result has been that a cloud,—a serious cloud—has been thrown upon the legality of marriages that have been contracted under the original Act III of 1872. My learned and esteemed friend, Mr. Seshagiri Ayyar, has pointed out the extreme folly of asking Hindu reformers either to marry under the orthodox law or not to marry at all. He might have gone further and commented upon the greater folly of the Indian Government which comes and says that, if you want to get married, you must have a religion, and, if you have no religion, you shall not have a wife. I am surprised, Sir, that any civilised Government should throw the members of the reforming community into the arms of their orthodox friends. (Hear, hear.) I am surprised that the Indian Government Benches should be so desolate (Laughter) on this occasion when I am waging a war upon what I consider to be the vested rights of a class and upholding the dignity of human freedom of contract. I say that it was the bounden duty of the Indian Government to provide for a general marriage law applicable to those who wished to marry thereunder, and I am here doing a duty which, I submit, lay upon the Government to discharge. I am surprised, Sir, that in spite of the instructions which we received the other day from the Leader of the House and repeated to-day by the Honourable Mr. Sharp, even the official Members who are not Members of the Executive Council are conspicuous by their absence. (Hear, hear.) (*An Honourable Member*: Not all.) But let that pass. I stand in support of my Bill upon the strength, upon the righteousness of my own cause and I do not want any support of those who grudgingly gave it in 1873 and are to-day prepared to throw us to the wolves of the orthodox party. (Laughter.) Now, Sir, I think I have done with the members of my own community. I have made peace with them and I am perfectly certain that every one of my friends belonging to the Hindu religion, belonging to the Hindu community, to use the expression which the Honourable Mr. Rangachariar would prefer, would rally to my support and transmit this Bill to the Select Committee.

I now appeal to my sympathetic opponents of the Muhammadan persuasion. Do you know that I am trying to knock off a few bars from your prison house? Do you know that in introducing this Bill and including you within its provisions I am liberating you from a bondage (Laughter) and a disability from which you have suffered from ages past? Do you know, Sir, that I am fighting the battle of freedom and trying to emancipate you? You may object to-day but your children and your children's children will bless me and my name for having fought in the teeth of the opposition of those orthodox people who had not a long vision and did not see what will be apparent to a child of future years. You all want Swaraj. Can you have, my friends, Swaraj in a divided house. You say, you want the settlement of this question and the emancipation not only of this country but of the whole world. Have you, by your own conduct, and by your own example, qualified yourself to be the redeemer of the world? It has been said, by that very acute writer who was at the bottom of the reforms which have resulted in the creation of these expanded Councils (I mean Mr. Lionel Curtis) in his '*Letters to the People of India*':

'In India, the need for social reform largely arises from custom, which has been crystallised by decisions in the courts under the rigid legal system which we ourselves introduced from the West. . . . In England I have often heard South Africa branded as the one country beneath the British flag in which marriage between two sections of British subjects

was forbidden. What was my surprise, then, on coming to India, to find that, under a law of that country, no legal marriage between members of two different castes could be solemnised.'

Then a note of ejaculation or exclamation follows. I do not know what would have been his surprise if he had known that, even amongst persons of the same caste, there are as many as five thousand sub-castes. Only yesterday (the Honourable Mr. Bajpai will bear me out), one member of the orthodox community assured me that his was a decadent community. Some ten years ago, they numbered about 15 lakhs. Now they number only 7 lakhs and have no less than 5,000 sub-castes and these sub-castes do not intermarry. The result then is that marriage is confined to half a dozen families and such is the scramble for boys that people are known to offer half their fortune to secure eligible husbands for their daughters.

Now you are the brothers and fathers of your female relations. You have daughters, you have sisters. Do you not deplore the fate of your womenfolk who are reduced to that condition? Do you not know that in Bengal, since the days of Snehalata, girls have committed immolation because they were afraid they were becoming marriageable, which meant utter ruin to their fathers? Do you not pity, I ask the poor parents in Bengal, who for the sake of an eligible match for their daughters, have not only to spend all that they have but to strain their credit to the utmost, and that they and their descendants die in poverty and want because they say they were condemned to possess a daughter? Are you prepared to support such an institution? Have you no pity within your human bosom to uplift the people who suffer from these cruel wrongs? You are sitting here not merely as the representatives of small local constituencies which you represent. You are sitting here to represent the spirit of India; and it is crying aloud, crying for vengeance against these old obnoxious customs. Rise above these petty considerations. Rise above these petty jealousies. Discard your privileges, and act like men, I have been told, Sir, by my Muhammadan friends that, under Islamic Law, inter-marriages are permissible and are permitted between Muhammadans and Christians and Jews, but there can be no inter-marriage between Hindus and Muhammadans. I ask my Muhammadan friends what does that imply? If marriages are permitted between Muhammadans and Christians and Jews, where is the marriage law to solemnise these marriages? If and because there is no marriage law in this country, my Bill, if passed into law, will enable you to contract marriages permissible under your sacred Koran. We have been told, and we have been told more than once, and, I am surprised, by no less a person than Rao Bahadur Rangachariar, that, if these marriages are allowed, 'I do not like it'. Did my friend think that the moment this Bill becomes law, I shall lay him by the heels, drag him to the registrar's office (Laughter), assign to him a wife and drive both of them in a carriage and pair, force them to forsake their family gods, to leave their family dwellings and to stop all the solemn ceremonies of the orthodox creed? If my friend is under that impression, I stand up to disillusion him. He need not marry again, unless he likes: and I therefore say that all the lurid picture which he has presented to this House of marriages contracted under this pernicious and obnoxious law which I have the honour to ask this House to send to the Select Committee, is as good as never passed because it is purely optional and permissible. It places a new weapon in your armoury,

[Dr. H. S. Gour.]

It does not call upon you to use it unless you like. It gives you a new right but you need not exercise it. This, I submit, is my objection to my friend who gives me abundance of individual sympathy but has objections on religious grounds. So long as those objections remain insurmountable, I may assure my Honourable friend that he is at liberty to let this Act alone. It is entirely in his discretion whether he uses it or not; and that is my reply to the opposition created by the vivid imagination of some of my friends who sit behind me. They say: 'you present this Bill and ask this House to send it to the Select Committee. How can it be done? What will happen? This has never been done before. How can we do it now?' My friends, I deplore the mind from which these words come. I feel that they betoken a spirit of irrational conservatism that lags behind but is afraid to go forward or even to look forward. I say to you, my brethren, that, if you desire any progress in this country, it can never come unless you unite, and union is impossible so long as you remain as you are and continue established in an archaic form of society. India in the past was an isolated country; it is now exposed to international competition and you will not be permitted to live in your own land and will be supplanted by those who have the right to live here, because they are better disciplined, more civilized, more catholic in thought and more cosmopolitan in deeds. The ideas of the past must be forgotten. I have told you, my friends, and I repeat once more that if you value political progress, if you think that Swaraj is close—I myself think it is—it is necessary that, in your Pilgrim's Progress to the Promised Land, you travel united in thought and action. If class fights against class, caste against caste and race against race, that time, of which you dream, of seeing a United Federation of Indian States, will never come. And even if it came, believe me, it would go as quickly as it came.

Now, Sir, I shall just advert to my friend who represents the Sikh community. He has also conscientious objections to the details of this Bill. If I have not misunderstood him, he recognises the necessity of inter-caste marriages. I have already given him the assurance that the matter will be laid before the Select Committee and, if my Muhammadan brethren remain as obdurate as they seem to be, I am not going to drive them into the reform fold. On these grounds, Sir, I hope that my measure will receive the unanimous support of this House and move one more step towards the Select Committee.

Khan Bahadur Sarfaraz Hussain Khan: I should like to ask a question. There is no doubt that Dr. Gour has made a very stirring appeal. But he has not met my objections. He has used about one hundred of sentences but he has not said one word to meet my objection, which is based on the text of the Koran.

Mr. President: Does the Honourable Member wish to ask a question? I have already told another Honourable Member that he is not entitled to explain his personal position under the guise of a point of order.

Dr. H. S. Gour: I shall break my rule once more in the hope of winning over not only the Assembly but the vote of my friend on the left. My reply to his question is that no less a man than the Right Honourable Ameer Ali, a Member of the Privy Council and a dispenser of justice in the Court of final

appeal from this country, has adverted to that passage and pointed out that the word 'Iman' means 'believer,' *i.e.*, believer in one God; otherwise the Prophet would have interdicted inter-marriages between Muhammadans and Christians and Jews. If the word 'Iman' means the true Muslim faith, that other passage which says that it is legal to marry a Christian and a Jew would be impossible and unmeaning. Therefore I reconcile the two phrases. The interpretation of the Doctors of Muhammadan Law for the last 1,200 years has been that it means true believer in one God, and therefore you will not transgress any written text of the Holy Writ in voting for the Select Committee, which I am asking this House to send this Bill to. I now move, Sir, that this Bill be sent to the Select Committee.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : As my name has been mentioned by the Honourable Member, after hearing his reply, I propose to continue to be the wolf, and I therefore propose to vote against the motion.

Mr. President. The question is :

'That the Bill further to amend Act III of 1872 be referred to a Select Committee.'

The Assembly then divided as follows :

AYES—25.

Aiyer, Sir P. S. Sivaswamy.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Chaudhuri, Mr. J.
Cotelingam, Mr. J. P.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Iswar Saran, Munshi.
Joshi, Mr. N. M.
Kabraji, Mr. J. K. N.
Keith, Mr. W. J.

Lindsay, Mr. Darcy.
McCarthy, Mr. F.
Misra, Mr. P. L.
Nag, Mr. G. C.
Percival, Mr. P. E.
Rao, Mr. C. Krishnaswami.
Reddi, Mr. M. K.
Samarth, Mr. N. M.
Shabani, Mr. S. C.
Vishindas, Mr. H.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

NOES—27.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Abul Kasem, Maulvi.
Agnihotri, Mr. K. B. L.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Faiz Khan, Mr. M.
Hajeebhoy, Mr. Mahomed.
Hullah, Mr. J.
Hussanally, Mr. W. M.
Jatkar, Mr. B. H. R.
Jejeebhoy, Sir Jamssetjee.

Man Singh, Bhai.
Mudaliar, Mr. S.
Muhammad Ismail, Mr. S.
Mukherjee, Mr. J. N.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Sariatuz Hussain Khan, Mr.
Singh, Babu B. P.
Singh, Rana U. B.
Sinha, Babu L. P.
Sohan Lal, Bakshi.
Subrahmanayam, Mr. C. S.
Wajihuddin, Haji.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 24th January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 24th JANUARY, 1922

Vol. II—No. 21

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Tuesday, 24th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

CORRESPONDENCE BETWEEN CENTRAL AND PROVINCIAL GOVERNMENTS ON THE RECENT POLICY OF ENFORCEMENT OF LAW AND ORDER.

82. * **Mr. K. C. Neogy**: Will Government be pleased to lay on the Table a copy of the correspondence between the Government of India and the Local Governments, relating to the new policy of enforcement of law and order which has led to the application of the Seditious Meetings Act and the Criminal Law Amendment Act, Part II, resulting in numerous arrests and convictions?

The Honourable Sir William Vincent: Government are not prepared to lay the papers on the Table.

DIFFERENCE IN APPLICATION OF REPRESSIVE MEASURES IN DIFFERENT PROVINCES.

83. * **Mr. K. C. Neogy**: Has the attention of Government been drawn to the difference in the degree of severity of sentences passed on persons convicted under the Seditious Meetings Act as also the Criminal Law Amendment Act, Part II, in different provinces, in different districts of the same province, and in different Courts of the same district or town, for exactly similar offences?

The Honourable Sir William Vincent: Yes; the Government of India recently made certain suggestions to Local Governments with the object of securing some measure of uniformity in the sentences referred to. The Honourable Member will, however, understand that, as the law allows the Courts a large measure of discretion in deciding the amount of punishment to be inflicted, complete uniformity is hardly to be expected, nor, indeed, is it desirable in all cases.

Mr. K. C. Neogy: Will Government consider the desirability of publishing the instructions they have sent to the provincial Governments?

The Honourable Sir William Vincent: I can read out to the Honourable Member a portion of the instructions now, but I should prefer to lay on the Table a more complete statement later if that would meet him. I cannot guarantee that we shall publish our instructions in full.

OCCASIONS WHEN FIREARMS WERE USED FOR QUELLING CIVIL DISTURBANCES
SINCE OCTOBER, 1921.

84. * **Mr. K. C. Neogy:** Will Government be pleased to make a statement giving brief particulars of the occasions on which firearms had to be used for quelling civil disturbances since October, 1921, specifying particularly, in each case, the name and status of the officer on whose authority fire was opened, the nature of the warning given to the rioters before fire was resorted to, the approximate number of rioters and how they were armed, the number of police or military force employed in stopping the disturbance, and the number of casualties on either side?

The Honourable Sir William Vincent: A statement is laid on the Table giving such information as is readily available. Government are not prepared, even where they have the information, to give the name of the officer who ordered firing in each case.

Province.	Date.	Place of Disturbance.	Brief description.	Casualties.
Madras	4-12-21	Cannanore.	<p>On the 4th December, 1921, a number of Mapilla convicts and undertrial prisoners in the Cannanore Central Jail, ultimately numbering about 160, began rioting and attempted to break out of the jail. Breaking open a tool shed they armed themselves with chisels, iron bars, etc., and attacked warders who attempted to obstruct their escape. As the prisoners disregarded warnings, firing had to be ordered to prevent their overpowering the guard by force of numbers.</p>	<p>Seven of the prisoners were killed outright and four wounded by the firing. Two of these subsequently died. One prisoner died of a fractured skull and nine were wounded otherwise than by firing.</p>
United Provinces.	29-12-21	Bareilly	<p>On the 29th December, 1921, inmates of Bareilly Juvenile Jail refused to work on the grounds that a certain political prisoner had been removed from their midst. (He had been sent to hospital in consequence of illness.) Owing to influence of political prisoners the youths, who numbered about 190, were completely out of hand. They broke open almirahs, took out tools, broke open locks and gates and attempted to scale walls. It was necessary to call up the armed guard and to order firing. Sixteen shots were fired, several of them in the air. None of the gunshot wounds are serious, and inquiry by District Magistrate shows that no unnecessary violence was used. (This account is taken from a communique published in the Press, as no official report has been received from the United Provinces Government.)</p>	<p>Eight of the prisoners were injured by gunshots, mostly in the legs, and nine with batons.</p>
Madras	13-1-22	Madras	<p>On the occasion of the arrival of His Royal Highness the Prince of Wales in Madras there were disturbances in Madras City. An official report has not yet been received, but from accounts in the Press it appears that the excesses of the mob were such that it was necessary to call out the military and to resort to firing.</p>	<p>According to Press accounts, five or six rioters were killed. Other casualties not known.</p>

Provinces.	Date.	Place of Disturbance.	Brief description.	Casualties.
Coorg	17-11-21	Bangalore	Following on arrest of six Mahomedans on charge of unlawful assembly a mob numbering thousands surrounded Broadway Police Station, prevented removal of prisoners who had refused bail to judicial lock-up in Bangalore Central Jail. As Police Force was inadequate, military aid was requisitioned. As detachment of military reached Police Station, determined rush was made on rear. In the melee four or five shots were fired. Officer Commanding was individually attacked by man with a stick. There was heavy stone throwing.	Two rioters were killed and six injured; 16 men of the Dorset Regiment were injured.
Punjab	23-12-21	Ferozepore Jhirka.	A determined attempt was made by a mob to rescue 12 non-cooperators who were arrested for having recourse to violence. The police were forced to fire. On the 24th a large number assembled to renew the attack, but Alwar troops and Reserve Police dispersed them.	Three rioters were killed and several wounded.
Bengal	28-12-21	Bangpur	Owing to disturbed state of locality, thirty-two armed Police were sent to Nilphamsai. A halt was made in the Bazar during a route march, and an altercation took place between a policeman and a servant of a local gentleman. A crowd speedily collected and began throwing missiles. March was continued followed by crowd who became increasingly menacing and broke through ranks of police. Some shots were fired in the air.	Eight policemen were injured. Eight of public were also injured.
Punjab	30-10-21	Lahore	On the afternoon of the 30th October, 1921, a mob of between 150 and 200 convicts made a determined and evidently a preconcerted attempt to break out of the Lahore Central Jail. They overpowered the guard of the inner gate and forced their way to the outer gate, where they succeeded in breaking the lock of the wicket. The Jail officials had to fire at this point and succeeded in driving back the convicts.	Three of the convicts were killed and thirty-three wounded.

One constable was killed and several wounded. Five rioters were killed.

Not known. One unknown Hurman killed. Among the police there were three serious and many minor casualties.

Two Europeans, one American and two Parsis were killed. Three Europeans and an unknown number of Parsis were wounded. 83 police were wounded. Of the rioters 53 were killed and 298 wounded. Not all the deaths from gunshot wounds were due to the police and military, as several dead and wounded men were found in localities where the authorities had not opened fire.

One villager killed, two severely wounded, seven slightly wounded; one head constable cut on forearm, one head constable incised wound on head, two constables slight cuts about arms and several hit by missiles.

Processions were formed at night after a Khilafat meeting had been held on the Howrah maidan. One of these attacked the police on duty and forced them to retire on the thana. Armed police were requisitioned from Sibpore and, though attacked *en route*, succeeded in relieving the thana. During the disturbances some shots were fired.

Serious riot occurred on 13th night due to attempt by large number of Burmese monks to obtain free entrance to the Pwas in Shwedagon Pagoda during pagoda festival.

People returning from seeing the arrival of the Prince were molested. On 18th rioting became general. Europeans and Parsis were attacked and liquor shops, etc., were set on fire. Military aid was requisitioned.

A party of police were despatched to prevent a buffalo fight. They were attacked on arrival by a crowd of between three hundred and five hundred. The police made six arrests but the crowd attacked them with sticks, stones and bottles and they had to let their prisoners go and to retreat towards the police station. Later the villagers again attacked the police and one villager cut a head constable with a *dadz* on the forearm and attempted to seize his carbine. Another head constable came to the rescue and in the scuffle the carbine went off and the original assailant was shot in the abdomen. As villagers continued to attack, a head constable fired twice into the crowd. The police then made good their escape.

Howrah

Rangoon

Bombay

Hokyo
Kwin,
near Mada
village,
Thingangyan.

4-11-21

17-11-21

17-11-21
to
20-11-21

16-1-22

Bengal

Burma

Bombay

Burma

ORDER OF PRECEDENCE FOR MEMBERS OF THE LEGISLATURE AT PUBLIC DURBARS.

85. * **Mr. Ali Buksh Mahomed Hussain:** (a) Will the Government be pleased to state on what occasions is the Order of Precedence laid down in His Majesty's Warrant of Precedence to be observed?

(b) Is a District Durbar, held by a Collector of a District, a function at which a Warrant of Precedence should be observed?

(c) Is the precedence to be accorded to officials and non-officials *inter se* according to the Warrant of Precedence in public functions, or is it left to the discretion of individual officials to arrange precedence according to his own caprices?

(d) Is it a fact that the authorities in Sind before the advent of the Reforms Councils accorded precedence to the Members of the Imperial and Provincial Legislative Councils according to the Warrant of Precedence at all public durbars?

(e) Is it true that since the advent of the Reforms Council the Sind authorities, especially in recent durbars held at Sukkur, bifurcated the Warrant of Precedence into two portions, one portion being made separately applicable to officials and the other portion being applicable to the Members of the Legislative Assembly and Council among themselves, that is, all the officials, however high or low, some of them not even being included in the Warrant of Precedence, were seated on the *dais* in the durbars above the members of the Assembly and Council, and the Members of the Assembly and Council were seated behind them, although according to the Order of Precedence the Members of the Assembly and Council rank higher in the Warrant of Precedence than several of the officers actually seated above them?

(f) Will the Government be pleased to state whether the procedure adopted by the Sind authorities in violating His Majesty's Warrant of Precedence is a correct one?

(g) If not, what was the justification for the Sind authorities to do so, and will the Government express their disapproval of the procedure followed by the Sind authorities and take steps to check its recurrence?

The Honourable Sir William Vincent: The whole of the long question appears to be based upon a misapprehension, as the Warrant of Precedence which regulates the rank and precedence of persons holding appointments in India contains no reference to Members of the Council of State or the Legislative Assembly.

NEW CANAL PROJECTS IN THE PUNJAB AND THE INTERESTS OF SIND.

86. * **Mr. Ali Buksh Mahomed Hussain:** (a) Has the attention of the Government of India been drawn to the reply of Lord Chelmsford to the address of the Sind Muhammadan Association presented to him at Karachi in November, 1917, promising that no new canal projects in the Punjab will be taken in hand without consulting the interests of the Province of Sind?

(b) Is it true that a large irrigational project has since been taken in hand in the Punjab?

(c) Is the Government aware that the zamindars of Sind are very seriously apprehensive of the adverse effect of this project on the irrigation of Sind?

(d) Will the Government be pleased to state whether the Government of Bombay was consulted before the Government of India sanctioned this project?

(e) If so, will the Government be pleased to state the gist of the opinion of the Government of Bombay and how far the Government of India accorded weight to it?

Colonel Sir S. D'A. Crookshank: (a) and (b). Yes.'

(c) No.

(d) No, but the question was very carefully considered by the professional advisers of the Government of India and it was decided that there were no grounds for apprehension that the withdrawal of the water required for the Punjab project would affect adversely irrigation in Sind.

(e) Does not arise.

MANAGEMENT OF THE EAST INDIAN RAILWAY.

87. * **Mr. K. Ahmed:** Is there any truth in the rumour that, instead of the East Indian Railway being transferred to the State for working, the idea is to amalgamate the Oudh and Rohilkhund State-worked Railway with the East Indian Railway, and to work the system thus combined as a Company-managed State line?

Colonel W. D. Waghorn: There is no truth in the rumour referred to.

INDIANS ON THE RAILWAY BOARD AND THE RATES TRIBUNAL.

88. * **Mr. K. Ahmed:** (a) Will the Government be pleased to state whether they intend to associate Indians as members of the Railway Board or of the Railway Commission (whatever its designation may be in the future), and to have an experienced Indian member on the Rates Tribunal, in the event of such a Tribunal being created, as recommended by the Railway Committee?

Colonel W. D. Waghorn: As already stated in reply to question No. 184 put by Raja Kushalpal Singh on 16th January, 1922, the report of the Railway Committee has only been received comparatively recently and the many recommendations made by the Committee have yet to be considered in detail by the Government of India.

RAILWAY RATES PREFERENTIAL TO FOREIGN TRAFFIC.

89. * **Mr. K. Ahmed:** (a) Has the attention of the Government been drawn to the reply given by the Indian Merchants' Chamber and Bureau, Bombay, to questions 30 and 31 of the Railway Committee, appearing on pages 171 and 172 of Volume IV of the Report of the said Committee, in the matter of railway rates being made preferential to foreign traffic and detrimental to India's local trade and industries?

(b) If so, will the Government be pleased to state what action they have taken regarding the specific instances of rates for hides, sugar, oilseeds,

oil, etc., which were referred to in those pages of Railway Board's "Monograph on Indian Railway Rates," 1918, which were quoted by the said Chamber and Bureau in answer to question 31 (*vide* pages 171 and 172 of Volume IV of the Report) of the Railway Committee?

Colonel W. D. Waghorn: (a) The reply is in the affirmative.

(b) The question of assistance to be rendered by Railways in the development of Indian industries was brought to the notice of Indian Railways in 1915, and a Press Communiqué was issued at the same time suggesting that applications for concession rates should be addressed to the Railways concerned with the necessary particulars in support thereof. Government are aware that numerous concessions have been granted by Railways to various local industries from time to time as the result of such applications, and are confident that careful consideration will continue to be given by Railway Administrations to requests for similar concessions which are made to them.

Since the publication of Mr. Ghose's Monograph there have been considerable changes in the special rates quoted by Railways, and Government do not propose to take action in connection with the specific instances referred to. Individual cases of prohibitive rates or rates which are alleged to prejudice the development of local industries will be considered on their merits if represented by the industries concerned. Such questions, moreover, will be taken up by the proposed Rates Tribunal if it is appointed.

STATE MANAGEMENT OF INDIAN RAILWAYS.

90. * **Mr. K. Ahmed:** (a) Has the attention of the Government been drawn to the last paragraph on page 13 and to the first paragraph on page 14 of Mr. S. C. Ghose's recent pamphlet called 'Indian Railway Committee, State Management of Indian Railways' regarding wasteful railway competition?

(b) If the answer be in the negative, will the Government be pleased to accept a copy of the same from me?

(c) Will the Government be pleased to explain how they can entrust the management of the Indian State Railways to Companies in the face of such clear evidence of reckless and wasteful competition as shown in the pamphlet?

(d) If the answer be that the Indian Railways, in entering into competition with one another, did nothing unusual and did not go to the same extent as the American or the English Railway Companies did, will the Government be pleased to state whether it is a fact that, while by far the largest partners in Indian Railways are the Indian taxpayers, the Railways of England and America are the properties of private individuals, and that therefore any loss of revenue, due to wasteful competition in India, would mean loss of public revenue, whereas in the case of American or English Railways such competition would mean loss of money of private individuals only?

Colonel W. D. Waghorn: (a), (b), (c) and (d). The Government are in possession of the pamphlet referred to. The only other remark that they propose to make is that they must decline in an answer to this question

to enter into a discussion of the relative merits of State *versus* Company management.

UNDUE PREFERENCE FOR EUROPEANS ON RAILWAYS.

91. * **Mr. K. Ahmed** : Has the Government of India got with them the information which the Bombay Indian Merchants' Chamber and Bureau furnished to the Railway Committee in the matter of undue preference being shown to the Europeans (*vide* "P. S." on page 187 of the Railway Committee's Report, Volume III), and will the Government be pleased to publish, for the benefit of the Assembly, this information ?

Colonel W. D. Waghorn : The information referred to is not in the possession of Government.

CONTRACTS BETWEEN SECRETARY OF STATE AND INDIAN RAILWAYS.

92. * **Mr. K. Ahmed** : (a) Is it not a fact that the contracts between the Secretary of State and the Railway Companies provide that the Government are not liable to pay any compensation that may be due to any legislation in India ?

(b) Will the Government be pleased to lay on the Table a copy of each contract with the Bengal-Nagpur Railway, the Bombay, Baroda and Central India Railway and the South Indian Railway ?

Colonel W. D. Waghorn : (a) The contracts referred to contain a clause to the effect that no claim shall be made upon the Secretary of State by the Company for compensation in respect of the prejudicial effect upon the undertaking or the profits thereof of any Act of the Legislature or of any Act of the Legislature of general applicability for the time being in force.

(b) Copies of the contracts in question have been placed in the Library for reference by Honourable Members of the Legislature.

TRANSFER OF THE DACCA SECTION OF THE EASTERN BENGAL RAILWAY TO THE ASSAM BENGAL RAILWAY.

93. * **Mr. K. Ahmed** : (a) Is it not a fact that Assam Bengal Railway is a losing concern and that the Government expended nearly 18 crores of rupees as capital outlay and had, in addition, to pay another 8 crores of rupees or more in the way of interest, from 1895 to March, 1920, not covered by the net earnings ?

(b) Is it not a fact that instead of taking over this line with a view to work it as a State concern, attempts have been made to make over the Dacca branch of the Eastern Bengal Railway to this non-paying Assam Bengal Railway Company ?

Colonel W. D. Waghorn : (a) The reply is in the affirmative.

(b) The question of transferring the Dacca Section of the Eastern Bengal Railway is still under consideration, and no definite decision has so far been reached.

MILEAGE, OFFICERS AND TRAFFIC ON STATE-OWNED RAILWAYS IN INDIA IN 1910-11 AND 1920-21.

94. * **Mr. K. Ahmed**: Will the Government be pleased to furnish the following particulars in the public interest :

- (a) total mileage of open lines of State-owned railways in 1910-11 and in 1920-21, giving particulars for each railway separately ;
- (b) total number of superior officers (Indians and Europeans) in the Engineering, Traffic, Locomotive and Audit Departments for the years 1910-11 and 1920-21 for each such railway ;
- (c) total ton-miles of traffic carried in 1910-11 and 1920-21 for each railway ?

Colonel W. D. Waghorn: With reference to (a) and (c), a statement showing the total open mileage, unit mileage of passengers and freight, ton mileage of goods of all State-owned Railways in India, including Branch lines worked by them, for the years 1910 (January to December) and 1920-21 (April 1920 to March, 1921) is being sent to the Honourable Member.

(b) The information may be obtained from the printed Classified List of Officers in the various Departments of all Railways in 1910-11 and 1920-21 issued by the Railway Board, copies of which are available in the library for reference by the Honourable Members of the Legislature.

INDIANS IN COMPANY-WORKED STATE RAILWAY LOCOMOTIVE AND CARRIAGE DEPARTMENTS.

95. * **Mr. K. Ahmed**: (a) Will the Government be pleased to state what steps have been or are being taken by the Company-worked State Railway Locomotive and Carriage Departments to take in Indians who have passed the I. Sc. or B. Sc. examination of Indian Universities as apprentice mechanics, to eventually fill up the posts of Assistant Loco. Foremen, Loco. Foremen, Head or Assistant Locomotive and Carriage Fitters ?

(b) What training allowance is paid to Indians of such qualifications and to European, Anglo-Indian lads of lower or similar educational qualifications for the 1st, 2nd, 3rd, 4th, 5th year of their training, and on what pay and position the Indians start, after training is over, as compared with the pay and position given to Europeans and Anglo-Indians ?

Colonel W. D. Waghorn: (a) and (b). I would refer the Honourable Member to my reply on the 15th September, 1921, to Question No. 184 put by Mr. K. C. Neogy. The whole question is still under the consideration of Government.

* **Mr. K. Ahmed**: Will Government be pleased to decide one way or the other as soon as possible, as they have taken a long time to decide the same ?

† **Colonel W. D. Waghorn**: The matter is one which cannot be decided rapidly. It is under consideration.

SALARIES OF INDIAN AND EUROPEAN PERMANENT-WAY INSPECTORS ON STATE AND OTHER RAILWAYS IN INDIA.

96. * **Mr. K. Ahmed**: Will the Government be pleased to state:

- (a) how many Indians are employed as Permanent-Way Inspectors and Sub-Permanent-Way Inspectors on State Railways, and how many on the East Indian, Great Indian Peninsula, and the Bengal-Nagpur Railways, and how many Europeans are employed in such appointments on each of these railways?
 (b) Is there any difference in the salaries and travelling allowances paid to Indian Inspectors as compared with the European Inspectors?

Colonel W. D. Waghorn: The information is being obtained from the several railway administrations and will be sent to the Honourable Member.

PERSONS EXPELLED FROM CANTONMENTS IN INDIA DURING PAST FIVE YEARS.

97. * **Mr. W. M. Hussanally**: (a) Will the Government be pleased to state how many persons have been expelled from Cantonments in India during the past 5 years under section 216 of the Cantonment Code of 1916?

(b) What were the offences they had committed?

(c) Were the offenders informed of the charges against them, and their explanations obtained before being expelled?

(d) In how many cases were appeals preferred against the order of expulsion?

(e) In how many cases was the order of expulsion upset and in how many upheld?

Sir Godfrey Fell: (a) and (b). The Government of India regret that they cannot furnish this information in full, for the reasons stated in my reply† to Question No. 242 asked by Lala Girdharilal Agarwala on the 19th September last. If the Honourable Member so desires, a copy of the list of persons ordered to leave cantonments during the past two years under sections 215 and 216 of the Cantonment Code will be furnished to him.

(c) The Government have no information. As pointed out in the reply‡ to part (a) of Question No. 242 asked on the 19th September last, the Commanding Officer of a Cantonment can remove from the Cantonment, within a time to be specified in the notice, and prohibit from re-entering it, any person whom he thinks it expedient to exclude from the Cantonment, and need not assign any reason therefor, subject to the conditions stated. It is open to the persons excluded to appeal against their order of expulsion.

(d) and (e). The information asked for by the Honourable Member is not immediately available, but will be obtained and communicated to him in due course.

REPEAL OF SECTION 216 OF CANTONMENT CODE, 1916.

98. * **Mr. W. M. Hussanally**: Have the Government or His Excellency the Commander-in-Chief received any representations to repeal section 216 of the Cantonment Code, 1916? If so, what action do Government intend to take in regard to this section?

Sir Godfrey Fell: Yes. The question is now under consideration and Government hope shortly to announce the action which they propose to take with reference to this matter.

† *Vide* Legislative Assembly Debates, Vol. II, pages 395-96.

‡ *Vide* Legislative Assembly Debates, Vol. II, pages 395-95.

RESOLUTIONS ADOPTED IN IMPERIAL COUNCILS AND ACTION TAKEN THEREON.

99. * **Sardar Gulab Singh**: Will the Government be pleased to print all the Resolutions adopted in the Imperial Councils in a tabular form showing the action of the Government taken thereon?

The Honourable Sir William Vincent: The attention of the Honourable Member is drawn to the statements† laid on the table on the 16th instant in reply to a similar question asked by Mr. Agnihotri in September last, and to the reply‡ given to the unstarred question put by M. K. Reddi Garu to-day which will be published in the official reports of the Debates of the Legislative Assembly. Further information required in regard to the Resolutions adopted by the Council of State and the Official Resolutions adopted by the Legislative Assembly during the Simla Session is being collected and will be laid on the Table in due course.

DISCONTINUANCE OF RESERVED ACCOMMODATION IN RAILWAY TRAINS FOR CERTAIN CLASSES OF PASSENGERS.

100. * **Sardar Gulab Singh**: Is any action taken to discontinue the reserved accommodation in railway trains for certain classes of passengers in accordance with the assurances given last session by the President of the Railway Board?

Colonel W. D. Waghorn: Railway Administrations were addressed on the subject of limiting the reservation of Intermediate and third class compartments for Europeans and Anglo-Indians to mail and fast passenger trains only. Their views have been received and are now under consideration.

DISTINCTION BETWEEN ENGLISH AND INDIAN TRAINED ARMY NURSES.

101. * **Lieut.-Col. H. A. J. Gidney**: Will Government be pleased to state whether they make any distinction (a) in professional qualifications, (b) social recognition, and (c) salaries, between English and Indian trained Army nurses?

Sir Godfrey Fell: (a) No. The only professional qualification required of candidates for either service is that they should be fully qualified trained nurses.

(b) Government make no distinction in the manner suggested.

(c) Yes. The attention of the Honourable Member is invited to the § statement laid on the table in reply to Question No. 254, asked on the 19th September last.

Lieut.-Col. H. A. J. Gidney: With reference to the replies given to (a) and (b) will Government be pleased to state why they do not act up to their principles?

(No reply was given.)

SENIORITY OF LADY SUPERINTENDENT OF A BRITISH OVER THAT OF AN INDIAN STATION HOSPITAL.

102. * **Lieut.-Col. H. A. J. Gidney**: Will Government be pleased to state whether the lady superintendent-in-charge of a British Station Hospital, no matter how junior she is, is officially recognised as senior to a

† Vide Legislative Assembly Debates, Vol. II, pages 1603-08.

‡ Vide Legislative Assembly Debates, Vol. II, pages 1880-31.

§ Vide Legislative Assembly Debates, Vol. II, pages 400.

lady superintendent-in-charge of an Indian Station Hospital, even though the latter be many years her senior?

Sir Godfrey Fell: The senior nursing sister of the British Station Hospital is responsible for the supervision of the nursing arrangements in all the hospitals in the station and is, consequently, the official senior of the matron of the Indian Station Hospital. It can rarely happen, however, that the matron of an Indian Station Hospital is senior in point of service to the senior nursing sister of the British Station Hospital.

DISCONTENT AMONG NURSES IN INDIAN TROOPS HOSPITALS.

103. * **Lieut.-Col. H. A. J. Gidney:** Is Government aware that great discontent prevails amongst the nurses employed in the Indian Troops Hospitals on account of the inferior way in which they have been treated as compared with those nurses who have been trained and enlisted in England?

Sir Godfrey Fell: The Government of India are not aware that any discontent prevails amongst the nurses employed in Indian Troops Hospitals.

PROPORTION OF BEDS PER WORKING NURSE IN BRITISH AND INDIAN STATION HOSPITALS.

104. * **Lieut.-Col. H. A. J. Gidney:** Will Government be pleased to state what is the proportion of beds per working nurse in (a) British station hospitals, (b) Indian station hospitals?

Sir Godfrey Fell: In British Station Hospitals, the proportion of beds per nurse is approximately 38 to 1; while in Indian Station Hospitals the proportion is approximately 100 to 1.

NUMBER OF NURSES IN BRITISH AND INDIAN STATION HOSPITALS, AND EXPENDITURE OF THEIR UPKEEP.

105. * **Lieut.-Col. H. A. J. Gidney:** Will Government be pleased to state what is the total number of the nurses employed and annual expenditure of their upkeep (a) in British Station Hospitals and (b) Indian Station Hospitals?

Sir Godfrey Fell: The figures are as follows:

Total number of nurses employed in British Station Hospitals	233
Total number of nurses employed in Indian Station Hospitals	66

The approximate expenditure incurred annually on their account is Rs. 7,80,000 and Rs. 1,80,000, respectively.

(Questions Nos. 106 to 110 were withdrawn.)

INSTRUCTIONS TO THE RIGHT HONOURABLE SRINIVASA SASTRI RE THE DISARMAMENT CONFERENCE.

111. * **Mr. K. C. Neogy:** (a) Will Government be pleased to state whether any instructions were given to the Right Honourable Srinivasa

Sastri, on behalf of the Government of India, relating to the Disarmament Conference at Washington?

(b) If so, will Government be pleased to lay the correspondence conveying the same on the Table, or in the Library of the House for private information of Members?

The Honourable Sir William Vincent: (a) and (b). Mr. Sastri was not given any precise instructions as to the attitude which he should adopt on any question which might arise at the Conference.

It was intended that he should consult the Secretary of State for India before he committed India to any important decision, and the Secretary of State would have consulted the Government of India in such a case if he had thought this necessary.

COST OF MR. SASTRI'S DELEGATION TO AMERICA.

112. * **Mr. K. C. Neogy:** (a) Will Government be pleased to state the total cost of Mr. Sastri's delegation to America, and whether any part thereof will be borne by the British Government?

(b) Is Mr. Sastri's delegation to America a delegation on behalf of the British Empire or a separate delegation on behalf of India alone?

The Honourable Sir William Vincent: (a) Government have as yet no definite information.

(b) Mr. Sastri was appointed to be the representative of India on the British Delegation to the Conference.

Mr. K. C. Neogy: May I know if India is one of the contracting parties to the Pacific Contract?

The Honourable Sir William Vincent: I am afraid I must ask for notice of that question.

UNIFORMITY OF TREATMENT FOR POLITICAL PRISONERS.

113. * **Rai G. C. Nag Bahadur:** (a) Are the Government of India aware of the Circular issued by the Government of Bihar and Orissa *re* the treatment of political prisoners, and of the Press Communiqué issued by the Government of Bengal under date 30th December, 1921, creating a new class of prisoners called, for the purpose of treatment in jails, Special Class Prisoners?

(b) With a view to secure uniformity of treatment for this particular class of prisoners, do the Government of India propose to issue a general circular of instructions for observance by all the Provincial Governments?

The Honourable Sir William Vincent: (a) Yes.

(b) The attention of the Honourable Member is invited to the answer given on the 10th instant to a similar question asked by Pandit Jawahar Lal Bhargava.

TRANSFER OF THE CANTONMENT OF HYDERABAD SIND.

114. * **Mr. W. M. Hussanally:** (a) Is it a fact that in 1918 Major Fowler, then Commanding Karachi Brigade, in his No. 4738-I. R., dated 6th

June, while recommending the transfer of the Cantonment of Hyderabad Sind to Ganja Takar, said: 'The site on which the City of Hyderabad, the Sadar Bazar, and the Cantonment is situated is at present very congested and overcrowded, they all run into one another; there is no room for expansion for any of them and if any epidemic starts in one, it runs through all.'

Again:

'The state of affairs now must be much worse in the city. We know there is always some disease raging there: plague, cholera, smallpox or malaria owing to there being no open spaces between the City, Sadar Bazar and Cantonment, it is almost impossible to keep it from spreading throughout.'

(b) Do Government propose to remove the said Cantonment to a safer place for reasons stated by Major Fowler?

Sir Godfrey Fell: (a) The answer is in the affirmative.

(b) The attention of the Honourable Member is invited to the replies given on the 10th January last to part (c) of his Question No. 29 and Question No. 30.

INDIAN SENIOR GOVERNMENT INSPECTORS OF RAILWAYS TO WATCH DISTRIBUTION OF WAGONS.

115. * **Mr. K. Ahmed:** (a) In view of the fact that serious complaints of undue preference in favour of Europeans and discrimination in the matter of wagon supply, were made before the Railway Committee, particularly by Indian merchants (*vide* "P.S." on page 187, Volume III of Railway Committee's Report), do Government propose to order that the Senior Government Inspectors of Railways should be asked to conduct inquiries in connection with registration of goods and distribution of wagons, unless this action has already been taken by the Railway Board?

(b) Do the Government propose to direct that one of the Senior Government Inspectors of Railways should be from amongst the qualified Indians, from the rank from which Government Inspectors are drawn, instead of all such Inspectors being Europeans?

Colonel W. D. Waghorn: (a) Government Inspectors have already been asked to inquire and report on the subject referred to, with a view to ascertaining whether the systems adopted provide satisfactory means for the equitable distribution of wagons available at stations to merchants generally.

(b) The duties and responsibilities of a Government Inspector of Railways necessitate his being a fully qualified Railway Engineer. There is no bar to the appointment of qualified Indians as Government Inspectors, but a reference to the Classified List of the State Railway Establishment—in the Library—will show that, while there is a large number of young Indian Engineers now in the Railway Department, who will qualify for advancement in due course, there are very few Indian Railway Engineers of sufficient experience and standing available at the present time for employment in the Inspection branch.

Mr. K. Ahmed: Am I to understand that Government cannot find any Indians available, qualified for the post of Senior Government Inspector?

Colonel W. D. Waghorn: There is one Indian, I believe, at the present moment, who is officiating as a Government Inspector.

DUTIES OF SENIOR NURSING SISTER IN A STATION.

116. * **Lieut.-Col. H. A. J. Gidney:** Will Government be pleased to state whether the following section 4, paragraph 30-A, is a corrected reconstruction of paragraph 62, Army Regulations, Volume 6?

' Section IV, paragraph 30-A, is reconstructed as follows :

' The lady superintendent, or the senior nursing sister in a station, will supervise, and be responsible for the efficiency of the nursing of all patients and the general nursing arrangements in the British Station Hospital and families hospital. She will also visit the Indian Station Hospital and advise the Officer Commanding on all matters affecting the nursing of the patients. Where nurses have been allotted for duty in hospitals for Indian troops, she will be responsible for the manner in which they carry out their duties. '

Paragraph 62, Army Regulations, India, Volume VI

Sir Godfrey Fell: The answer is in the affirmative.

(Question No. 117 was withdrawn.)

UNSTARRED QUESTIONS AND ANSWERS.

NON-OFFICIAL RESOLUTIONS OF THE LEGISLATIVE ASSEMBLY THAT HAVE BEEN GIVEN EFFECT TO.

201. **M. K. Reddi Garu:** Will the Government be pleased to say how many non-official Resolutions passed by the Legislative Assembly have been given effect to by the Government?

The Honourable Dr. T. B. Sapru: The attention of the Honourable Member is drawn to the statement* laid on the table on the 16th instant in reply to a similar question asked by Mr. Agnihotri in September last. A further statement in regard to the Resolutions adopted in Simla is laid on the Table.

* *Vide* Legislative Assembly Debates, Vol. II, pages 16603-08.

Statement showing non-official Resolutions adopted by the Legislative Assembly during the Simla Session in September, 1921, and action of Government taken thereon.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
1	5th September	Dr. H. S. Gour	Address of welcome to H. E. H. the Prince of Wales.	Home	His Royal Highness the Prince of Wales has signified his willingness to receive this address, and this has been communicated to the Secretaries of both Chambers of the Legislature. His Excellency's thanks were conveyed to the Legislative Assembly.
2	Do	Rai Sahib Laksabmi Narayan Lal.	Welcome to His Excellency Lord Reading.	Do.	A Committee of officials and non-officials has been appointed to consider the question.
3	15th September	Mr. N. M. Samarth	Removal of distinctions between Indians and non-Indians in their mode of trial.	Do.	The Government of India have issued a Resolution declining to accept the Resolution passed in the Assembly.
4	20th September	Rai T. P. Mukerjee Bahadur.	Separation of Judicial and Executive functions.	Do.	The Chief Commissioner, North-West Frontier Province, and the Punjab Government are being addressed for their views.
5	21st September	Sir F. S. Sivaswamy Aiyer	Judicial administration of the North-West Frontier Province.	Do.	Instructions have been sent to the High Commissioner for India in the United Kingdom.
6	23rd September	Sir V. Thackersey	Purchase of stores by the High Commissioner for India.	Industries	The Resolution was accepted on the understanding that the Central Government could accept no financial liability for the project and that all that the Resolution implied—so far as the Government of India were concerned—was that they should do nothing to hamper the scheme but should as far as lies in the power of the various departments do everything to assist its early completion. This is being done.
7	Do.	Mr. S. C. Shabani	Construction of the Sukkur Barrage.	Finance	The views of the Assembly have been noted as recommended in the Resolution.
8	27th September	Beohar Raghubir Sinha	Anti-drink movement in India.	Commerce	The gist of the debate was telegraphed to the Secretary of State on 20th October, 1921, and a copy of the full proceedings of the Assembly was also sent to the India Office for the information of the Secretary of State.
9	28th September	Bao Bahadur C. S. Subramanyam.	Non-recognition by the General Medical Council of Medical Diplomas of Indian Universities.	Education	A copy of the debates in the Legislative Assembly has been forwarded to the Secretary of State.
10	29th September	Rai Jadu Nath Majumdar Bahadur.	Indian Antonomy	Home	

APPOINTMENT OF COUNCIL SECRETARIES.

202. **Mr. Sambanda Mudaliar:** Will Government be pleased to state whether His Excellency the Governor General has any intention to appoint Council Secretaries under section 43-A of the Government of India Act? not, why not?

The Honourable Sir William Vincent: The appointment of Council Secretaries is, under the provisions of section 43-A of the Government of India Act, left entirely to the discretion of the Governor General. The Government of India have no statement on the question to make at present.

LATEST ANGLO-AFGHAN TREATY.

203. **Mr. Muhammad Faiyaz Khan:** Will the Government be pleased to lay on the table a copy of the latest Anglo-Afghan Treaty?

Mr. Denys Bray: A translation of the Anglo-Afghan Treaty is placed on the table. It is a more literal translation of the Persian original than that contained in the communiqué issued on the conclusion of the Treaty which was based in parts on telegraphic reports.

(Translation.)

TREATY.

PREAMBLE.

The British Government and the Government of Afghanistan with a view to the establishment of neighbourly relations between them have agreed to the Articles written hereunder whereto the undersigned duly authorised to that effect have set their seals:—

Article I.

The British Government and the Government of Afghanistan mutually certify and respect each with regard to the other all rights of internal and external independence.

Article II.

The two High Contracting Parties mutually accept the Indo-Afghan Frontier as accepted by the Afghan Government under Article V of the treaty concluded at Rawalpindi on the 8th August, 1919, corresponding to the 11th Ziqada, 1337 Hijra, and also the boundary west of the Khyber laid down by the British Commission in the months of August and September, 1919, pursuant to the said Article, and shown on the map attached to this treaty by a black chain line; subject only to the realignment set forth in Schedule annexed which has been agreed upon in order to include within the boundaries of Afghanistan the place known as Tor Kham, and the whole bed of the Kabul river between Shilman Khwala Banda and Palosai and which is shown on the said map by a red chain line. The British Government agrees that the Afghan authorities shall be permitted to draw water in reasonable quantities through a pipe which shall be provided by the British Government from Landi Khana for the use of Afghan subjects at Tor Kham, and the Government of Afghanistan agrees that British officers and tribesmen living on the British side of the boundary shall be permitted without let or hindrance to use the aforesaid portion of the Kabul river for purposes of navigation and that all existing rights of irrigation from the aforesaid portion of the river shall be continued to British subjects.

The British Government agrees that the Amir of Afghanistan shall be treated as the equal of the British Majesty and the Sovereigns of all other Powers

and to permit the establishment of an Afghan Legation in London, and the Government of Afghanistan likewise agrees to receive in Kabul a Minister from His Britannic Majesty the Emperor of India and to permit the establishment of a British Legation at Kabul.

Each party shall have the right of appointing a Military Attaché to its Legation.

Article IV.

The Government of Afghanistan agrees to the establishment of British Consulates at Kandahar and Jalalabad, and the British Government agrees to the establishment of an Afghan Consul-General at the headquarters of the Government of India and three Afghan Consulates at Calcutta, Karachi and Bombay. In the event of the Afghan Government desiring at any time to appoint Consular officers in any British territories other than India, a separate agreement shall be drawn up to provide for such appointments, if they are approved by the British Government.

Article V.

The two High Contracting Parties mutually guarantee the personal safety and honourable treatment each of the representatives of the other, whether Minister, Consul-General or Consuls, within their own boundaries, and they agree that the said representatives shall be subject in the discharge of their duties to the provisions set forth in the second Schedule annexed to this treaty. The British Government further agrees that the Minister, Consul-General and Consuls of Afghanistan shall within the territorial limits within which they are permitted to reside or to exercise their functions, notwithstanding the provisions of the said Schedule, receive and enjoy any rights or privileges which are or may hereafter be granted to or enjoyed by the Minister, Consul-General or Consuls of any other Government in the countries in which the places of residence of the said Minister, Consul-General and Consuls of Afghanistan are fixed; and the Government of Afghanistan likewise agrees that the Minister and Consuls of Great Britain shall within the territorial limits within which they are permitted to reside or to exercise their functions, notwithstanding the provisions of the said Schedule, receive and enjoy any rights or privileges which are or may hereafter be granted to or enjoyed by the Minister or Consuls of any other Government in the countries in which the places of residences of the said Minister and Consuls of Great Britain are fixed.

Article VI.

As it is for the benefit of the British Government and the Government of Afghanistan that the Government of Afghanistan shall be strong and prosperous, the British Government agrees that whatever quantity of material is required for the strength and welfare of Afghanistan, such as all kinds of factory machinery, engines and materials and instruments for telegraph, telephones, &c., which Afghanistan may be able to buy from Britain or the British dominions or from other countries of the world, shall ordinarily be imported without let or hindrance by Afghanistan into its own territories from the ports of the British Isles and British India. Similarly the Government of Afghanistan agrees that every kind of goods, the export of which is not against the internal law of the Government of Afghanistan and which may in the judgment of the Government of Afghanistan be in excess of the internal needs and requirements of Afghanistan and is required by the British Government, can be purchased and exported to India with the permission of the Government of Afghanistan. With regard to arms and munitions, the British Government agrees that as long as it is assured that the intentions of the Government of Afghanistan are friendly and that there is no immediate danger to India from such importation in Afghanistan, permission shall be given without let or hindrance for such importation. If, however, the Arms Traffic Convention is hereafter ratified by the Great Powers of the world and comes into force, the right of importation of arms and munitions by the Afghan Government shall be subject to the proviso that the Afghan Government shall first have signed the Arms Traffic Convention and that such importation shall only be made in accordance with the provisions of that Convention. Should the Arms Traffic Convention not be ratified or lapse the Government of Afghanistan, subject to the foregoing assurance, can from time to time import into its own territory the arms and munitions mentioned above through the ports of the British Isles and British India.

Article VII.

No Customs duties shall be levied at British Indian ports on goods imported under the provisions of Article VI on behalf of the Government of Afghanistan for immediate transport to Afghanistan, provided that a certificate signed by such Afghan authority or representative as may from time to time be determined by the two Governments shall be presented at the time of importation to the Chief Customs Officer at the port of import setting forth that the goods in question are the property of the Government of Afghanistan and are being sent under its orders to Afghanistan and showing the description, number and value of the goods in respect of which exemption is claimed; provided, secondly, that the goods are required for the public services of Afghanistan and not for the purposes of any State monopoly or State trade, and provided, thirdly, that the goods are, unless of a clearly distinguishable nature, transported through India in sealed packages which shall not be opened or sub-divided before their export from India.

And also the British Government agrees to the grant in respect of all trade goods imported in India at British ports for re-export to Afghanistan and exported to Afghanistan by routes to be agreed upon between the two Governments of a rebate at the time and place of export of the full amount of Customs duty levied upon such goods, provided that such goods shall be transported through India in sealed packages which shall not be opened or sub-divided before their export from India.

And also the British Government declares that it has no present intention of levying Customs duty on goods or livestock of Afghan origin or manufacture, imported by land or by river into India or exported from Afghanistan to other countries of the world through India and the import of which into India is not prohibited by law. In the event, however, of the British Government deciding in the future to levy Customs duties on goods and livestock imported into India by land or river from neighbouring States it will, if necessary, levy such duties on imports from Afghanistan; but in that event it agrees that it will not levy higher duties on imports from Afghanistan than those levied on imports from such neighbouring States. Nothing in this Article shall prevent the levy on imports from Afghanistan of the present Khyber tolls and of octroi in any town of India in which octroi is or may be hereafter levied, provided that there shall be no enhancement over the present rate of the Khyber tolls.

Article VIII.

The British Government agrees to the establishment of trade agents by the Afghan Government at Peshawar, Quetta and Parachinar, provided that the personnel and the property of the said agencies shall be subject to the operations of all British laws and orders and to the jurisdiction of British Courts; and that they shall not be recognised by the British authorities as having any official or special privileged position.

Article IX.

The trade goods coming to (imported to) Afghanistan under the provisions of Article VII from Europe, etc., can be opened at the railway terminuses at Jamrud, in the Kurram and at Chaman for packing and arranging to suit the capacity of baggage animals without this being the cause of re-imposition of Customs duties; and the carrying out of this will be arranged by the trade representatives mentioned in Article XII.

Article X.

The two High Contracting Parties agree to afford facilities of every description for the exchange of postal matter between their two countries, provided that neither shall be authorised to establish Post Offices within the territory of the other. In order to give effect to this Article, a separate Postal Convention shall be concluded, for the preparation of which such number of special officers as the Afghan Government may appoint shall meet the officers of the British Government and consult with them.

Article XI.

The two High Contracting Parties having mutually satisfied themselves each regarding the goodwill of the other, and especially regarding their benevolent intentions towards the tribes residing close to their respective boundaries, hereby undertake each to inform the

other in future of any military operations of major importance which may appear necessary for the maintenance of order among the frontier tribes residing within their respective spheres, before the commencement of such operations.

Article XII.

The two High Contracting Parties agree that representatives of the Government of Afghanistan and of the British Government shall be appointed to discuss the conclusion of a Trade Convention and the convention shall in the first place be regarding the measures (necessary) for carrying out the purposes mentioned in Article IX of this treaty. Secondly, (they) shall arrange regarding commercial matters not now mentioned in this treaty which may appear desirable for the benefit of the two Governments. The trade relations between the two Governments shall continue until the Trade Convention mentioned above comes into force.

Article XIII.

The two High Contracting Parties agree that the first and second schedules attached to this treaty shall have the same binding force as the Articles contained in this treaty.

Article XIV.

The provisions of this treaty shall come into force from the date of its signature, and shall remain in force for three years from that date. In case neither of the High Contracting Parties should have notified twelve months before the expiration of the said three years the intention to terminate it, it shall remain binding until the expiration of one year from the day on which either of the High Contracting Parties shall have denounced it. This treaty shall come into force after the signatures of the Missions of the two Parties and the two ratified copies of this shall be exchanged in Kabul within 2½ months after the signatures.

(Sd.) MAHMUD TARZI,

*Chief of the Delegation of the Afghan
Government for the conclusion of
the Treaty.*

*Tuesday, 30th Aqrab 1300 Hijra
Shamsi (corresponding to 22nd
November 1921).*

(Sd.) HENRY B. C. DOBBS,

*Envoy Extraordinary and Chief of
the British Mission to Kabul.*

*This twenty-second day of November
one thousand nine hundred and
twenty-one.*

SCHEDULE I.

(Referred to in Article II.)

In the nulla-bed running from Landi Khana to Painsa Khak Post, the Afghan frontier has been advanced approximately 700 yards, and the Tor Kham ridge, including Shamsa Kandao and Shamsa Kandao Sar, is comprised in Afghan territory. Further, the Afghan frontier has been advanced between the point where the present boundary joins the Kabul river and Palosai from the centre of the river to the right bank.

SCHEDULE II.

Legations and Consulates.

(a) The Legations, Consulate-General and Consulates of the two High Contracting Parties shall at no time be used as places of refuge for political or ordinary offenders or as places of assembly for the furtherance of seditious or criminal movements or as magazines of arms.

(b) The Minister of His Britannic Majesty at the Court of Kabul shall, together with his family, Secretaries, Assistants, Attachés and any of his menial or domestic servants or his couriers who are British subjects, be exempt from the civil jurisdiction of the Afghan Government, provided that he shall furnish from time to time to the Afghan Government a list of persons in respect of whom such exemption is claimed, and, under a like proviso, the Minister of the Amir to the Royal Court of London to which all the Ambassadors of States are accredited shall, together with his family, Secretaries, Assistants, Attachés and any of his menial or domestic servants or his couriers who are Afghan subjects, be exempt from the civil jurisdiction of Great Britain. If an offence or crime is committed by an Afghan subject against the British Minister or the persons above-mentioned who are attached to the British Legation, the case shall be tried according to the local law by the Courts of Afghanistan within whose jurisdiction the offence is committed, and the same procedure shall be observed *vice versa* with regard to offences committed in England by British subjects against the Afghan Minister or other persons above-mentioned attached to the Afghan Legation.

(c) (i) A Consul-General, Consuls and members of their staffs and households who are subjects of the State in which they are employed, shall remain subject in all respect to the jurisdiction, laws and regulations of such State.

(ii) A Consul-General, Consuls and members of their staffs and households other than subjects of the State in which they are employed shall be subject to the jurisdiction of the Courts of such State in respect of any criminal offence committed against the Government or subjects of such State, provided that no Consul-General, Consul or member of their staff or household shall suffer any punishment other than fine; provided also that both Governments retain always the right to demand recall from their dominions of any Consul-General, Consul, or member of their staff or household.

(iii) A Consul-General, Consuls and members of their staffs and households other than subjects of the State in which they are employed shall be subject to the jurisdiction of the Courts of the said State in respect of any civil cause of action arising in the territory of the said State, provided that they shall enjoy the customary facilities for the performance of their duties.

(iv) The Consul-General of Afghanistan and Consuls shall have a right to defend the interests of themselves or any members of their staffs and households who are subjects of their own Governments in any Court through pleaders or by the presence of one of the Consulate officials, with due regard to local procedure and laws.

(d) The Ministers, Consul-General and Consuls of the two High Contracting Parties and the members of their staffs and households shall not take any steps or commit any acts injurious to the interests of the Government of the country to which they are accredited.

(e) The Ministers, Consul-General and Consuls of the two Governments in either country shall be permitted to purchase or hire on behalf of their Governments residences for themselves and their staff and servants, or sites sufficient and suitable for the erection of such residence and grounds of a convenient size attached, and the respective Governments shall give all possible assistance towards such purchase or hire; provided that the Government of the country to which the Ministers or Consuls are accredited shall, in the event of an Embassy or Consulate being permanently withdrawn, have the right to acquire such residences or lands at a price to be mutually agreed on; and provided that the site purchased or hired shall not exceed twenty *jaribs* in area.

Note.—Each *jarib* = 60 × 60 yards, English = 3,600 square yards.

(f) The Ministers, Consul-General and Consuls of the two Governments shall not acquire any immovable property in the country to which they are accredited without the permission of the Government of the said country.

(g) Neither of the two High Contracting Parties shall found a mosque, church or temple for the use of the public inside any of its Legations or Consulates, nor shall the Ministers, Consul-General or Consuls of either Government or their Secretaries or members of their staffs and households engage, in any political agitation or movement within the country to which they are accredited or in which they are residing.

(h) The Ministers, Consul-General and Consuls of the two High Contracting Parties shall not grant naturalisation or passports or certificates of nationality or other documents of identity to the subjects of the country in which they are employed in such capacity.

(i) The Ministers of the two High Contracting Parties besides their own wives and children, may have with them not more than 35 persons, and a Consul-General and Consuls,

besides their own wives and children, not more than 20 persons. If it becomes necessary to employ in addition subjects of the Government of the country to which they are accredited, Ministers can employ not more than ten persons and Consul-General and Consuls not more than five persons.

(f) The Ministers, Consul-General and Consuls of the two High Contracting Parties shall be at liberty to communicate freely with their own Government and with other official representatives of their Government in other countries by post, by telegraph and by wireless telegraphy in cypher or *en clair*, and to receive and despatch sealed bags by courier or post, subject to a limitation in the case of Ministers of six pounds per week, and in the case of a Consul-General and Consuls of four pounds per week, which shall be exempt from postal charges and examination and the safe transmission of which shall, in the case of bags sent by post, be guaranteed by the Postal Departments of the two Governments.

(g) Each of the two Governments shall exempt from the payment of Customs or other duties all articles imported within its boundaries in reasonable quantities for the personal use of the Minister of the other Government or of his family, provided that a certificate is furnished by the Minister at the time of importation that the articles are intended for such personal use.

ANGLO-JAPANESE TREATY RELATING TO INDIA.

204. **Mr. Muhammad Faiyaz Khan** : Will the Government be pleased to lay on the table that part of the Anglo-Japanese Treaty which relates to India ?

Mr. Denys Bray : The Agreement is a public document having been published in 1911 by His Majesty's Stationery Office as Treaty Series No. 18. I will, however, send a copy to the Honourable Member if he so desires. He is no doubt aware that the Agreement terminates on the ratification of the Quadruple Pacific Treaty.

REVISED ARMS ACT RULES.

205. **Mr. Muhammad Faiyaz Khan** : Will the Government be pleased to lay on the table old and revised Arms Act Rules, with copies of revised Arms Act Rules by different Provincial Governments since January, 1920 ?

The Honourable Sir William Vincent : The Indian Arms Rules, 1909, and issues prior to that year are out of print, and Government are not prepared to have them re-printed in order to lay copies on the table. If the Honourable Member so desires, a copy of the Rules of 1909 can be supplied to him on application to the Home Department.

Copies of the Indian Arms Rules, 1920, have been supplied to the Library of the Chamber for the use of Members, and Government see no necessity for laying further copies on the table.

It is presumed that by 'revised Arms Act Rules by different Provincial Governments' the Honourable Member means subsidiary rules and instructions issued by Local Governments. The Government of India do not possess these and cannot, therefore, lay them on the table.

REDUCTION OF SENTENCE OF PANDIT K. K. MALAVIYA AND PANDIT G. A. MALAVIYA.

206. **Mr. Muhammad Faiyaz Khan** : (a) Will the Government be pleased to state if it is true that the punishment of Pandit K. K. Malaviya and Pandit G. A. Malaviya has been reduced to six months' simple imprisonment from 18 months' rigorous imprisonment? If it is true, will the

Government be pleased to state if these two are sons or relatives of Pandit Madan Mohan Malaviya?

(b) Will the Government be pleased to state if any other prisoner or prisoners' punishments have been reduced? If so, what is their number, and the amount of punishments reduced? Under what section and for what act have these two Pandits been tried and punished, and under what section and for what act has Mr. Nisar Ahmud Khan Sherwani of Aligarh been tried, and for how many months or years has Mr. N. A. K. Sherwani of Aligarh been sent to jail; and what is the difference between the offences of Mr. N. A. K. Sherwani of Aligarh and Pandit K. K. Malaviya and Pandit G. A. Malaviya of Allahabad?

The Honourable Sir William Vincent: (a) Yes. These two gentlemen are understood to be closely related to Pandit Madan Mohan Malaviya.

(b) Government have no precise information as to the number of sentences which have been reduced. They have, however, seen statements in the newspapers to the effect that a number of reductions have been given. The two Pandits were sentenced under section 17 of the Criminal Law Amendment Act, 1908. Mr. N. A. K. Sherwani was convicted under section 153-A of the Indian Penal Code and sentenced to one year's rigorous imprisonment.

TREATIES BETWEEN THE BRITISH GOVERNMENT AND THE INDIAN STATES.

207. **Mr. Muhammad Faiyaz Khan:** Will the Government be pleased to lay on the table copies of only that part of the treaties between the British Government and the Indian States which relates to India or Indian affairs?

Mr. Denys Bray: The treaties with the States are published in Aitchison's Treaties, Engagements and Sanads, a copy of the latest edition of which will be found in the Library of the Assembly.

DEPUTATION OF MUSSALMANS OF DELHI TO THE VICEROY IN DECEMBER, 1921.

208. **Mr. Muhammad Faiyaz Khan:** Will the Government be pleased to state if it is true that in the month of December, 1921, His Excellency the Viceroy received a deputation with an address, consisting of some of the Mussalmans of Delhi? If it is true, will the Government be pleased to state their numbers, and how many of them were title-holders, holders of any honorary offices, such as Honorary Magistrate, Honorary Munsif, etc.?

The Honourable Sir William Vincent: Yes. According to Press reports, the deputation consisted of 23 Muhammadans, two of whom were title-holders. It is not known how many hold honorary offices.

HIGH CLASS INSTITUTE FOR GEOLOGY AND MINERALOGY AND TRAINING AND RESEARCH WORKS IN TANNING FOR INDIA.

209. **Sir Deva Prasad Sarvadhikary:** Will the Government be pleased to state what (if any) steps are likely to be taken, and when, for the establishment for all India of:

(a) an up-to-date high class central institute for teaching of geology and mineralogy?

(b) central up-to-date scientific training and research works in tanning ?

Mr. A. C. Chatterjee : (a) Steps are being taken to establish an up-to-date high class school of Mining and Geology at Dhanbad. A Principal and a Governing Body for the school were appointed last year. Proposals regarding the buildings, equipment, staff and curriculum of the school have been framed by the Governing Body and the Principal, and are now being examined by the Government of India. Owing to the present financial stringency, it is not possible to proceed with the scheme as quickly as was originally contemplated, but it is proposed to make a provision of Rs. 1,00,000 in the next year's budget for the collection of materials for the building of the school.

(b) The Honourable Member is referred to the answer given on the 17th March, 1921, to a question on the same subject put by the Honourable Mr. Sambanda Mudaliar. It has been decided that owing to the financial position it is not possible to ask for a grant for this purpose during the next financial year.

PRESENT GOVERNMENT EXPENDITURE ON COMMUNICATION BETWEEN DELHI AND RAISINA, AND COST OF ELECTRIC RAILWAY OR TRAMWAY COMMUNICATION.

210. **Sir Deva Prasad Sarvadhikary :** Will the Government be pleased to lay on the table a detailed statement, year by year, showing :

(a) The amount spent on and allowed for conveyance and travelling allowance to Government servants, Members of Council, Assembly and Council of State, from Delhi to Raisina and back, and for transport of stores and materials from Delhi to Raisina, since the erection of quarters in Raisina ?

(b) The amount spent on and paid to Bus and other companies and individuals for similar purposes ?

(c) Will the Government also please state what would be the cost of electric railway or tramway communication between Delhi and Raisina ?

(d) Will the Government also please state what, if any, are the objections to and difficulties in the way of such a connexion being established ?

Colonel Sir S. D'A. Crookshank : (a) Information is being collected regarding the amount spent on, and allowed for, conveyance and travelling allowance to Government servants, Members of the Legislative Assembly and Council of State from Delhi to Raisina and back, and will be laid on the table as soon as it has been compiled. As all Members of the Governor General's Executive Council have residential accommodation in old Delhi during the cold weather season, the question does not affect them. It is regretted that it is not possible to supply similar information regarding the amount spent on transport of stores and materials.

(b) The only expenditure incurred is on the bus service and is shown below :

	Rs.
1919-20	46,649
1920-21	53,897

There is a claim for additional payment which has not yet been settled.

(c) No regular estimate has been prepared, but the cost of a six-mile single track electric tramway with six tramcars is roughly estimated at Rs. 12,60,000.

(d) There are no engineering difficulties in the way of such a connection, but the number of passengers carried would be so small that such a tramway could not be worked profitably. Moreover, until the reconstruction of the roads through Pabar Gunj in connection with the railway lay-out has been completed, it would not be possible to contemplate the provision of any such means of communication.

ANNUAL INCREASED EXPENDITURE ON REFORMS.

211. **Sardar Gulab Singh** : Will the Government be pleased to state the annual expenditure increased by introducing the present Reforms in the country ?

The Honourable Sir William Vincent : The Honourable Member is referred to the answer given on the 10th January, 1922, to Beohar Raghbir Sinha's question on the subject. A copy of the statement giving the full information will be furnished to him in due course.

RELIEF TO CENTRAL GOVERNMENT THROUGH SUBJECTS TRANSFERRED TO PROVINCES.

212. **Sardar Gulab Singh** : To what extent is the Central Government relieved of work on account of the subjects and authorities transferred to the Provincial Councils and the Ministers, Councillors and Governors ?

The Honourable Sir William Vincent : Certain subjects have been transferred and certain powers have been delegated to provincial authorities, and to that extent the Central Government have been relieved of definite classes of work. On the other hand, the introduction of the Reforms has considerably increased the work of the Central Government in certain branches of administration. It is too early as yet to say what the permanent net effect of the Reforms will be on the volume of work to be done by the Central Government, but, up to the present, the result would appear to be a very great net increase in the work of some Departments. I cite my own Department, the Home Department, as a case in point.

GROUPING OF INTERMEDIATE CLASS COMPARTMENTS.

213. **Sardar Gulab Singh** : Is it not practicable that Intermediate class compartments in one train be placed together to save inconveniences to children and ladies in securing their seats ?

Colonel W. D. Waghorn : It is believed that Intermediate class compartments are placed together on trains whenever practicable. Difficulty arises, however, when Intermediate class compartments form part of the accommodation in two or more composite carriages on the same train, when it is not always possible to keep them together.

POSITION OF ASSISTANT SURGEONS WITH TEMPORARY COMMISSIONS.

214. **Dr. Nand Lal** : (i) Will the Government be pleased to state :

(a) What is the exact interpretation of letter No. 018151-4 (A. G.-9), dated Simla, 29th September, 1921, from the Deputy Secretary

to the Government of India, Army Department, to the Chief Secretary to the Government, Punjab, as, under this letter, the Inspector-General of Civil Hospitals, Punjab, has issued orders that the Assistant Surgeons who held temporary commissions in the Indian Medical Service and who have reverted to civil employ will not, in future, use, or be addressed by, their military rank in official correspondence?

- (b) As to whether the construction put by the Inspector-General of Hospitals, Punjab, is correct?
- (c) Can such Assistant Surgeons use their military rank; and, if so, in what manner?
- (d) On what grounds the aforesaid letter was issued?
- (ii) Will the Government be pleased to state as to whether letter No. 018151-4 (A. G.-9), dated Simla, 29th September, 1921, alluded to in part 1, clause (a), is meant to be applicable to the Punjab alone?
- (iii) Will the Government be pleased to state the rights and privileges attached to the rank which demobilized officers of the Indian Army and the Indian Medical Service have been permitted to retain by His Majesty the King under Army Instruction (India) No. 104 of 1920 with regard to the wearing of uniforms, attendance on the ceremonial occasions, precedence, exemptions from the provisions of the Arms Act, and Travelling Allowance when attending Government duty?

Sir Godfrey Fell: (i) (a) The interpretation of the letter referred to by the Honourable Member is that, while the Government of India consider that a record of the military service rendered by civil officers should be maintained in the Civil Lists, they are of opinion that the use of their military rank by civil officers, while acting in their civil capacity, is undesirable as the military rank will frequently have no relation to the civil status of the officers concerned.

(b) Yes.

(c) Yes, unofficially or socially.

(d) The attention of the Honourable Member is invited to the reply given to part (a) of his question.

(ii) No. The letter, as stated therein, refers to *all* civil officers of the Indian Services and was addressed to all Local Governments.

(iii) The Honourable Member will be furnished with a statement which answers this part of his question.

INDIANS IN SUPERIOR ESTABLISHMENT OF STORES DEPARTMENT OF STATE RAILWAYS.

215. **Dr. Nand Lal:** Will the Government of India be pleased to state as to:

- (a) What is the percentage of the Indians (excluding the officiating) in the Superior Establishment of the Stores Department of the State Railways?

(b) How many officers there are in all and how many of them are Indians and on what Railways they are working ?

(c) If there are only 2 or 3 Indian officers, why it is so, and when their number is going to be increased ?

Colonel W. D. Waghorn: (a) 8 per cent.

(b) There are 25 officers in all and 2 of them are Indians. Both are employed on the North-Western Railway. They joined the Department in 1919 and 1920, respectively, and the second is still completing his training.

(c) It has been decided ordinarily to fill future vacancies in the Stores Department from Indian Engineering Colleges, but, as the establishment is a small one and as vacancies are not frequent, it will be some time before the effects of this decision fully declare themselves.

MESSAGES FROM THE COUNCIL OF STATE.

Mr. President: A Message has been received from the Council of State respecting the Bills which have been passed in that Chamber. Secretary will read it.

Secretary of the Assembly: A Message has been received from the Secretary of the Council of State which reads as follows :

' Sir, I am directed to inform you that the Council of State has, at its meeting of the 23rd January, agreed without amendments to the following Bills which were passed by the Legislative Assembly :

(1) *A Bill further to amend the Indian Electricity Act, 1910.*

(2) *A Bill further to amend the Indian Factories Act, 1911.'*

Mr. President: The Secretary will lay on the table the Message informing the Assembly of the Bill which has been passed by the Council of State.

Secretary of the Assembly: Sir, in accordance with rule 25 of the Indian Legislative Rules, I lay on the table the Bill to amend the Benares Hindu University Act, 1915, which was passed by the Council of State on the 23rd January 1922.

RESOLUTION - RE: COMMITTEE ON CURRENCY AND EXCHANGE.

Sir Vithaldas D. Thackersey (Bombay Millowners' Association : Indian Commerce) : Mr. President, I beg to move :

'That this Assembly recommends to the Governor General in Council that a Committee, with a majority of Indian members, be appointed to consider the whole question of :

(1) the present policy of Currency and Exchange ;

(2) the opening of the Indian Mints to the free coinage of gold ; and

(3) the location of the Gold Standard Reserve in India ;

and to report with its recommendations at an early date'.

Mr. President, this House will remember that about two years ago, the Secretary of State appointed a Committee known as the Babington-Smith

Committee, and that Committee reported that the exchange ratio of 1s. 4d. be raised to 2s. per rupee. Unfortunately, the Committee sat at a time when the conditions were abnormal and the price of silver, on which our Rupee exchange mainly depends, rose to 80d., while, before the war, it was somewhere near 24 or 25d. So, the Committee's report was mainly based on the assumption that silver would continue to keep high and that it would be impossible, under those circumstances, to maintain the rate of 1s. 4d. which was current for well nigh 25 years previously. Sir, I do not wish to discuss, at this juncture, whether the Committee was right in setting aside the views laid before it by the representatives of the commercial community of India. All the members except one were non-Indians, and that solitary gentleman was our friend, Mr. Dadiba Dalal, who is now, I am very glad to see, a Member of the Council of the Secretary of State. He appended a masterly Minute of Dissent and his prognostications have nearly all come true. I have no doubt, Sir, that the majority was actuated by the best of motives, but if Indian views had been more taken into consideration and if more Indian representatives had been on the Committee, India's interests would not have been overlooked as they have been done by that Committee. Sir, I take it that it is India's misfortune that, when questions of currency and exchange, questions of life and death to the trade and industries, were being considered, Indian representatives on the Committee should not have been in sufficient numbers to make their influence felt. I was in London in 1919 and I gave evidence before the Committee on behalf of the Bombay Millowners' Association and I was able to see, as I was the last witness, in what direction the Committee was leading, and I warned the Committee of the danger of deciding questions of this character when the silver prices were abnormally high. The main assumption of the Committee was that, owing to the short supply of silver and the Pittman Act, silver would continue to be high. The other argument they used was the prevalence of high prices in India. Now, the amelioration of the evil of high prices was not one of the terms of reference to this Committee, but the arguments were dragged in, in order to support their contention of 2s. to the rupee. In the first place, I may point out to this House that it is very dangerous to play with the settled ratio of exchange in order to ameliorate the evils of high prices. If one Government raises exchange in order to cure high prices, after a few years another Government may reduce exchange in order to cure trade depression. We have seen that in England, and in other countries also, high prices were prevailing last year, but no body suggested in England as a solution the manipulation of the gold value of pound sterling. I must, however, give credit to the Committee for clearly indicating the circumstances which would necessitate a reconsideration of this question or its recommendations. In paragraph 51, the Committee said :

'There is one qualification which it is necessary to add to the above statement.' It seems probable that prices generally will remain at a high level for a considerable time, and that any return to lower levels will be gradual; but if, contrary to this expectation, a great and rapid fall in world prices were to take place, a new element of disturbance would be introduced. The costs of production in India might fail to adjust themselves with equal rapidity to the lower level of prices, and Indian exports might suffer to an extent which would endanger the maintenance of exchange at the level which we propose. In that case it would be necessary to consider the problem afresh, and take the measures which might be required by the altered circumstances.'

Sir, its anticipations of future prices have not been justified. In fact, as everybody knows, prices have fallen, not only of silver, which has come down

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from 80*d.* or 78*d.* to nearly 35*d.* to-day, but prices of iron and steel, cotton, tea, jute and indeed of everything, has fallen during the last two years. Particularly, our leading income crops, tea, cotton, jute, etc., are now practically at the pre-war level. What would have happened if the 2*s.* exchange was successful, and the prices of all these income crops would have gone down by a third? I leave it to this House to imagine. I maintain, therefore, Mr. President, that the contingency contemplated by the Babington-Smith Committee has arisen, and it is therefore necessary that we should re-examine the whole question. The only practical way of re-examining such an important question is through the appointment of an expert Committee and, as I said, India's views must be properly heard, and Indians should have a majority on that Committee. Sir, it may be argued that the position is still abnormal, and that things all over the world have not settled down, and that, therefore, it is inopportune to re-examine the question at present. But those who thus argue forget that we are not writing on a clean slate. Government, on the recommendations of the Babington-Smith Committee, have already altered our ratio from 1*s.* 4*d.* to the rupee to 2*s.* and, if any one argues that 2*s.* must be maintained in the books although it is untenable, I think that is not a very good argument for not re-examining the question. I may further say that this statutory 2*s.* to the rupee in our books is doing the greatest amount of mischief. In the first place, nobody believes that the 2*s.* a rupee is attainable and I am sure by this time, after the trial of last year, Government themselves must have been convinced that it is hopeless now to expect to raise our exchange to 2*s.* I have said, Mr. President, that the statutory 2*s.* is doing the greatest mischief to the commercial community, and I will show to this House how. One thing more than any other which disturbs the regular trade is the uncertainty of exchange. In September or October last, the trade looked up a little and the exchange began to rise to 1*s.* 5½*d.*, and the merchants were uncertain of the Government attitude, whether they would force up the exchange to 2*s.* or would leave things to themselves. No statement from Government came as to their attitude. One set of merchants took one view and another set took another view, and in their anxiety as to the uncertainty of exchange people did not cover their purchases and there was again a drop and people lost an opportunity. I maintain, Sir, therefore, that it is desirable that the statutory standard should be brought down to such a level as to create the minimum disturbance in trade. I am not at present proposing any concrete ratio. It is for the Committee of experts and non-official members that may be upon it to examine the question and say what will be that standard. It may be that the Committee, after looking to all the circumstances of the case, may decide that it is not desirable to permanently fix the ratio just at present, and may, in the meantime, recommend an *interim* policy of say 1*s.* 6*d.* I am not suggesting any definite figure—or any other figure which may minimize the risk to the mercantile community. The Committee may further consider and clearly lay down whether, and to what extent, Government should interfere in the natural course of exchange. At present, the policy of Government in regard to that is not fixed. It is within the power of the Secretary of State at present, if the balance of trade goes in our favour, to try to raise exchange, by artificial means, to as high a figure as he can. He can use our Gold resources in England, he may refuse to sell Council Bills, and there are a number of other ways which the people in the trade know, by which the Secretary of State can

manipulate exchange if he likes. And when we know that the advisers of the Secretary of State are wedded to 2s. a rupee, I do not find fault with the merchants if they have no confidence, in the absence of any definite policy, that the Secretary of State will not use that power if occasion arises.

There is no doubt, Mr. President, that an unduly manipulated exchange will do great harm to all kinds of interests in India. Take, for instance, agriculture. With an artificial 2s. to the rupee they will get 40 per cent. less for their produce than what they would otherwise receive. The Government will continue to collect revenue in the appreciated rupee and this raises automatically the land-tax by fifty per cent., for no fault of the agriculturist. Then, again, take, for instance, the industrial development. An artificial exchange will retard the development of industries, because foreign competition will come in, and by this artificial method Government would be practically giving a bounty of 50 per cent. to the foreign manufacturers. As regards merchants, I have already said that they would prefer a ratio which is more likely to be maintained than an artificial high one.

As regards the second part of my Resolution, about the opening of mints to the free coinage of gold, I have not much to say. The Government of India have accepted the policy of opening mints to the free coinage of gold; in fact, they had arranged with the Royal Mint to open a branch in India, but it was because of the war that the scheme had to be dropped. The Babington-Smith Committee has recommended that as soon as possible a branch of the Royal Mint should be opened; but, if the Royal Mint refuses to open this branch on some technical ground, I think the Committee might consider whether it would not be desirable to mint gold mohurs or some other kind of gold coin of equal fineness and weight to the English sovereign, but that must be the last resort. Sir, I believe that until we have a proper gold currency, we will never be free from the anxiety of currency problems off and on. India will not stand any further the policy that has been followed in the past of pouring in as much silver as possible into India and preventing gold from entering into India. I may only read a few lines from the Minority Report of Mr. Dalal. He says in paragraph 68:

'The fact that the maintenance of exchange was so readily abandoned and the sale of rupee bills continued, combined with the persistent flooding of India with silver token money, gives ground for the theory that fixity of exchange was only the ostensible object of the policy and that the real the object was to compel India to take silver in place of gold money. Further, it is a policy which is settled and managed in London, and which necessarily operates in the markets of London and India. That the interests of the London market have not been without influence in shaping the policy may be gathered from the enormous sums, of money or investments belonging to the Indian currency which have been accumulated there.'

At that time there were about 87 or 88 million pounds accumulated there:

'The profits on silver coinage were steadily collected into the Gold Standard Reserves in London, and now that the coinage of silver has ceased to be profitable, a new departure has been made in the issue of currency notes in India on the security of investments in London which has had the effect of rapidly accumulating an enormously increased store of Indian currency money in London.'

Now, as regards the third part of my motion, the location of the Gold Standard Reserve in India, it has a long history behind it. It was in 1912 that I moved a Resolution in the Imperial Legislative Council at Calcutta recommending that all gold of the Gold Standard Reserve should be located

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in India. At that time, all the Chambers of Commerce, both Indian opinion and European opinion, were unanimous that the gold must remain in India because, in time of war or panic, the gold could not be secured from England. Well, at that time the country fought but the gold remained in London and what was the effect?

It was not only kept in England, but was invested in long-term securities. The war came in and there came down the value of securities and a large amount of our Gold Standard Reserve had to be written down. Even now, the Babington-Smith's Committee has recommended that half of it should be brought to India.

It says :

' There is, however, a strong sentiment in India in favour of the location of the whole or, at any rate, a large part of the Reserve in India. In currency matters the possession of public confidence is an asset of great value and we therefore think it advisable to comply with the Indian demand, so far as this can be done without detracting from the utility of the fund for the purposes for which it exists. Gold in India can be made available for the purpose of foreign remittance either by export or by transfer to the Paper Currency Reserve in India against a corresponding release of Paper Currency assets in the United Kingdom or in circumstances of urgency by arranging to earmark it for the Bank of England. We consider, therefore, that a portion of the gold in the Gold Standard Reserve should be held in India ; but the gold so held should not exceed one-half of the total '.

and so on.

Well, even the Babington-Smith Committee said : ' Take half. ' What is the present position ? We have in India not a single ounce of gold of our Gold Standard Reserve. In spite of the passing of 2½ years since the report was made, all gold is to-day in England. I think the time has now come when we must insist that all our gold be kept in India. If gold had been kept in India, it would have been very useful during the silver crisis. Instead of waiting and waiting and raising the exchange and at one time bringing our paper currency to the verge of inconvertibility, we would have given gold to the people and the currency difficulties would have been avoided. What did we do ? We prevented silver coins from going out into the country and allowed our currency notes to go down to discount up to 19 per cent. All that would have been avoided if our gold had remained in India and this House must insist that India's gold should remain in India. I hope, Mr. President, Government, on whom the great responsibility lies for seeing that the commercial communities are not inconvenienced and that the people are not put to unnecessary loss, will see their way to accept this Resolution.

Mr. C. W. Rhodes (Bengal : European) : I have deserted my duties on the Fiscal Commission in order to take part in this discussion. Like Dives of old, I have been in torment on one Commission and I desire to prevent my friends in this Council from sharing a like fate on another. Fiscal statistics we have in plenty, but statistics of the pre-war period are of very little use, of the war period of still less use, and since then trade has been like the troubled sea that cannot rest. We are, therefore, endeavouring to make bricks without straw. The Committee now suggested by my Honourable friend is going to a worse fate. He tells us that the Babington-Smith Committee was appointed at an abnormal time. I do not think any of us would dispute that fact. But, Sir, are the times normal now ? If this House decides to appoint it, I can prophesy an unhappy life and a discredited end. My Honourable

friend has hinted that it will not be the first Currency Committee to have this unhappy experience, but this will make me none the less sorry for those Members who have the temerity to embark on such a troubled sea without compass or helm. On what facts will this Committee build? India is not in a ring fence. Indian exchange is not a matter like the village tank which can be left to a district board. The causes which are upsetting our currency and exchange are not national but international and the cleverest brains in Europe and America are at present seeking a solution in vain. Does my Honourable friend think that we can anchor our frail bark on a quicksand, or that we can stabilise the rupee for all the currencies of the world to revolve round it? As a matter of fact, we all seem to be revolving round the American dollar and that, itself, is by no means a fixed star. I would suggest in all seriousness that, if this Committee is appointed, it should start a tour of the world, and, having solved the financial problems of Europe, it should return to settle the rupee.

I do not intend to weary the House by dealing separately with the three points of the Resolution with which the Honourable Mover has dealt in a way that suggests that he thinks the Committee is already appointed. I have no doubt that in regard to them the experts will have much to say in times to come, though I honestly believe that in such matters, as the opening of a mint and the transfer of the Gold Standard Reserve to India, the question will not lie with the Government or this House, but with the force of circumstances which may compel certain changes. In regard to the first item, namely, the present policy of currency and exchange, the policy (if policy it may be called) is admittedly one of drift and masterly inactivity. During 1921, when Government allowed the rupee to find its own restless level, the American cross rate swung like a pendulum, and the Indian balance of trade, which gave hope of re-adjustment in July and August, again went heavily against India. And yet, the rupee only varied three pence three-eighths during 1921; a serious variation, I admit, judged by pre-war standards but a dead level comparative to the fluctuations of the previous year. It would be futile to suggest that the improvement is due entirely to the absence of Government control or, to borrow a word which the Honourable Mover has used, of Government interference. We have, however, discovered that, left to themselves, there are forces at work which put the brake both on a rise and a fall in exchange and we have been trading with some slight sense of security without living in daily dread of some new communiqué which will upset the present insecure balance. It is a trying time of reconstruction and I earnestly beg this House to do nothing to add to the difficulties under which commerce and industry are labouring to-day. The evils of the last upset have not yet disappeared, but commonsense and goodwill, which are slowly re-appearing both in India and England, are leading to an adjustment of conflicting interests. We are not yet out of the wood and we still require time before the situation is sufficiently well in hand to justify fresh experiments. My Honourable friend will doubtless tell me in reply that he is only proposing an inquiry and not immediate action. There I entirely disagree with him. The very appointment of a Committee will constitute a definite action which will have a definite effect on the trade of the country. I quite agree that an inquiry will eventually be required but surely that time will come when the question becomes a national, rather than an international one. In the meantime, matters cannot stand still. A Committee would mainly deal with the theoretical aspects of the question.

[Mr. C. W. Rhodes.]

But I can assure my Honourable friend that plain, practical facts will force the issue, probably long before any Committee could report. If the Secretary of State requires funds in London, beyond his sterling borrowing powers, funds he must have and the hard logic of facts will drive the Government to place those funds there, quite irrespective of any theories as to whether the rupee is to be fixed eventually at 1s. 4d., 1s. 8d. or 2s. Now, my Honourable friend has stipulated for a majority of Indian members and he certainly did not give his reasons. The Honourable Member told us that Government altered the ratio from 1s. 4d. to 2s. In the same breath, he told us they would never be able to reach 2s. Surely these statements are mutually destructive. My only stipulation would be for the best brains in the country and I care not whether they are Indian or European. In this matter, as in all others, our interests are one, and I gladly support the Honourable Member as a fellow member of Commerce in expressing the view that what we want, if our trade and industry are to develop, is the fullest possible help from a stable exchange and a sound currency. Last January, the Associated Chambers of Commerce unanimously decided in favour of a policy of suspended animation and I see nothing in the history of the past twelve months to convince me they were wrong. I see nothing in the present position to indicate that the time is opportune or the data available for an inquiry now. May I invite the attention of my friends to the Resolution accepted by the Brussels Financial Conference which we must recognise as a competent authority. The Resolution was that :

‘Public attention should be especially drawn to the fact that the reduction of prices and the restoration of prosperity are dependent on the increase of production and that the continual excess of Government expenditure over revenue represented by budget deficits is one of the most serious obstacles to such increase of production, as it must, sooner or later, involve the following consequences :

- (a) A further inflation of credit and currency,
- (b) A further depreciation in the purchasing power of the domestic currency and a still greater instability of the foreign exchanges,
- (c) A further rise in prices and the cost of living.

The country which accepts the policy of budget deficits is treading the slippery path which leads to general ruin and to escape from that path no sacrifice is too great.’

These, Sir, are weighty words, and I commend them to the attention of Honourable Members at this particular juncture. Is our own House in order? Does the position in England, France, Italy, Germany and Russia supply conditions under which a new currency scheme can be elaborated? I think not. I do not deprecate discussion, but, for that, no Committee is necessary. The facts are before us and as the situation develops, I hope we shall have the fullest discussion in public and in the press and elsewhere, so that, if possible, we can discover another Lindsay to point the way when the situation becomes clearer. But, in the meantime, I dread the nightmare of fresh Government action. If I may be permitted, I will quote my own words addressed to the Associated Chambers of Commerce just a year ago :

‘One thing I would urge upon the Government and that is, not to attempt to dam up the flow of economic forces unless next time they are absolutely certain that they have the resources to keep the dam intact. Far better let the currents ebb and flow than risk again a bursting dam.’

I think, Sir, that the experiences of the last twelve months have justified those words, and I am confident the Honourable the Finance Member will not be able to give us any assurance whatever that he has the power at present to put into force any decision at which a Committee now appointed might arrive.

But I would quote a greater authority. The present Financial Secretary said in another place last March :

' Could a Committee enable the starving population of Austria to buy India's goods? Could a Committee put Italy on her feet again financially? Could a Committee solve the problem of Germany's reparations payments? Could a Committee evolve order out of chaos in Russia?'

The answer was ' No ' last March, and the answer is ' No ' to-day.

I therefore ask the Honourable Mover not to press his Resolution, and I trust the House will not accept it. But I welcome the debate if only to give the Government the opportunity of repeating what the Financial Secretary said last March, namely :

' If there is going to be any fundamental change, any new rate to be settled or any attempt at a permanent solution, neither the Government of India nor the Secretary of State will do this off his own bat.'

I think, Sir, the whole House will be unanimous in asking the Government to repeat and adhere strictly to this pledge.

Mr. Manmohandas Ramji (Indian Merchants' Chamber and Bureau : Indian Commerce) : Sir, without going into the merits of the question raised by this Resolution, I urge that we have not yet had sufficient time to think and to adjust our exchange policy. Last February, I mean in February, 1920, a change in the currency policy was effected, and we have not yet passed through the disastrous effects of that change and it is too early now to attempt any further change by the appointment of such a Committee. I therefore suggest that we should wait and see the effects of the present policy, and also see that the world conditions are more stable and more suitable before there is another change at all.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, I, like my friend, Mr. Rhodes, have been a truant from the Fiscal Commission, and, if I remain here to-day I do so for the purpose of learning in this debate something about this problem which has not a little bearing upon the questions we have to decide as members of the Fiscal Commission. Sir, Mr. Manmohandas Ramji has told us that it was only very recently that a Committee sat and came to a conclusion upon this question, and that it is too early to summon a new Committee because that would have the effect of upsetting the trade conditions. I greatly sympathise with what has been said by him. At the same time, it is desirable that there should be a pronouncement by Government, by the Honourable the Finance Member, as to whether it is possible to bring about a condition of soundness in exchange, which Mr. Rhodes also pleaded for. Sir, Mr. Rhodes said that the time is not opportune for the appointment of a Committee at present, and he asked : ' While conditions are international and not national, can a Committee do any good?'. But is there any chance, during the next fifty years to come, of conditions becoming national and not international? With the position of the mark in Germany, and with the

[Mr. T. V. Seshagiri Ayyar.]

chaotic conditions in Russia and Austria, is there any chance, during the next fifty years to come, of the condition of affairs being national and not international, and of Indian exchange and currency being not dependent upon international considerations ?

I do not think, Sir, that the reasons given by Mr. Rhodes really lead to the conclusion that we should hold our hands. If we are to wait
 12 Noon. for an atmosphere where the conditions would be national, it will take a very long time.

There are one or two points which I should like to place before the House, so that the Honourable the Finance Member may give us a reply. It is true, Sir, that, until 1920-21, India had a trade balance : that is to say, our exports were larger than our imports as a result of which we had a trade balance, which enabled us to pay the interest upon the heavy debt of 1,75 millions due from this country and also to pay the services and persons who have retired and settled in England. In 1920-21 there was an adverse balance against India to the extent of 79½ crores of rupees, as a result of which there has been great unsteadiness in the matter of exchange, and so on. Also, the Secretary of State has been issuing Council Bills and the Government of India Reverse Council Bills, and, as a result of these operations, there has been a further complication in the exchange problem. Now, the question which I beg to ask the Finance Member is this : ' What has become of the Gold Reserve which was, as Sir Vithaldas Thackersey has pointed out, due to India : and how have the operations of the Secretary of State affected the sending out and bringing in of gold into this country ? ' I believe the Finance Member and the whole House will agree that some attempt should be made to re-open the mint for gold coinage in this country. That is absolutely necessary. But, it may be asked, where is the gold to come from, for the purpose of coining, and is not that dependent upon the answer which the Finance Member can give as to the result of the operations of the Secretary of State in issuing Council Bills ? Sir, so far as this country is concerned, the larger proportion of its imports are from England, while it exports very largely to foreign countries. The result is that a large quantity of gold which should, in the natural course of events, come into India from foreign countries is, to a certain extent, prevented from coming in by the operations carried on by the Secretary of State. That, really, is the cause of all the troubles from which India has been suffering for so many years : and, if I intervene in this debate, it is for the purpose of eliciting an answer from the Finance Member as to what steps he proposes taking in order to prevent the Secretary of State carrying on his operations, so that gold may flow into this country as it ought to. It may be said by the Honourable the Finance Member that, at the present moment, normal conditions have not set in and our trade balance would continue to remain adverse, mainly because Germany has not been rehabilitated in world trade as much as we should desire. But, supposing that normal conditions do come in, is there any chance of the Secretary of State not operating in the way in which he has been doing to prevent gold coming into India ? That is the question to which I should like an answer.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I rise to speak with great diffidence. I was trying to study the subject, but my attention was drawn to the forewords of a learned and recent monograph on the subject. It is an expression of opinion by an

Honourable Member in the British Parliament. The Member said—I am reading from an extract from Hansard, dated 21st December, 1920—he said :

‘ Indeed, I have read that only one person knows the real arcana of foreign exchanges, and he is in a lunatic asylum ’.

So, my enthusiasm has considerably cooled down as I do not wish to follow him to that interesting place. But, all the same, it might clear the air if we tried to discuss the subject from a commonsense point of view. One fact is patent, that not very long ago the rupee value rose to 2s. 10d. and to-day it is 1s. 4d. It is, of course, varying daily, telegraphic transfers at the moment being quoted at a little above 1s. 3d. ; a few months ago, it rose to 1s. 5d. and so the average of this year may be put down at 1s. 4d. I am not going to discuss the reasons for these fine fluctuations or the causes which promote daily fluctuations. There is the outstanding fact that the rupee has rapidly fallen from 2s. 10d. and to-day it is 1s. 3d. or a little more. A variation of this kind is bad for trade and commerce, bad for people who have to meet liabilities in the London market and bad for the whole country generally as it re-acts on the prices. In order that prices may assume a normal level, it is necessary that the exchange should not so fluctuate and be normal. The question is : what policy of currency and exchange should be pursued? The present policy, I understand, is one of inaction. I do not see what other policy can be pursued at the present moment. But one thing stands out ; that is, that our currency policy was based on what is called the Gold Exchange Standard. It was the Gold Exchange Standard that helped to preserve the stability of our exchange in pre-war times. The position was that we had a Gold Reserve in England, and, whenever there was a fluctuation in exchange, that is, when the exchange showed a downward tendency, Reverse Council Bills were sold in this country and the Secretary of State paid therein gold from the Reserve, in the London market. That was how he regulated the exchange ; whenever there was any marked tendency of rise or fall in the exchange, he sold Council Bills there at 1s. 4d. or a little above, and Reverse Council Bills were sold in this country at a rate slightly below but seldom below 1s. 3 $\frac{2}{3}$ d. Now the great blunder that was made was the selling of Reverse Council Bills on a large scale during the time that the rupee value rapidly rose to 2s. 9d. or thereabouts. There is no justification in economics for selling Reverse Council Bills when the exchange is in favour of India. By so doing we know what losses we have incurred. I am speaking from memory and I think the net loss of India would be something like Rs. 60 crores.

The Honourable Sir Malcolm Hailey (Finance Member) : No.

Mr. J. Chaudhuri : It was stated to be 35 crores last year. I am not in possession of the exact figures, but I believe the loss, we have incurred, would exceed Rs. 50 crores.

The Honourable Sir Malcolm Hailey : No.

Mr. J. Chaudhuri : I am speaking subject to correction. It was not less than Rs. 35 crores last year, but I recollect that there were certain items which remained to be adjusted last year, and, before the adjustments are placed before us during the Budget statement, I am not in a position to definitely say whether the net loss has exceeded Rs. 35 crores or it is very much where it is. But one thing is certain that our Gold Reserve in London has got depleted,

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and, now that it has got depleted, my view is that the Gold Exchange Standard, upon which the stability of our currency depended, has now broken down. So long as we cannot build up a sufficient and mobile Gold Reserve, we cannot possibly regulate the exchange with the same certainty as we were capable of doing before the war. Of course, I do not share the views of my Honourable friend, Sir Vithaldas Thackersey, that we should never try to raise the rupee to the basis of 2 shillings, but, with regard to that, there is difference of opinion. The view of the average man in the street, of the consumers generally, which may not be the view of the commercial community or the manufacturers and exporters generally, is that a 2 shilling rupee will ease down the prices. Anyhow, we want a stability of exchange. May I not ask : ' So long as we have to pay a large amount of Indian revenue in the shape of Home charges, how shall we be prejudiced if we had the rupee fixed at 2 shillings ? ' Now, a further reason for fixing the rupee at 2 shillings is that it would be the preliminary stage for the establishment in India of a gold currency. I do not see any way out of our present difficulties except the pursuance of a policy gradually working up to the gold currency. Then, the other proposition which my friend, Sir Vithaldas Thackersey, has advanced will be possible, *viz.*, the opening of Indian mints to the free coinage of gold and the location of a Gold Standard Reserve in India. Therefore, my submission is, that there is a good deal of scope for inquiry with regard to the matter. The system, that formerly existed, *viz.*, the Gold Exchange Standard system, since the depletion of our Gold Reserve Balances in England, has, in my opinion, absolutely broken down, and, therefore, there is at present a necessity for inquiry, and I do not say that immediately a Committee should be appointed, but discussion on this question will clear peoples' ideas rather than the reverse. Therefore, I beg to support my friend, Sir Vithaldas Thackersey's Resolution. Although his premises and my premises do not agree, the conclusions agree. This reminds me of a judge who was a little eccentric, but had a strong sense of justice ; and whenever he delivered judgments, though his premises were sometimes wrong, yet his conclusions were generally right. I commenced by saying that the man who professes to be an infallible judge on the question of currency exchange is, perhaps, in the lunatic asylum, but, having said that, I would not labour this question any longer. I am prepared to make allowances for individual views. With regard to the Resolution, I do say that there can be no harm done by a free discussion of this very momentous question by a Committee.

Mr. R. A. Spence (Bombay : European) : Mr. President, Mr. Seshagiri Ayyar led his points by asking for information from the Finance Member as that was one of the reasons which he had come up from the Fiscal Commission for. I also, Sir, would like to have a little information from the Finance Member in regard to the opening of the Indian mints for the coinage of gold. Might we know what happened to the gold coins that were coined in the Indian mints ? It certainly took a certain amount of money to coin those gold mohurs. I do not know whether any Members of the House have ever seen a mohur. (*Voices—' I have seen.'*) A few Members have seen. I believe a very large quantity of gold, in the form of sovereigns, used to come out regularly to this country. What happened to it ? What will happen to that gold if it comes out to this country in the future ? It will simply go into the form of gold ornaments. What is the use, under such circumstances, of going to the

expense of opening a branch of the Royal Mint in India for the coinage of gold coins which are probably going to be melted down and used as ornaments? It is a waste of money.

The Honourable Sir Malcolm Hailey : I recognise, Sir, the importance which the Assembly has attached to this question, for I notice that no less than seven Members have tabled the same Resolution in identical words. For my part, however, I rejoice that the chance of the ballot fell to my Honourable friend, Sir Vithaldas Thackersey, for we remember from the days of the old Council which used to assemble in Calcutta in the free Morley-Minto days how valiant a protagonist Sir Vithaldas has been on behalf of certain claims of India in regard to our exchange and currency operations. I rejoice moreover because he is a practical man, because he knows at first hand the problems of the money market and he has not sought to confuse issues to-day by any considerations of a purely doctrinaire nature. He has not, for instance, developed a *post-mortem* examination into the Report of the Babington-Smith Committee, and I shall not in following him dwell at any great length on the history of the Report of that Committee and the operations with which we were concerned in attempting to give effect to its recommendations. There is very little value in the gruesome process of an autopsy and to-day I hope we shall be able to give our attention purely to the practical problems of the present and of the future.

Now, Sir, I recognise that the demand for a further Committee of inquiry into our exchange position is widespread and extends far beyond this Assembly. I will, if Sir Vithaldas Thackersey will allow me, re-state in my own words the position as it has been put forward to us at different times. We are told that the retention on our Statute Book of a rate which is divorced from actual circumstances is detrimental in two ways. In the first place, it distorts the national accounts; in the second place, it vitiates the course of trade, because, as Sir Vithaldas himself remarked, both importers and exporters are doubtful whether Government does not intend at some time or another to take steps to make that rate effective. Let me add another point to which he has not called attention, namely, that there are also a considerable number of importers who refuse to implement contracts into which they entered in the past, on the ground that Government is under the responsibility of taking steps to raise the level of exchange to the two shilling figure. We are told, therefore, that India, having by the force of circumstances lost the advantage of a stabilised exchange, we, so far from assisting India in her difficulty, have increased the complexity of the case, for we keep on our Statute Book a figure which leaves trade in doubt as to the measure of Government interference in the future, with a view to making our statutory figure effective. Indeed, Sir Vithaldas went so far as to say that, when exchange rose last September, traders were doubtful whether we were not going to take some steps to manipulate exchange, and, therefore, did not cover their transactions. In parenthesis I will remark that, if they did so, it was surely their own fault, for we made it very clear during the course of the past year that we did not intend to take any such steps.

That is the problem as it has been presented to us, and the supporters of the proposed Committee suggest that we should remove from the horizon of trade this distorting figure of our two-shilling exchange and give them something which would clear their mental vision in regard to their future operations. Now, Sir, when we go somewhat further and ask not what we might

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desire the Committee to consider but what we might expect it to effect, I think that its supporters fall into two classes. The first, which I might without any disrespect describe as the more theoretical, hopes that the Committee could, as the result of inquiry, actually stabilise exchange or, at all events, lay down for us a new rate of exchange which, by the exhibition of the proper administrative methods, might be maintained for some considerable period of time to come. The second class of thinker, whom I will describe as the more practical of the two, merely asks that in the interval, pending the time when, owing to the improvement of trade conditions, it will be possible to reconsider the problem, in that interval, the operations of Government shall be guided by advice of the Committee as to what it should do and what it should avoid in the interests of trade.

Now, Sir, I will consider to begin with the first class, which I have described as the rather more theoretical of the two. Now, I wish to make it clear that I do not now intend to take up the attitude that the report of the Babington-Smith Committee was the last and final word on the subject; I think also that the House knows me well enough to accept my assurance that I do not in what I shall say to-day in any way discount the value of eliciting the best Indian opinion on this difficult question. That the Home authorities do not discount the value of such opinion is, I think, shown amply by the recent appointment of Mr. Dalal to the India Council, an appointment which I may say I welcome as heartily as Sir Vithaldas Thackersey himself. But, nevertheless, I say with great confidence and without the slightest hesitation that if any one here or outside this Assembly thinks that any Committee appointed now could either stabilise exchange or lay down a new rate at which exchange might be expected to be maintained either by the movement of trade or by the manipulations of Government, then his hopes are entirely illusory. I follow my Honourable friend, Mr. Rhodes, in what he has said on this subject; the problem is an international one, and is not confined to India alone. The question was raised in another place last March. Every commercial man there expressed the same opinion as Mr. Rhodes has placed before you to-day. Why, Sir, even the Proposer of the Resolution in that other place had to admit that not even a Committee of Archangels could be expected to find a solution to the exchange rate at the present time. Let me give briefly to the House my reasons for the confident statement I have made. The level of our exchange depends of course on the external demand for the rupee, and the demand for the rupee in turn depends on the foreign demand for India's products. Now, when the trade of the whole continent of Europe is weltering in a chaos of depression, is it possible that any Committee would be able to predicate when that demand is likely to revive in such strength as to affect our rupee and to what extent it is likely to affect our rupee? Then, Sir, there is another problem, secondary if you like, but still important, namely, the position of gold. We know that, as the rupee rises, the price of gold must fall, and it is an interesting problem, but a problem which I think it would be difficult to explore with any certainty, as to how far the demand for gold in India would extend if the price were to fall materially, say to twenty rupees per *tola*. We know that when the price does fall, India is apt to use all her resources to obtain cheap gold. The import of gold in itself has the effect of

liquidating a favourable trade balance, and to that extent lowering the rupee. Here, then, is a second indefinite factor of the very greatest difficulty, and taking these two indeterminate factors together, *viz.*, the difficulty of prophesying the extent of the revival of the balance of trade on the continent and the difficulty of prophesying what would be the demand for gold in India when gold became cheap, the elements of uncertainty are so great that I believe that no Committee could at present—I say advisedly at present—safely make any recommendation to this House. Assume that a Committee had been appointed last March in reply to the demand then made, I know of no better illustration of the difficulties which would have confronted it than the course of subsequent events in this country. During the autumn it looked as though we might expect a revival of the balance of trade; there was of course no definite saving of the pendulum, but exports were gaining on imports and the rupee was rising; yet, at the very moment, that the rupee stood at its highest, there occurred a cataclysmal fall of the German mark,—a fall due, perhaps not even to economic conditions but to political conditions. However that may be, the mark fell heavily, the demand for our exports suddenly dropped and the rupee dropped also. Now, Sir, I put it to the House whether it is advisable or reasonable to ask a Committee to consider the future of exchange at a time when our exchange itself is but a flickering flame, blown about by every breath of the continental exchanges—I say, Sir, let trade stabilise itself before we begin to predicate conditions which are necessary for stabilising exchange. The Committee might condemn our 2 shillings gold rate—they condemn it whole-heartedly, but even so we should advance no further unless they can propose a stable substitute. Here, I think, comes in the danger of the proposal which Sir Vithaldas puts forward. He commenced by suggesting only an inquiry and an investigation; but I think he himself recognised fully that this was not enough, for he committed himself to the suggestion that the Committee might put forward some definite rate less destructive of the interests of the country than our 2 shillings gold figure. He did not, it is true, commit himself to a figure; it might be 1*s.* 4*d.* or 1*s.* 6*d.* or 1*s.* 8*d.*, but it had to be some definite rate. Sir, what would be the use of suggesting any rate to us for insertion on the Statute Book unless we were prepared to support it with administrative measures, that is, that when exchange fell below that rate, we should be prepared to sell Reverse Councils to maintain it? Would the Honourable Member honestly advise us in present circumstances to take such steps to support what he describes as an intermediate rate? Would any commercial member here suggest that we should now attempt to substitute on our Statute Book a rate which looked as if it would be operative for a few years to come, and attempt to support it by administrative measures? Why, Sir, I believe that the attempt to do so would in itself be more detrimental to trade—I follow my friend, Mr. Rhodes, in this respect—more detrimental to trade than our present ‘policy of masterly inaction.’ In short, Sir, Sir Vithaldas’ suggestion begins with a Committee of inquiry, it ends inevitably in a suggestion that we fix a new rate amid abnormal conditions and maintain this rate artificially.

Now, Sir, for the second class of persons, those whom I have described as those who would have the Committee address itself only to the immediate problems before us. Let me state the nature of these problems as I myself see them when we saw that we could not maintain a rate of 2 shillings gold and that our attempt to do so was doomed to failure, we declined to throw into

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the battle our few remaining battalions, the Gold Standard Reserve and the Sterling Investments remaining in the Paper Currency Reserve; those of course we still hold. Now, it may be that there are those who fear that we may still intend to take steps directly to support exchange by the utilisation of those reserves. I think, however, that we were supported by commercial opinion in this country in our refusal to dissipate the whole of our resources, and, in our present determination to keep these as far as possible intact. But it may nevertheless still be some who fear that we may be intending to use these reserves artificially to raise exchange. Now the method by which we could utilise those reserves would, of course be only that of re-opening the sale of Reverse Councils: and I can give the Assembly this much guarantee, at all events, that we should not re-open the sale of Reverse Councils in order to maintain exchange or to raise exchange in the manner suggested, without first coming to this Assembly. (Hear, hear.) But, Sir, I think that the practical man is really not himself afraid of our attempting artificially to raise exchange by direct methods of this nature. His apprehension may be voiced in somewhat different terms; he realises that, in the present state of depression, anything that we could do by utilising our sterling reserves would be probably doomed to failure, and he gives us sufficient credit for common sense to assume that we shall not make that attempt. What he fears is, that as trade revives, as India regains her lost balance of trade and a rising demand for rupees at home, then the Secretary of State will deliberately stand out of the market in order to let that demand force the rupee up to the 2s. gold standard. That, I think, is his real apprehension. Let me give the House in as few words as possible the exact bearing of this; the matter is of course a little technical. The Secretary of State has to make payments on behalf of India in the ordinary course of affairs of about £20 or 30 millions a year, added to which of course is the expenditure on account of capital outlay on railways and the like. Ordinarily, he would keep himself in funds by selling Councils. But, if he can manage either by utilising any resources of his own, or by raising fresh loans, to stand out of the market, then, if there is a strong demand for rupees, it is clear that he will be assisting the rupee to climb the ascending scale. And the practical man now asks, whether I can tell him whether when trade re-establishes itself, when the former balance in favour of India is revived and the demand for rupees again becomes active, the Secretary of State will deliberately stand out, using every device to keep himself in funds rather than selling Councils, or whether he will sell Councils at any rate which the market may give him? That, I think, is really the question which the practical man is asking me to answer to-day. Now, Sir, on that point, I think, I can remove some of his apprehensions. There are two substantial grounds on which he is entitled to feel some confidence in the matter. In the first place, it is clear that there must be some considerable delay before a state of affairs arises in which the abstention of the Secretary of State becomes effective, that is to say, before there is such a strong demand for the rupee that his abstention from the market will have the effect of raising the rupee level. There must be a solid balance of trade in favour of India, a balance of trade so solid that it will counter-balance that flood of remittance which some people tell us is waiting in order to swamp down exchange as it has once done before. I do not myself pretend to estimate the amount of remittance that is waiting. It is a difficult problem, but I mention it only

because we are frequently told that there is a large quantity of remittance that is only waiting for a favourable rate of exchange to go Home. But my point is that there must be a solid balance of trade in favour of India, sufficiently solid to counter-balance any demand for remittance from this side. That is one point. The second is even more important, namely, that the Secretary of State's ability to stand out of the market for any length of time, as Mr. Rhodes pointed out, is very limited. We know the amount of his resources. Last year he financed himself largely for his current needs by drawing on the War Office against payments that we had made out here on account of the employment of Indian troops overseas; that source of supply is now failing him as has of course the Gold Standard Reserve, and the small remainder of our investments in the Paper Currency Reserve to draw against. But his power to utilise those reserves depends upon our power to deflate our paper currency out here. I know the apprehensions felt in some of our money markets regarding the possibility of a rapid deflation of our paper currency; I confine myself here to saying that events have shown that our power of rapid deflation is by no means considerable. Since it is our power to deflate which in its turn decides the power of the Secretary of State to draw against the Gold Standard and Paper Currency Reserves at Home, since his power to finance himself by starting loans is also not unlimited, it is inevitable, as Mr. Rhodes pointed out, that the force of circumstances will before long drive him to the market to keep himself in funds, and when the Secretary of State sells Council Bills, he ceases to have any power to raise exchange. I hope, Sir, that I have succeeded in removing some of the apprehensions which the practical man has felt regarding the steps which we can take, or are likely to take in the immediate present, and, I think, therefore, that I may put it to the House with confidence that there will be very little value in appointing a Committee to examine this section of our problems.

Now, Sir, let me turn to the second part of the Resolution. It proposes that the suggested Committee should consider the question of opening the Indian Mints to the free coinage of gold. Now, I must really assume that my Honourable friend, Sir Vithaldas Thackersey, expert as he is in these questions, has really included this in his Resolution to satisfy the feelings of some of his friends, rather than because he himself supposes that this question does actually need the further investigation of an expert Committee. He is well aware, Sir, that it was a cardinal feature in the policy of the Babington-Smith Committee that the Indian Mints should be opened to the free coinage of gold. Indeed, one of the intentions of the Committee in fixing the rupee on a gold basis was to permit of the free use of gold currency in India, and the opening of the Mints to the free coinage of gold is an aid to such a process, though of course it is not in itself an essential condition of it. We, Sir, are prepared out here to coin gold as soon as the need for gold currency arises. Sir Vithaldas Thackersey suggested that the Royal Mint might on technical grounds refuse to allow us to do so. He need have no fear on that score. I can give him a guarantee that as soon as the demand for gold currency arises, the Mint will be ready for it. It is clear, however, Sir, that so long as the present premium on gold as compared with its statutory parity exists, no such demand can arise. It could not indeed arise, as the Honourable Member himself knows quite well, even if we reduced our statutory rate to Rs. 15 to the £ or Rs. 16 or even Rs. 17 to the £, for, I think, that gold is

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selling to-day at about Rs. 28 a tola, which means the value of gold in the sovereign is over Rs. 17½. No coin could circulate for a minute if its gold value was above its face value. That would be exactly the same with the Indian coin to which Sir Vithaldas Thackersey referred. The bullion value will fluctuate from day to day, and when it fell below its face value, it would circulate; the minute it rose above its face value, it would go into the melting pot. In these circumstances, Sir, the question of opening the Indian Mints to the coinage of gold is not one of practical politics, nor will be until we can hit, on such a Mint par as we can be sure that the bullion value will not go above it. On that point, then, I think, Sir Vithaldas will probably be prepared to accept my answer as sufficient.

Now, Sir, I come to the third part of that Resolution. I can give him here, I fancy, the assurance which he requires. At present, the Gold Standard Reserve is not, as I think, perhaps the House might have inferred from the words used by the Honourable Member, held in long-term securities. It is held mainly in British Treasury Bills which are easily realisable. Now it is obvious that if it should be necessary for the Secretary of State to place himself in funds—and I have already described to the House the circumstances in which he may have to do so—by drawing on the Gold Standard Reserve, we should have to ear-mark out here a corresponding amount of money, for the Gold Standard Reserve is of course a self-contained fund. What is withdrawn from London we have to replace here. The net result will then of course be a transfer of the Gold Standard Reserve from London to India. The Secretary of State has agreed that if and when such transfers are made, the Gold Standard Reserve out here should, to the extent of the gold we possess, be held in the form of gold. Mr. Seshagiri Ayyar asked us what the Secretary of State had done with our gold—or at least I understood his question to be to this effect. I think Sir Vithaldas Thackersey also suggested that the whole of India's gold was being held in London. That, Sir, is not of course the case,—far from it. We have 24½ million pounds of India's gold in India. We hold this in the Paper Currency Reserve, and the process I have described will involve the transfer of the gold from the Paper Currency Reserve to the Gold Standard Reserve. It is more than probable that the Secretary of State will, in the course of the following year, have to draw upon the Gold Standard Reserve. The process of transfer will then of course begin and one of Sir Vithaldas Thackersey's ambitions will be in course of satisfaction.

Sir, I have no desire to meet the general case which has been put before us by purely negative arguments. I recognise that there is general anxiety felt on this subject, but I think that the House will agree with me after what I have said that there is really no need at all for any expert investigation on the second and third points mentioned in the Resolution. The policy has been laid down in a manner which, I am sure, will commend itself to the House, and only awaits for the march of events to become operative. As regards the first part of the Resolution, Sir, I have put my case not on any opposition to further investigation by technical experts or men of affairs, but merely on the ground that, in the present state of international trade, such an investigation would be of no avail whatever. The instability of conditions is such that I fear with Mr. Rhodes that if a Committee were to inquire into the case now, it would only end in failure, a failure which might be more damaging to India than the present policy and inaction. But, Sir, if the march of events should

be quicker than we anticipate, should developments occur which would seem to make further expert investigation necessary, then I should not have the slightest hesitation in proposing the appointment of such a Committee, and a committee moreover on which Indian opinion will be fully represented.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, remembering what Sir Malcolm Hailey told the Imperial Legislative Assembly in September before last, when the question came up in connection with the consideration of Mr. Dalal's dissent, I am not surprised - indeed I am re-assured - that he adheres to the undertaking he had given then, that the question shall be subjected to revision as soon as circumstances are favourable. From what we have heard from the business men to-day, both European and Indian, I am afraid the lay Members of this Assembly, who have no desire to qualify for the lunatic asylum, will have no difficulty in coming to the conclusion that, although Sir Vithaldas Thackersey has made himself responsible for this Resolution, it ought not to command support in this Assembly. The European point of view may, by some, be considered to be different from the Indian. But we have here acute differences of opinion amongst Indian business men also. That, I think, ought to be enough to dispose of the position for the present, so far as lay Members are concerned.

To my mind, Sir, there are two other considerations other than those already urged, why we ought to stay action for the present and wait for further developments which are coming on apace. I have great faith in Mr. Dalal, and join with Sir Vithaldas Thackersey and Sir Malcolm Hailey in welcoming his appointment to the Council of the Secretary of State. For the first time in the annals of that Council, Indian financial public opinion will be accurately and fearlessly represented. I think we ought to see what his advice is able to achieve in the matter of the bogey man of 'solid facts' about the Secretary of State's demand that is always being brought forward in aid of unmasterly activity. We are told that we should await the return of normal conditions, and, I think, we await Mr. Dalal and his appointment to see how far they will assist in making masterly inactivity rational.

In the second place, Sir, I hope, though members of the Fiscal Commission are behaving in the truant-like fashion, twice confessed to-day, they ought to be able to give us something tangible and soon, otherwise I shall begin to dread Mr. Rhodes' fears about Committees and Commissions. If upon the trade balance in favour of India depends, as it must, largely, the solution of the question, I think we must wait and see what trade balance will be assured under the recommendations, that some expect, will be made by the Fiscal Commission. What is the amount of protection they are going to recommend? How is the question of Imperial Preference going to be dealt with? These and corresponding retaliation are some of the considerations upon which the future trade balance of India will depend, and the sooner those recommendations come or are given effect to, the better will be the chances for India's financial and exchange adjustments. Sir, those who have followed the deliberations of the Fiscal Commission know that, in their greed for work, they are turning themselves into an Industrial Commission, into a Railway Commission, and I believe also into an Education Commission. Probably they will turn themselves into an Exchange and Currency Commission also and will have a great deal to say with regard to those questions. Even if we do not get a helpful lead from them, their deliberations about their own

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legitimate topic regarding Protection and Imperial Preference and allied subjects will certainly open out new vistas, of which we cannot refuse to take note particularly with regard to what may be the trade balance of India. For these considerations, Sir, I think we ought to adhere to the policy of 'wait and see' for a little longer. There will be nothing to prevent Sir Vithaldas Thackersey from bringing up a demand for inquiry as soon as the necessity arises and materials are ready. Probably in connection with the next Budget, when a big deficit may be Sir Malcolm Hailey's misfortune to have to announce to the House, there will be such an occasion. But I should not allow the artificially manipulated German mark, or for the matter of that, the fabulous German gold chemical, or otherwise, to interfere with the straight-forward and business-like solution of a question which we ought to make national as soon as we possibly can. We have been told that we should wait till it ceases to be international and becomes national. How is it going to be so unless, we, here in this Assembly, take a firm stand and an attitude about which there can be no mistaking in the business world of Europe or anywhere else? With it, is largely connected the question of unrest which is largely economic. We have to work out our own salvation, and must do so early in our own way but, I am afraid, the materials before us are not all that real experts would like to have.

Undoubtedly when a practical financier speaks of current events, he has to give the go-by to the theoretical and the academic economist and we have to depend upon every day and current practical facts, which I believe ought to be collected and focussed by such a Committee as Sir Vithaldas Thackersey demands and to which Sir Malcolm Hailey and the European business-men have and can have no objection. But we are not satisfied—those who cannot go deep into the matter—that the materials that would now be available would be far different from those which the Babington-Smith Committee had before it or any of those people who have been working since on the question. The result may therefore be equally disastrous or worse. I quite agree with Sir Malcolm Hailey that no great gain

I P. M. would follow from a gruesome *post mortem* examination of the kind that he has referred to, particularly after the handsome manner in which he told the Assembly how the Government had erred in the matter in connection with the last Budget. It ought to be the last word on the subject. So far, I do not think that except by way of warning, we can usefully go into matters that have gone before. Otherwise I would quote Sir David Barber, whom I met in London and with whom I had a short discussion about this matter. He had to say much in the way of a grievance that he was not listened to many years ago and may yet have to be. After many years he feels that, if his advice had been followed, the difficulty that India is in now, even in spite of the war, would not have arisen. We cannot with advantage go into pre-historic matters in acutely live and changing subjects like this. And we shall have to depend for current facts upon people who understand them and collect them honestly and assiduously. Such a Committee will have to come soon, but not immediately.

M. K. Reddi Garu (South Arcot *cum* Chingleput: Non-Muhammadian Rural): I beg to move the following amendment:

'In place of the words 'be appointed' substitute the words 'be elected by the non-official Members of the Legislature'.

I should not be on my legs to-day with my amendment when a most complicated question is being discussed. But, Sir, while attending to the course of discussion, I felt as if I heard a note of warning, coming from afar, whispering in my ears, a truly Biblical warning :

'If these be thy gods, O, Israel ! woe be indeed unto thee, the land of vain regrets.'

I evidently think it is a note of warning against the *personnel* of this would-be Committee now under discussion. It is no doubt, known to you all, that we have had enough sorrows as the result of the composition and the recommendations of the Babington-Smith Committee. It seems to me that we should be over-careful at least in the selection of this Committee. In this Committee we shall not want men who ever worship at the altar of the Olympian gods, nor those who are ever ready to dance to the tune of the Government. On the other hand, we want men, who will not sell their birth-right and their country for a handful of silver or for a ribbon to stick in their coat. Sir, we want men true to their conscience and true to their country, men with mature wisdom and ripe experience, men who have made a life-long study of those most seducing, most deceiving and most dangerous of all problems, the problems of exchange and currency. We do not want men who cannot understand the very rudimentary principles of economics, that prices are the functions of three variables, namely, the volume of currency, the demand and supply of commodities. We do want men who would discuss and thresh out these problems from the different aspects in the true light impartially, and favour the establishment of a *currency on a self-adjusting, automatic bases, conducted with the widest possible measure of publicity.*

Sir, our country is not in dearth of such eminent men and we have enough and to spare. If necessary, I can give you the names of three score and ten, not in any way inferior to the men who occupy the Treasury Benches, either here or in England, worthy to serve in such Committees. So, let it not be said of us at any future date that our Committee is not truly representative of the people, and that the Committee is a packed one, packed with broken horses, who would dance to the whip of the vested interests. I would request the House to think twice, nay a hundred times, if necessary, before rejecting my amendment, because we are dealing with a problem which touches the pockets of every man in the country.

Sir, whatever may be the personnel of this Committee, whether elected or nominated, allow me to place a few facts which are very likely to be overlooked by the members of this Committee. First, with regard to the Home Charges, the Indian tax-payer's liability to pay in sterling is the root cause of his perpetual handicap, and the critics demand that liability should practically cease. The right remedy for this is to substitute an Indian agency, as far as may be possible, and leave the trade conditions to adjust themselves according to the prevailing relative values of silver and gold.

There is another question, the less said about it the better, the question of *the purchase of silver in England* by the Secretary of State. Instead of purchasing it in the open market by a public tender, our proverbially charitably disposed Secretary of State persists in the continuity of the old policy of purchasing silver in his own country and through only one or two interested brokers, at a price much higher than that paid by the Royal Mint of His Majesty. What private motives the Secretary of State's Council has, we

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know not, but they are all honourable men. I know not what reasons actuate them in the continuance of this disastrous policy—it is better understood than stated. I leave it to you to judge for yourselves.

Again, the Royal Mint of England is stoutly opposed to the establishment of a branch at Bombay; if that is true, what motives prompt them, I am at a loss to understand.

As regards the *Gold Standard Reserve*, its location in England cannot but be misunderstood here; because, if I remember aright, it has not been used more than twice to maintain the stability of exchange since its establishment in 1901. Its location in England has been of immense benefit to the British merchants and the public and even to the Dominion Governments at all times. In this connection, let me read out to you a passage in one of the memoranda submitted to the Babington-Smith Committee on this subject of holding the Reserve in England:

'There is no use in ignoring the heart-burning caused in India at the investment of a major portion of this Reserve in securities among a rich population who can certainly manage without this loan, while the trade in India suffer at times from a Bank rate of 8 per cent. to whom two or even three crores during the busy season would be a welcome shower'.

Sir, I do not think that those who talk glibly about tinkering with the Currency realise the gravity and seriousness of the political issues involved; the sullen discontent prevailing all over the country has only an economic background—the problem of poverty.

To sum up, India now wants not gold, nor a Gold Exchange Standard which is neither fish, flesh, nor good red herring, but a standard which can be relied upon for deferred payments, which will not increase the burden of the debtor at the expense of the creditor, and which would not fluctuate in value according to the Government here, or a Minister there, and which will, in short, perform the function of *money* as satisfactorily as any standard can.

With these few words, I move my amendment.

The Honourable Sir Malcolm Hailey: I am afraid that I have not had time to accept the invitation of Mr. Reddi and consider his amendment two hundred or three hundred times before opposing it; for I feel myself obliged to oppose it forthwith. It has been supported by such unusual arguments and accompanied by such insinuations, that I cannot feel that it is one which can possibly commend itself to the House. Sir, in the first place, the Honourable Member suggested that previous Committees were composed of gentlemen who joined them 'for the sake of a handful of gold.' Does he mean to cast on the illustrious members of such Committees, as the Fowler, Chamberlain or Babington-Smith Committees, the insinuation that they sought to line their pockets by the advice which they pretended to give in the interests of India? Again, does he suggest that it is only the Members of this House who can be trusted not to enter into a Committee with similar motives? There are on the Fiscal Commission at present many members who are not Members of this House. Does the Honourable Member mean to convey an imputation that they are likely to give advice to the Legislature based on their own private and personal interests? I repudiate at once any such suggestion and I am sure that the House will join with me in feeling that if the only thing which the Honourable Member can urge in favour of restricting the members of the Committee to elected Members of this House, is that other Committees have been swayed by personal motives, then his case is

indeed a weak one. He has again, going beyond the definite proposition that the Committee, if appointed, should be elected in the manner suggested in his amendment, going beyond that, he has suggested that if such Committee were appointed and in such manner, they and no other Committee would be able to put an end to the scandal of the purchase of silver by the Secretary of State.

Sir, the fact that the purchase of silver by the Secretary of State is made in London has been criticised and attacked in the past. It has been said that buying in London is contrary to the interests of India. That is as it may be; it is a controversial point on which I do not wish to enter into now. The point I wish to make is that the Honourable Member, if I understand him aright, has here brought a definite accusation against the India Office of so arranging these purchases of silver as to conduce to their personal benefit. Again, Sir, I can do nothing but repudiate so extraordinary a suggestion against an honourable body. Now let me come to the substance of the amendment. I will not refer again to the unusual grounds on which Mr. Reddi has thought fit to support his amendment, nor will treat the proposal on its merits. What he suggests is that the Committee, if appointed, should be elected by the non-official Members of this Legislature. Well, I am sorry, Sir, that I should be thought unfit to cast a vote in a matter of this nature. I am sorry that my other official friends here are thought to be men of such low mental or perhaps moral capacity that their assistance in the selection of the Committee would not be welcomed. But leaving that aside, my major objection is this. If you want a Committee which will give you the best advice on this subject, it must be taken from men who have a large, a wide and a liberal education in financial matters. The House would not be well advised to confine a Committee on so highly controversial, complicated and expert a subject to its own Members. That is a point of substance on which I hope the House will agree with me. When I look round the benches before me, I ask whether in this Assembly, for it must be from the Assembly alone that if this amendment is accepted, the Members will be drawn, you will be able to obtain all the expert advice that you require on a question of this nature. I do not in any way seek to depreciate the merits and the attainments of the Members of this Assembly, but on a subject of this nature, so vital to the interest of Indian trade and commerce and consequently so vital to the future of India's political development, you should not seek to obtain a Committee purely from among your own Members. You should so range far and wide and so enlarge the field of selection as to get the very best advisers you can find in India.

Mr. President : The question is that the following amendment be made :

'In place of the words 'be appointed' substitute the words 'be elected by the non-official Members of the Legislature.'

The motion was negatived.

Sir Vithaldas D. Thackersey : Before I reply to the details of the debate, I must convey my gratitude to the Honourable Member for the compliment he has paid me. At the same time, I am sorry to say, that I differ from him on several points pertaining to my Resolution. My Honourable friend, Sir Malcolm Hailey, is one of our cleverest debaters, and he has, in his reply, avoided altogether the main issue that brings forward this Resolution. If I were to go into details and to reply to all his arguments, I am afraid my speech would go on after lunch, but, as I should like to finish my reply before we adjourn, I shall confine myself only to two or three main

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issues raised by him. The main issue is the statutory standard of 2s. With regard to the power of the Secretary of State to artificially raise that exchange to 2s. if he likes, the reply of my Honourable friend is that the Secretary of State is too poor to carry out that power. Most of our gold has been squandered away. The Honourable Member did not use the word 'squandered', but I say it has been squandered away in selling Reverse Council Bills. Then, again, he says that the Secretary of State is living, owing to certain circumstances, upon the amount which Government is to receive in England for Military Expenditure in India on behalf of the Home Government, and, therefore, he is too poor and we need not fear that he will carry out his power. I want Government to make a declaration that the Secretary of State will not use his power. Unless we are assured that he will give up that power, this House should insist that that power be taken away from him. That is the main issue. If the Honourable Member is prepared to declare to-day that that power will not be used, I am perfectly satisfied. But that kind of undertaking has not been forthcoming from the Honourable Member and the only conclusion that this House can arrive at is, that, whenever an opportunity occurs, the Secretary of State may carry out that power. Now, I warn Government against any such action. The Secretary of State did utilise his powers in 1920 and in the early part of 1921. With what result? Imports were encouraged and exports were discouraged. Merchants ordered large quantities of goods on the assumption that they could buy them at a fair value, and Government's action landed them in heavy losses. What consolation is it to these merchants that, when the Budget time comes, you say: 'We made a mistake. Forgive us. We will not do it again'.

This House should insist that Government should declare that they will not use this power and, in the absence of such undertaking, this House should appoint a Committee so that it may be in possession of certain facts and figures on which the House may be able to pass legislation taking away that power from the Secretary of State. After the merchants lost heavily, the astonishing statement was made in this House (I had not the honour of being a Member of the House then) that Government never gave any undertaking that they would maintain exchange at 2s. I do admit that Government never gave an undertaking but what was the meaning of passing legislation fixing 2s. as a standard, making accounts on that basis and selling Reverse Council Bills. We maintain that your action has been worse than your assurances and, on the top of this, we are told that Indian merchants broke their contract.

They say: 'You are all dishonest merchants, you do not honour your drafts'. I do not say that Government are directly responsible, but I put these facts before you in order to prove to this House that it is dangerous to allow this power to remain in the hands of the Secretary of State. It may be that the Secretary of State or his advisers have now changed their view, and been convinced that Mr. Dadiba Dalal was right in his minority report. That is, perhaps, why he has been nominated to the Secretary of State's Council—perhaps, as my Honourable friend, Sir Deva Prasad Sarvadhikary, has said, the question is being seriously considered. All these assumptions may be true. But that is not a sufficient guarantee that the Secretary of State will not manipulate exchange when the opportunity occurs. On the contrary, what does my Honourable friend, Sir Malcolm Hailey, say? He says, opportunities may

occur. Trade may revive, and, then, the Secretary of State may be justified in raising exchange. Well, it comes to the same thing. Not only does Government not give us an assurance that it will not use this power, but it gives a clear indication to us that the power may be used.

Then, with regard to the reply of my Honourable friend about the temporary policy. Well, my object in moving this Resolution for the appointment of a Committee was clearly this: no action or no decision of the character that one can contemplate in a large policy, like that on Currency and Exchange, can be moved in this Council in a direct way, that is, in the nature of a proposal 'do so and so.' Many Members, not knowing the facts, might then say: 'what right has the Mover to definitely say: 'do this, or do that'?' Therefore, the best way of dealing with an important question is through the appointment of a Committee. If a Committee is appointed, and if it comes to the conclusion that a change in the policy is necessary, well, this House will then insist on its being carried out. I do not think, at that time this House will be afraid to carry out and insist upon the policy recommended by the Committee because my Honourable friend, Mr. Rhodes, had said: 'Well, the Honourable Member cannot give a reply and we should not expect it'. I think, when the time comes, he *shall* give a reply, and the House shall dictate its policy.

Then, with regard to Reverse Councils, my Honourable friend said: 'We do not intend to sell Reverse Councils; we shall not sell Reverse Councils unless we come to this House'. My Honourable friend knows perfectly well that he need not sell Reverse Councils in order to raise exchange. When the trade demand arises, he may refuse to sell Council Bills—he will use the gold resources and not sell Reverse Councils; he will raise loans in England and artificially raise exchange, and not sell Reverse Councils. What is the use of arguing before this House that Government will not sell Reverse Councils, as if the selling of Reverse Councils would raise the rate artificially? All these things can be done so long as the power of the Secretary of State remains.

Then, we have been told that, all over the world, the exchanges are disorganized, trade is disorganized, they have no money to buy our goods: therefore, exchange is weak. But who is complaining about the weak exchange? What we are complaining of is the artificial raising of the exchange. And, then, if you follow the natural course, what will be the natural exchange? Perhaps 1s. 6d. If you allow things to go on on their natural level, it will be 1s. 6d. and not 2 shillings. We have often heard from various sources including the Associated Chambers of Commerce, and several Members here have also said: 'Do not interfere with exchange'. I exactly repeat the same sentence: 'Do not interfere with exchange'. Allow it to go on its natural level. But Government do not say that they will give up the power to interfere. That power, I again repeat, must be taken away by supporting this Resolution.

There is only one point, Mr. President, that I should like to refer to, *viz.*, about the opening of the Gold Mint. We have been told that Government were quite ready to open it. Well, in order that the Committee may consider the question in all its aspects, I have included it in my Resolution; and, of course, if Government are prepared to open the mints to the coinage of gold, I will be perfectly satisfied. With regard to the Gold Standard Reserve, I think I do not agree with everything that has fallen from my Honourable friend. It has been a long complaint, a complaint nearly

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as old as the time when the Gold Standard Reserve was formed, that it was wrong to leave our gold in London. I will give you the old history in a few words: First, the Gold Standard Reserve was kept in England, not kept in Treasury Bills, as has been said to-day to the great credit of Government, but lent to the English Banks at a low rate of interest. When India protested against this policy, the Secretary of State invested it in long-term securities. We again protested that, if we required it at a moment's notice, it could not be available. Then, the Chamberlain Committee, I believe, condemned the policy. Now, our funds are invested in Treasury Bills. But that is also dangerous and I will explain why it is so. We had 30 million pounds in London before the War broke out. Did we get a single ounce of gold when the time came? Well, the Bank of England's total metallic reserve was about 30 or 40 million pounds. When war broke out, instead of getting our gold back, we had to go on accumulating our gold. We had to keep our gold payable to us for our exports. I think our funds went up—I am speaking from memory to somewhere between 150 and 180 million pounds. At that time we had a currency crisis in India. We had no silver. We had no gold. We wanted to bring out gold here to avoid a currency crisis. If gold had been brought out, people would have been very pleased to take gold instead of rupees. But London did not return us our gold: and we had to buy silver at 50 or 60*d.* Was it not a wrong policy to keep our Gold Reserve there? It is all very well to say: 'We can sell the Treasury Bills and bring the gold whenever you want'. But it is when panic arises, when war breaks out, when we badly want out gold, that it can never be available. Therefore, the right policy is that gold must be kept in India for the purposes for which it was intended.

I think, Mr. President, I have done. I only appeal to this House not to be carried away by the very able arguments of my friend, Sir Malcolm Hailey. The question is too serious to be left over. We must bring our gold back; we must take away the power of the Secretary of State to manipulate exchange. If I do not carry this Resolution, the only satisfaction I will have will be that it is not my fault that the House has not accepted it.

The Honourable Sir Malcolm Hailey: Sir, my reply will be very brief, for I fear that the House may already be weary of this discussion. I perceive now the inwardness of Sir Vitthaldas Thackersey's Resolution: an inwardness which I may say was somewhat concealed by the form of the Resolution which he put forward. He asks for a Committee, but that is not that he wants. What he wants is a definite declaration from me which will bind the action of the Secretary of State; failing that, he wants to have a Committee that will put such pressure upon the Secretary of State that he will be unable to take any further action; failing his compliance with the requirements of that Committee, Sir Vitthaldas requires this House to legislate in order to amend the Government of India Act. That is what he wants. What he asked for, and what we met to debate—was a Committee. Sir Vitthaldas Thackersey says: 'That is a small point. I do not really care whether you have a Committee or not. What I want is a declaration and legislation.' Well, Sir, I came here to discuss the subject of a Committee; Sir Vitthaldas puts that on one side.....

Sir Vitthaldas D. Thackersey: May I explain to the House that the only way in which a Member can force his view on a Resolution of this character is through a Committee.

The Honourable Sir Malcolm Hailey: Sir, I put the case as it seems to me. I put the case that in asking for a Committee Sir Vithaldas has really been asking for something quite different; and he has been asking the House, as he himself admits, to assume a power of control which it does not possess, and which a Committee could not give it.

Now, Sir, as to the declaration, I will only say one word. He requires from me a definite declaration that the Secretary of State will take no artificial steps to raise exchange. I, Sir, took another course in dealing with the Resolution; I gave a very practical and conclusive reply, namely, that the Secretary of State in present circumstances had practically no power to take such steps, not of course on account of any legislative disability, but, as Mr. Rhodes said, owing to the force of circumstances. He has not resources and cannot raise resources sufficient for the purpose. Sir Vithaldas suggested that the reason was that all our resources had already been squandered. He told us of the disabilities of India owing to previous financial mismanagement; he said that our case would be far different if we had been allowed to import gold during the war. He harked as far back as 1920 in his condemnation of our policy. But, Sir, he did not meet my definite point that the Secretary of State's power at present to influence exchange is very small indeed. What, Sir, could a Committee do in the circumstances? The Committee could only say: 'In our opinion it is undesirable that the Secretary of State should now take any artificial means to raise exchange'; and the Secretary of State could only reply: 'Where do I possess such means? If you will show me where I possess the means, I may be able to give you an answer.' But, in truth, Sir, he has not those means; he has no indefinite power of standing out of the market; he has no indefinite power of raising loans; and as I told the House, all the probability lies in the direction of his having to come on the market for Councils himself; and if he does come on the market for Councils, then infallibly he has lost the power of raising exchange. That is a point which Sir Vithaldas did not care to meet.

Then, Sir, Sir Vithaldas was apparently willing to recognize that there was no need for a Committee on the subject of the opening of the Indian Mints to the free coinage of gold. He has handsomely, I think, admitted that. But he has not accepted the point which I put to him and to the House in regard to the Gold Standard Reserve. He is still unsatisfied. And why, Sir, is he unsatisfied? Because he holds that the Gold Standard Reserve was mismanaged in the past. He can not meet the point I have made to-day, that the Gold Standard Reserve is on the point of being transferred to India at present. I definitely pointed out to the House that as soon as the Secretary of State had to draw against the Gold Standard Reserve, then we should have to transfer the gold now in our Paper Currency Reserve to the Gold Standard Reserve, and that would have the effect of transferring the Gold Standard Reserve to India. Sir Vithaldas, I think, in his anxiety not to let the Secretary of State or the India Office or ourselves off too lightly in regard to what he regards as the errors of the past, somewhat obscured the immediate points of the present. I gather that he attaches value to the appointment of a Committee in order that that Committee might support him in his criticisms of what he regards as the mistakes of old times. If that is his view of the appointment of a Committee, then, Sir, I say for once he is deserting his character as a practical man. What a Committee is needed for—if it is needed at all—is to advise us as to the future and not to endorse his recriminations about the past.

Finally, Sir, he still holds that a Committee would be of some value as it would enable us to establish some interim rate of exchange. I honestly do

[Sir Malcolm Hailey.]

not believe that there is a single commercial man in this country who would support him in asking that an interim rate of exchange should be established, or that it should be supported by Government, by those very means which Sir Vithaldas Thackersey has so often repudiated. I do not believe that he would find in the commercial community any genuine support for such measures in the present instability of the world's exchanges. May I remind the House of the old gibe regarding the mental activities of the metaphysician. I do not wish to see that gibe applied to a Committee of this House; I do not wish it to be said that, like the metaphysician, it resembled a blind man groping in a dark room for a black cat which was not there.

Mr. President: The question is :

'That this Assembly recommends to the Governor General in Council that a Committee with a majority of Indian members, be appointed to consider the whole question of :

- (1) the present policy of currency and exchange;
- (2) the opening of the Indian Mints to the free coinage of gold; and
- (3) the location of the Gold Standard Reserve in India;

and to report with its recommendations at an early date.'

The Assembly then divided as follows :

AYES—37.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Agarwala, Lala G. L.
Ahmed, Mr. K.
Ahmed Baksh Khan, Mr.
Asjad-ul-lab, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Chaudhuri, Mr. J.
Faiyaz Khan, Mr. M.
Ginwala, Mr. P. P.
Gulab Singh, Sardar.
Hussanally, Mr. W. M.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.

Joshi, Mr. N. M.
Mahadeo Prasad, Munshi.
Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Nag, Mr. G. C.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Shahani, Mr. S. C.
Singh, Babu B. P.
Singh, Raja K. P.
Sinha, Babu L. P.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Thackersey, Sir Vithaldas D.
Yamin Khan, Mr. M.

NOES—41.

Abdul Rahim Khan, Mr.
Abul Kasem, Maulvi.
Aiyer, Sir P. S. Sivaswamy.
Bradley-Birt, Mr. F. B.
Bryant, Mr. J. F.
Carter, Sir Frank.
Clarke, Mr. G. R.
Cotelingam, Mr. J. P.
Crookshank, Sir Sydney.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Gidney, Lieutenant-Colonel H. A. J.
Habibullah, Mr. Muhammad.
Hailey, the Honourable Sir Malcolm.
Hullah, Mr. J.
Ikramullah Khan, Raja M. M.
Innes, the Honourable Mr. C. A.
Jejeebhoy, Sir Jamssetjee.
Kabraji, Mr. J. K. N.
Keith, Mr. W. J.

Lindsay, Mr. Darcy.
Maung Maung Sin.
McCarthy, Mr. F.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.
Percival, Mr. P. E.
Rao, Mr. C. Krishnaswami
Renouf, Mr. W. C.
Rhodes, Mr. C. W.
Samarth, Mr. N. M.
Sarfaraz Hussain Khan, Mr.
Sarvadhikary, Sir Deva Prasad.
Sharp, Mr. H.
Sim, Mr. G. G.
Singh, Rana U. B.
Spence, Mr. R. A.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was negatived.

The Assembly then adjourned till Quarter to Three of the Clock.

The Assembly re-assembled after Lunch at Quarter to Three of the Clock. Mr. President was in the Chair.

RESOLUTION *RE*: THE ABOLITION OF IMPRESSED LABOUR,
CONVEYANCE AND PROVISION.

Mr. N. M. Joshi (Nominated: Labour Interests): Sir, I beg to move the following Resolution which stands in my name:

'This Assembly recommends to the Governor General in Council to take immediate steps for the abolition of impressed labour, conveyance and provision, wherever it obtains in India either under Local or Imperial statute or under local custom.'

Sir, whilst speaking on this Resolution I do not propose to trace in detail the origin of this custom from its very beginning. It is sufficient for my purpose to say that this practice of impressed labour is as old as the British rule in India. (*A voice*: 'Older'), Sir, this practice is also prevalent in all parts of India in one form or another. In spite of the variations that we see in the different parts, there are many common features which we find in every part of the country. The system may be described in short in the following way:

A Government officer goes on tour. He has to fix his tents; he wants labour. He sends for the headman of the village who gets hold of the people in that village, brings them to the camp and makes them do the work for the officer. This practice is also extended to making the people do several other things. In the hill districts of the United Provinces, in the division of Kumaon, coolies are pressed into service to take the baggage of the officers and the tourist friends of the officers. In Sind, people are impressed to repair the roads for the motor car of the officer to travel smoothly on. Then, when the officer is on tour, he also requires certain provisions. He requires earthen pots for his water, so the village *kumbhar* or potter is pressed into service and asked to supply these earthen pots. Sometimes he is fully paid, many times inadequately paid, and in a number of cases not paid at all. The *banya* also is asked to take his shop to the tent of the officer. The officer, who is an exalted person, unlike most people, will not go to the *banya's* shop nor will he agree to send his servant there. The *banya* must take his shop to the officer's tent. I do not intend to say that the *banya* is not paid. He is in many cases paid, but the rates are fixed by Government, without having regard to the current prices, and the *banya* must suffer the loss if the latter are higher than the former. This practice also varies in some other provinces. In Sind, for instance, they have got a system of *rasai*. There are some small officers who collect funds from the villagers called *rasai* funds, and out of these funds the expenses of the touring officers, high and low, but many times low, I admit, are met. In order to collect this fund, the village officer also collects a cess—the provincial Government knows that it is collected and it is called *lappo*, a handful, and every one must contribute a handful, to entertain the officers who visit the village. Then, the touring officer requires carts. He is paid a good travelling allowance, but he is not expected to keep carts in his service. Whenever he goes to a village and he wants to transfer his camp, he again goes to the headman of the village and asks him to provide him with carts. Sometimes the villagers require the carts for their own use. The crop is waiting to be transported from the fields to the depôt, but the need of the officer is greater;

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he is a privileged person and the villagers' crops must remain in the fields; the carts are pressed into service. These are the ways in which labour, provisions and carts are pressed into service by the Government officers.

All this is not sanctioned by law, as far as I know. I could hardly trace any legislation either in the provincial statute books or in the Imperial statute book by which people could be compelled to work for officers, people could be compelled to take their shops to the officer's tents or to give their carts for the use of the officers. Government officers know that there is no law by which this practice is sanctioned, but they are doing it. But there are some laws which give power to Government to compel people to work on certain occasions. These laws are generally connected with irrigation. There is the Bombay Irrigation Act, the Northern India Irrigation Act, the Burma Irrigation Act and several other Irrigation Acts by which the Irrigation officers are empowered to compel the labouring classes to work on irrigation works under certain emergencies. In these Acts there is some difference, I admit. For instance, in the Bombay Act, every able-bodied man is compelled to work during a time of emergency. In the other Acts it is not that every man is compelled to work. They make a discrimination. It is the men of the labouring classes only who are compelled to work and not the people of the higher classes. If the land-holder happens to be a Brahmin or an educated man, or a merchant, he is not compelled to work, but it is the men of the labouring classes who are compelled to work. Then there is the Indian Forest Act under which people can also be compelled to help the forest officers in certain circumstances. Even the lofty heights of the Simla hills are not free from the evil of impressed labour. Mr. Stokes and Mr. Andrews have revealed to the world certain shocking incidents that took place on those hills. This system is a kind of oppression and also gives rise to petty tyrannies. On this point I do not propose to trust to my own opinion. I should like to read, from a report of the Committee which the United Provinces Government appointed to consider this question, a passage which will show how the matter stands. This is what the report says :

'The district reports show that the complaints regarding the present system are well-founded and that there is practical unanimity as to their nature. They need only to be briefly stated. The *banya* complains that he is very frequently compelled to attend camp or to pay for exemption from attendance; that he does not ordinarily receive payment for supplies at current rates, that he has invariably to give free food to the *tahsil chaprassis* attached to the camp and, finally, that he receives no compensation for the trouble and expense involved in carrying supplies to the camp at some distance from his shop

'The village people are not vocal, and their complaints are not so loudly proclaimed; but the *Chamar* is seldom paid for his labour or the *Kumbhar* for his earthen pots, while the tenant is not infrequently called upon to supply the straw which, according to the custom of the country, the landlord should provide, and to place his carts at the disposal of officers at inconvenient seasons, and those who supply eggs and milk seldom receive the prices which the touring officer actually pays for them.

'The grievance of cart-owners is that their carts are often impressed, that their only means of avoiding impressment when it is inconvenient is by buying off the *tahsil chaprasi*, while the rates paid to them are ordinarily considerably below those current in the open market at the time.'

Sir, this is from the report of a Committee appointed by the United Provinces Government and is signed by Mr. L. Porter and a number of Government officers, as well as other Members of the United Provinces Council. This will make it clear to the Members of this Assembly that this practice is not free from oppression and petty tyranny. I cannot understand what the defence of Government is in allowing this practice to continue in

existence in this twentieth century. Sir, it may be admitted that in old times say 100 or 200 years ago, the people of India did not understand the value of money. But, now, even the people in the jungles understand the value of money. If the Government officers want labour and if they offer fair wages, I am quite sure there will not be any difficulty in getting labour at any place in the country. When it is possible for labourers to be transported hundreds of miles away from their homes, to places like Assam, why should it be difficult for people, if they offer fair wages, to get labourers in the district itself? The other argument that is sometimes used is that the roads are not good and sometimes, in hilly country, it becomes necessary to compel people to take the baggages of officers. Sir, the British rule in India has been continuing for more than a hundred years, and I do not think it is to the credit of the British Government if they have to bring forward the argument that there are no roads in the country and so people must be compelled into service. Then it is sometimes said that the officers do not pay for the provisions because people in India are so hospitable that they are willing to give provisions to the officers free. Sir, the people in India are hospitable. But they are hospitable to guests whom they invite or whom they choose to entertain. I do not think the people in India are so hospitable that they would entertain that guests who force themselves upon them. Then, Sir, in some places it is said this labour is a contract of the land settlement. Reference to this is made in the literature connected with this subject. Sir, as regards this, what I feel is that if there is a condition in the land settlement that people can be pressed into service, I would say, the sooner the conditions of land settlement are changed, the better.

This practice at the present day has no justification on any ground. If
 3 P.M. the Government Officers want labour, if they want carts, or if they want provisions, they can easily get them if they are prepared to pay a fair wage, if they are prepared to pay fair price and if they are prepared to pay fair rates for transport. Let them go into the world as ordinary people, not as privileged people, and pay what private people pay. When I had to move in villages—and I can assure the Members of this Assembly that I have moved in villages for months together—I have found no difficulty in getting carts or provisions whenever I wanted them: the only thing is, you must pay the fair price; Government officers are paid for all that they require by the Government. I therefore feel that to-day there is no justification whatsoever for this practice. As regards the several Irrigation Acts that exist, I admit at once that, under certain circumstances, conscription or compulsion is necessary. Even in European countries, in an emergency of war, conscription is used. But the Governments of those countries do not make a difference between the people belonging to the higher classes and the labouring classes. We hardly hear of that in England or France or Germany. Whenever they wanted soldiers, they made no difference between a young boy belonging to an aristocratic family and a young boy belonging to the labouring class, but unfortunately the Government of India does make that difference. In order to convince, the Assembly of the truth of my statement, I will only read one section from one of the Acts. It is the Madras Compulsory Labour Act, 1858, section 1. I shall not read the whole section, but only a few words bearing on the point.

‘Whenever it shall appear to the officer in charge of any tank, river or canal or of any anicut or other like work that there is imminent danger of the embankment of such tank, river or canal being breached,’

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as I said I shall not read the whole section but only the important words :

' such officer shall require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons of the labouring classes in such village or villages to co-operate in the work necessary for preventing or repairing the breach '.

It is the able-bodied people of the labouring classes only who are to be compelled, and not the other classes. Sir, although I see that, under certain circumstances of grave emergency, it is necessary to compel people to do a certain kind of work, I can hardly see the need for this distinction in such an emergency, between a labouring class man and a man belonging to the higher class. The fields belong to all sorts of people. They belong to Brahmins, they belong to educated people, they belong to merchants, they belong also to labouring classes, and if a breakdown of the embankment will cause damage to the community, it causes damage to all classes of people, and not to one class of people only, and, if people are to be compelled to serve, why only restrict that conscription, as I call it, to the labouring classes? I do not think Government will be able to justify their position in this matter in any way. In this connection, I must confess that the Bombay Irrigation Act is much fairer in this respect. It says :

' And thereupon every able-bodied person who resides or holds land in the vicinity or the locality '.

Now, Sir, I have described what the existing system of forced labour is, and how it harasses the people in various ways; how, also, there is no sanction in law for this custom and how there is hardly any justification for its existence. The whole practice or custom of forced labour is against the modern spirit of individual freedom. No man should be compelled to do work for a master against his will. I need not remind the Members of this Assembly that this principle has been laid down in section 374 of the Indian Penal Code. As many of the Members of this Assembly are lawyers, I need not read the section. It makes it penal for anyone to compel any other person to render him service against his will.

Then, I would also like Government to consider this question from another point of view. This harassing of the people in the villages leads to a great discontent in the country. Unfortunately, as the United Provinces report has said, the village people are not vocal. They do not hold meetings. They do not hold processions. They do not pass Resolutions and send them to Government. But let Government remember that every kind of oppression, every kind of small tyranny, creates discontent all the same in the hearts of the people in the villages, and that discontent, although it may not be expressed in words, will be expressed in one form or another at some time or other. I have heard it said several times, even from the Government Benches, that the political agitators and the non-co-operators take advantage of the small complaints of the people that exist, and that they thus gather strength to their movement. Is it the fault of the non-co-operators or the political agitators that they take advantage of the real grounds of discontent that exist among the people? If the non-co-operators or the political agitators know the art of agitation, they ought to take advantage of every such circumstance of discontent.

It is the fault of the Government that allows this discontent to exist and to continue. If I were a non-co-operator, I am quite sure I would take advantage

of every real ground of discontent that exists among the people and that is allowed to remain by the Government in spite of knowing that it exists. I would, therefore, like the Government to take note of this fact very clearly that there is discontent in the country, and that that discontent will be utilised—and I may say very fairly utilised if it exists—by political agitators or the non-co-operators for their own purposes. I shall not blame them if they do it.

Now, Sir, let us see what Government has done to remove these real grounds of complaint and discontent. Several times these questions have been brought forward before Local Governments. Last year, in the United Provinces Council, a Resolution was moved, and the United Provinces Government appointed a Committee. That Committee has made some recommendations to improve the system and to mitigate the evils. Then, as regards Sind, complaints were heard about this practice in Sind. Two years back, my friend, the Honourable Mr. G. M. Blurgri, moved a Resolution and Government appointed a Committee and that Committee reported two years back. But the Government of Bombay is so solicitous about the welfare of the people in the villages that it is only last week, after two years, it has reviewed that report and published its Resolution.

This clearly shows the anxiety of the Government to remove the real grounds of discontent of the people. I would like the Government of India now to take the matter into their own hands and not to trust to the Local Governments to do justice to people in this matter. It may be said by the Government of India that they trust to the Local Governments to do it. I would ask the Government of India whether this is not a question of law and order. It is their own officers who, against the law, without being sanctioned by the law, compel people to do service for them in various ways. People do not make complaints, but is it not the duty of Government to take cognisance? Only recently I heard in this Assembly that the non-co-operators intimidate people. People did not come forward with complaints and still Government found out a way to stop the intimidation. The village people do not come forward with complaints. Is it not the duty of the Government, in the same way, to take action, without complaints being made to them, and stop this evil practice? (Hear, hear.) Sir, if the matter is left to the Local Governments, I do not hope that this system will be ended. The Local Governments will try to mend it to some extent, mitigate its evils as the recommendations of the United Provinces and Sind Committees show. But the time has come when no mitigation, no mending will do. We insist upon the individual's right of freedom and the Government of India must come forward to end the system, without waiting for its being mended by the Local Governments. Local Governments will not end it, because the local committees of Local Governments include the officers who at one time or another have made use of this system and benefited from it, and do you trust to these officers to do justice to people? I, at least, do not, and it is not fair to expect justice from those who at one time or another have benefited from this system. I therefore appeal to the Government of India to take this matter into their own hands as a matter of law and order. To-day it does not appear to be a matter of order, it is a matter of law no doubt; but I want to ask the Government whether they want to wait till this matter becomes a matter of order, peace and good government. But I do not think they want to wait till this matter becomes a matter of

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peace and order. I therefore appeal to them to take up this matter into their hands and remove this real ground of complaint, which exists, without doubt, in almost all the provinces of the country. Sir, the representatives of the Government of India in this Assembly have several times expressed profusely their sympathy for the masses, the labouring classes and the working classes. But, if I were to speak frankly my opinion, I would tell them that they care more for the grievances of the classes, the educated classes, the politically minded classes, than they care for the grievances of the people, the masses, the labouring classes and the working classes. No doubt, as I said, the labouring classes are mute and not vocal, but a Government, that professes to make it their special interest to protect and safeguard the interests of the masses, cannot and must not wait till the masses begin to speak and express their grievances. I, therefore, hope and hope strongly that the Government of India will take up this matter into their hands as an urgent matter, as a matter of law and order and arrive at a very satisfactory solution at an early date.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division : Muhammadan) : There is no doubt that I do not know much about impressed labour ; but, as a Zamindar, I have some experience of what takes place in a zamindari. Just a few days ago, I received here from my village servant a copy of a notice which was served on me by the Magistrate regarding the *paltan* or the troops that had come there, stating that they should be supplied with fuel, so much of this and that, and so on. I did not know what to do. I simply wrote to them saying that they should act legally. I do not know whether the villagers are properly paid for the things supplied. But so far as my knowledge goes, and I do not blame Government, they are not paid adequately. Any way, what I would impress upon Government is this, that they may at least take this fact into very serious consideration. I quite agree with my Honourable colleague, that these small causes of discontent are taken advantage of by non-co-operators. The village men do not understand anything. They do not understand the law. They do not understand whether there is any difference between the Viceroy and the District Magistrate or the police. They simply take into consideration that there is *zulum*. The discontent spreads from one place to another until it becomes a very big thing. It is therefore in the interest both of Government and of individual liberty that I should impress upon Government the desirability of accepting this Resolution.

Rai Bahadur Pandit J. L. Bhargava (Ambala Division : Non-Muhammadan) : Sir, the system of impressing labour, conveyance or provisions is, at this hour of the day, an anachronism and deserves to be abolished as soon as possible. Its basis is the old old story of the necessity of the hour, and its sole justification is to secure some convenience and facility for the officers and officials who have to go on tour and to enable them to save some of their valuable time. No doubt these are advantages which should be taken into consideration, but to my mind they are quite incommensurate with the burdens which they impose on the persons who have to bear them. It might be said that the principle that no person can be unlawfully compelled to labour against his will is well recognised under section 374 of the Indian Penal Code and any person who violates that principle may be proceeded against under that section, but, in practice, that section is more

honoured in the breach than the observance. The mischief does not consist in compulsion alone but, as sometimes happens, the non-payment of wages, hire and prices and oftentimes inadequate payments are its concomitant evils. It is the business of the State to see that every person is secure in the fruits of his labour and gets full price for what he sells and full remuneration for the work which he does. In this connection, be it said to the credit of the Government of the province to which I have the honour to belong, that recently serious attempts have been made to tackle this important and difficult problem. Instructions have been issued by the Punjab Government to all the heads of districts to fix the places where officers going on tour should halt in every tahsil; contractors have been appointed to supply provisions, and officers have been enjoined to see that these instructions are strictly followed, and that payments are made in their presence. But, Sir, it is not one province alone that matters. The question concerns the whole of India, and what is wanted is not the improvement of the system, but the eradication of the evil practice altogether, which is objectionable on more grounds than one. A great deal of discontent and heart-burning is caused amongst Zamindars by this system, which generally goes by the name of *Begar*, and it is a matter of common knowledge that the subordinate officials and menial staff work great havoc among them while accompanying the officers going on tour. I think, therefore, that the time has come when this system should be abolished altogether, and officers and officials who have to go on tour should make their own arrangements for provisions and labour and conveyance just as when they are at their headquarters, and strenuous efforts should be made to put a stop to this evil practice.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): Sir, I support the Resolution with reservations. This impressment of labour, conveyance and provision leads only to oppression. I must say, it is a pernicious system. If Government finds that the system cannot be abolished in all the provinces all at once, I think, there ought to be exceptions. At the same time, I must say we have created our own difficulties in this respect. The country has been overrun by the non-co-operators whose chief aim is to make the Government of the country a total failure. I have come to know cases—and they are not a few—in my province where boatmen point-blank refused to ferry across the river Government servants simply because they are in the service of Government. This is due to the teaching of the non-co-operators. Such cases cannot be tolerated and any Government, in its own defence, cannot but keep such a system in practice until the time when the activities of the non-co-operators do cool down. I do not know when such time will come and I shall be thankful to my Honourable friend, the Mover, to enlighten me on the subject. The whole trouble is that there is co-operation among the non-co-operators, but there is no co-operation among the co-operators. This lethargy on the part of the co-operators has brought the country on the verge of a catastrophe. Such is, after all, the case, and this is most deplorable. It is no use ignoring facts and mincing matters. Under such circumstances, how can loyal citizens all at once advise Government to let go all the weapons in its armoury lest the good government of the country becomes an impossible task? The country has been brought to such a pass that even we cannot get rid of a pernicious system, this being due to those unreasonable non-co-operators. My Honourable friend complains why

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only the labouring class men are impressed, to the exclusion of zamindars or the mercantile class. May I ask my friend who represents labour, will he be pleased to say how he would like it if he was impressed for service? May I ask how many land-owning people or mercantile men would like to go for impressment in the place of labour?

Mr. J. Hullah (Revenue Secretary) : Sir, Mr. Joshi's counsel of perfection aims, I think, at grievances that arise out of an old custom, rather than, as I hope to show, out of any recognition by Government of that custom. And here let us get rid at once of the confusion that often exists in the public mind between impressed labour with payment and impressed labour without payment. Impressed labour without payment is *begar*. That is and should be the meaning of the word *begar*. But it is loosely used; I have seen it used even in a Local Government's communiqué for paid labour; and owing to this confusion there has arisen an idea that unpaid labour is recognized by Government on a large scale. That is not so at all. Mr. Joshi himself has admitted that his researches have not revealed any cases in which, under law or rule or executive order, unpaid labour, conveyance or provision is recognized. There are, as he has told us, certain cases where impressed labour on payment is recognized, and he mentioned straightaway the first great class of cases, sanction in which is given under the Irrigation Acts, to the power of impressing labourers in times of grave emergency, when there is fear of a canal or a reservoir being breached, or something of that kind. He mentioned the Acts which allow it, the Northern Canals Act, the Bombay Irrigation Act, the Madras Compulsory Labour Act, the Burma Canals Act, and the Burma Embankments Act. I gather from Mr. Joshi that he does not object to that provision in itself. What he objects to is that only labourers can be conscripted; why should not the merchant be conscripted? Mr. Joshi has forgotten to tell us that the Acts also lay down that payment must be made; what is more, they lay down that payment must be made at the highest market rate; indeed in the Northern Canals Act it is said that payment must be made at a rate higher than the highest market rate. Now, I suppose that a Canal Officer, even when he impresses labour, wants value for money received. Would he get value from the efforts of a merchant with a spade? I do not suppose that anybody will really object to the power of impressment for the purpose of repairing a canal in emergency. As a matter of fact, I believe that this power is very seldom, if ever used. Two Irrigation officers of great experience, one from the Punjab and one from the United Provinces, have told me that never in their experience has this power been used. The people of the countryside naturally know what damage will occur to their own crops, to their own lands, if the canal breaches and they are ready enough to come forward and work. But, seeing the immense loss of revenue, the great expenditure that will be necessary in repairing the canal, to say nothing of the risk of destruction of crops, of cattle and of loss of human life, surely this is a power—but only as a reserve—that we should keep in our hands. We should keep this resource in our hands so that if we cannot get our canals repaired in time of emergency by voluntary labour, we should get compulsory labour and well-paid labour at that. But Mr. Joshi's Resolution is so sweeping, so all-embracing, that if we accepted it, we should have to wipe out these provisions of those Acts.

The subject is also important in its military aspect. I need not dwell in detail on the practice of conscription which prevails in many countries: I

need not touch on billeting. I need not mention the great interference, not only with personal liberty, but also with trade and commerce, that was effected by the Defence of India Rules during the war, and I need not say how readily that interference was accepted. We have to deal not with times of war, but with normal times, times, we hope, of peace. The Army Regulations lay down that, when troops are about to march, requisitions may be made on the civil officers. They do not, of course, say how the civil officers are to set about complying with those requisitions. Certain statutes allow the power of impressment. There are two old Regulations in Bengal, No. 2 of 1806 and No. 6 of 1825, where obligation is laid on landholders to provide for transport of troops on the march. Bombay also has an old Regulation of 1827, which empowers the district magistrate, in certain circumstances, to impress transport, guides and supplies. I do not know whether those Regulations are ever used. Similarly, there is the Punjab Military Transport Act, which, when a notification is published by the Local Government, allows the impressment on hire or the compulsory purchase of boats, carts and other means of transport. I do not know whether that Act, although it was passed during the war, has ever been utilised. But here, again, I submit, that it is right to reserve, for military purposes at any rate, the power of impressment. What is the alternative? If you are not satisfied that you can get your carts immediately in any emergency, the Army, I imagine, will have to maintain transport on a much greater scale than at present, and I am not authorized by the Finance Department to commit the Government to the heavy expenditure that would be necessary to maintain standing transport, which will be idle for a great part of the year or perhaps for the whole year, simply in order that there may be no difficulty in emergency, and I do not suppose that the Assembly would wish me to do so.

There is a third class of cases, which is hardly impressment at all, but since a power is given to call on a man for his services at any time, it should be mentioned. I refer to service-tenures where a man, by reason of a favoured tenure is liable to be called upon to render service. The most notable instance of this which I have come across is in Coorg, where persons, called Jamma Coorgs, hold lands on half revenue, and, in consideration of this favoured tenure, are bound to render escort duty and to do other services for Government officers. We are told by the Chief Commissioner of Coorg that this obligation is practically never exacted, and I imagine that if we offered Jamma Coorgs the option of being relieved of this obligation or paying for their land at full rates, they would prefer to continue as at present.

The impressed labour that I have mentioned up to the present does not, I think, cause in the aggregate any very great inconvenience or hardship. Now, I come to what is really the gravamen of the charge, the hardships that are caused on the country side by Government officials and their tours. These hardships, so far as they exist, are inflicted in two ways, first by the subordinate Government officials who reside in the villages, and, secondly, by officers who tour and take subordinates with them. To take the first class first, we have the *patwari*, I think, in Madras, he is called the *karnam*, the forest guard, and the head constable or the constable. The *patwari* needs a man to carry his plane-table and his survey chain or to carry his voluminous records on the numerous occasions when he is summoned as a witness in the civil courts; the forest guard takes a man with him into the lonelier parts of the jungle; the head constable or the constable, perhaps when he is on beat duty in the

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country, gets a man to carry his kit and his great coat. As a rule, all these subordinate officials employ for these purposes some village servant who is in receipt of regular emoluments and whose duty it is to render these services. It may be admitted that occasionally this village servant is not available and some casual villager is impressed. That practice is absolutely discountenanced and, in my experience, whenever it comes to light, it is severely punished.

Now, as regards the tours of officers. Touring is necessary—I think that is admitted by everybody. Touring, it is widely said, causes considerable inconvenience to the people. I believe all officers do their best to make their touring as little inconvenient as possible to the people, and I believe that all officers do their best to see that supplies are paid for, and, what is much more difficult, that the payment reaches the persons for whom it is intended. The whole question of the touring of officers and their subordinates—and it is generally admitted that it is the subordinates and not the officers who give the most trouble—has been gone into already by several Local Governments. An Honourable Member has already referred to the inquiry which has been made in the Punjab and the orders that have been passed. The United Provinces Government, as we have been told, appointed a Committee; that Committee has reported and the Local Government, I see, has just got out its orders. The report of the Committee is a very interesting one, not only on account of the thoroughness which it goes into the whole question, but also on account of its ready admission of the difficulties that are to be encountered. I note that, in order to meet the inconvenience that is caused by the pitching of officers' tents, the Committee has recommended that every officer shall take on tour with him a gang of paid labourers for this purpose, 4 or 6 men. Some of us may think that the remedy is worse than the disease. If it is a fact that the retinues of officers cause so much hardship and inconvenience, surely it is unwise to increase their size. However, that is the only recommendation that the Committee can make to meet the inconvenience which they think exists. Mr. Joshi has also mentioned the orders of the Bombay Government in Sind. One particular point which he mentioned, namely, that compulsory labour was used for the repair of roads, is specifically mentioned in these orders and the practice is absolutely forbidden.

Now, the fact is that no law, not even the most Draconian law, will ever bring an end to these practices, so far as they exist owing to oppression by subordinates. The only remedy lies in the spread of education, the growth of a spirit of self-reliance and the knowledge that unlawful demands can be successfully resisted. And here do not let us go away with the idea that the oppression such as exists is carried on only by Government officials. An immense amount of oppression is carried on by the landlords themselves. I do not wish to speak against them as a class; but it is a fact that many of the landlords do exact conveyance, services and supplies on an altogether unauthorised scale. As a rule it is the non-resident landlords who are the greatest offenders. When a villager falls into the hands of a money-lender, who does not reside in the village, he sends in his place a *kamdar* or a *muktia*r or some disreputable underling of any kind, who, in the name of his master and purporting to be acting under the authority of his master, exercises oppression of the grossest kind. Here, again, the only remedy is the spread of education and the growth of a spirit of self-reliance. But let those who accuse Government officials of harassment and

oppression, look to the extent where on the countryside this oppression is practised by private persons, not even under guise of the public interest.

I have mentioned what Local Governments have done, how they have taken the matter up, how their Committees have reported; and I may say that they have accepted the recommendations of their Committees practically in full. In a reply to Mr. Joshi given about a year ago, I said that the Government of India did not propose to take the initiative in so far as Governor's provinces were concerned, but we undertook to investigate the subject with regard to other territories. That, I think, is the correct attitude, the only correct constitutional attitude. Mr. Joshi says that the Government of India should take the initiative, because the Local Governments, being composed of officers who are interested, are not likely to do justice to the people. Now, first let me mention that the Committees appointed by the Local Governments had majorities of non-officials on them, and, secondly, are there not in the Governor's provinces representative Assemblies? Mr. Joshi has not mentioned them at all. What is the use of Devolution, what is the use of giving provinces representative Assemblies if we are going to interfere in all their domestic concerns? The Local Governments and their Assemblies know the local conditions, they know the local customs, they know how far these customs are justifiable, how far they are acceptable to the people; they know how much touring is necessary in the interests of efficiency and good administration; they know whether any abuses exist and what should be done to remedy those abuses. The people can make their voices heard through their own representatives in their local Assemblies. Why should we interfere? Any interference on our part, any dictation on our part, would be resented, and, I think, justifiably resented. But we have, in regard to the territories directly under our own control, namely, the North-West Frontier Province, Baluchistan, Coorg, Delhi and Ajmer, Merwara, made inquiries as to how far impressment, paid or unpaid, is allowed or recognised, and the replies received show that there is practically no official recognition of anything of the kind. In Coorg, there is the case of the Jumma Coorgs, with which I have already dealt. In Baluchistan, there is no official recognition. In Delhi, the only provision is that regarding impressment of canal labour which, as I have already mentioned, is allowed under the Northern India Canals Act. In Ajmer, there exists an old order which allows earthen cooking pots to be borrowed and used without payment. That practice we are now suppressing. Also in Ajmer, to a certain extent where Government fuel reserves are not available, fuel is allowed to be taken without payment. That practice also we are going to stop. But in our reference to the Local Governments we only asked how far these practices were recognised. We did not ask to what extent unrecognised practices which cause hardship or inconvenience to the people exist. That we shall now do, and we undertake to do our very best to remove any hardship or inconvenience which is caused not only by recognised practices, if any exist, but also by unrecognised practices through the misbehaviour of officials of any rank.

I have shown now that so far as the Canal Acts are concerned, we cannot surrender our reserve power of impressment. I have shown that we cannot surrender it for military purposes. I have also shown that in cases where there are service-tenures, there is no need to surrender the practice if the practice in those cases be impressment at all. Lastly, I have submitted, and I repeat that, so far as Governor's provinces are concerned, this is

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not a matter for the Government of India, and we do not propose to take action in regard to those territories. As regards our own territories, we are doing our best and we shall continue to do so.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muham-madan Urban) : Sir, I have listened with considerable interest to the speech of Mr. Hullah, but I deeply regret I remain unconvinced. Mr. Hullah is perfectly right in referring to the oppression of tenants by some Zamindars and I say most clearly that those Zamindars should hold down their heads with shame that they should oppress their own countrymen. But, I submit, Sir, that two wrongs do not make one right. If there is oppression by Zamindars, that is no reason why there should be oppression by Government servants either high or low. Moreover, is Government to follow their evil example? Mr. Hullah has told us that in answer to a question put by Mr. Joshi last year, he made certain inquiries, and what he says to our amazement is that he only made inquiries about—I will use his own words—the recognised practices, and now he undertakes to make inquiries about the effect of unrecognised practices. I am feeling rather surprised, Sir, that Government should not have known that the effects of unrecognised practices are perhaps worse than the effects of recognised practices.

Mr. J. Hullah : May I explain, Sir? Mr. Joshi's question was only in respect of recognised practices.

Munshi Iswar Saran : Sir, we are told that, in cases of emergency, Government wishes to retain this power and that Government is equally anxious to retain this power in the case of troops marching from one place to another and to these two has been added the power that has to be exercised in the case of service tenures. Now, Sir, I submit that on the statement made by Mr. Hullah himself we find that there is no reason or justification at all for the continuance of this system. Mr. Hullah says that so far as the repair of canals is concerned, never has this power been used, because people on the country-side are themselves anxious to come forward and voluntarily work in order to repair the canals. They feel that if they do not come forward to repair the canals, the injury will be theirs. I ask, then: 'Why, then, retain this power? If people have the good sense of always coming forward to work voluntarily, why reserve this power in your hands?'

Then, Sir, Mr. Hullah has told us that, as far as service tenures in Coorg are concerned, the Chief Commissioner says that this obligation is never enforced. If the report of the Chief Commissioner be right, that is a reason for the non retention of this power in the hands of Government.

The third case is when troops are marching. We have been told about conscription and billeting. I do not pretend to know much about the condition of affairs in England or in other countries. But I am inclined to think—I speak subject to correction—that it is only during the time of the war that you billet soldiers in private families. I do not know—I shall be very grateful if some Honourable Member will enlighten me—that in times of peace you can go over to a man's house and say: 'Now, my good man, look here, half a dozen soldiers are going to put up at your house.' If that be so, Sir, then, I say, in all humility, that we shall not follow the English model.

As regards conscription, there too, I venture to think, that it applies only to war times. If war breaks out, if India is at war with some other country, most certainly, not only take our carts, not only impress our labourers, not only take provisions, but take something more, take our very lives. But in normal times and times of peace, I do submit that this system is wrong. Mr. Hullah will pardon me if I say that he has really missed the whole object of this debate. He talks about inconveniences. It is not the inconvenience of the system so much that hurts us. It is because we want freedom for human beings that we have brought forward this Resolution before this Assembly. What I say is this, I am speaking for myself, if you impressed a cooly, if you took him away from his plough against his wishes and if you paid him Rs. 500 a day, even then I would protest against it. I deny your right of taking labour from a man against his wishes. I deny your right of taking away his cart against his wishes, and I deny your right of taking his provisions against his wishes. If he is willing, take it by all means. You may induce him, you may persuade him, but do not, I say, take anything by force. If you do so, you degrade human nature. I know it, and it is a matter of my own personal experience, poor people, artisans, have come and told me: 'Sir, winter time is coming. We cannot be sure. The *tahsil chaprasi* might take us away and we might not be able to keep our promise and come and work for you.' Is it imagined that this sort of dread raises the dignity of man in the eyes of these people? I submit, it does not.

Sir, Mr. Joshi has spoken rather strongly because he feels strongly. There is no doubt that various Local Governments and happily, the Local Government of my own province, have moved in the matter, but, I submit, they have not gone far enough. They have these Committees. This is how generally the machinery of Government moves, if I am wrong I hope I shall be corrected. First they wait to see if there is some agitation or some sort of protest loud and strong. Then they start thinking. After that they say: 'Let us appoint a Committee'. These Committees are the panaceas of all human ills! After that, the Committee is appointed, there is an inquiry by the Committee and then it sends up its report. A long time is then taken over the consideration of that report and then comes out the result. The result is that the Government is prepared to go a little way. Now, I ask this Assembly to say, in clear terms, if it wants that labour, conveyance or provision should be taken from Indians against their wishes. If not, we shall say to these various Local Governments: 'You have done a great deal'—and speaking for myself I am much obliged to them for what they have done,—but we shall say to them: 'You have not done all that you should have done. You have not done full justice in the case.'

It may be that there are certain emergencies, during the time of war and so on when exceptional measures have to be resorted to. I do say that Mr. Joshi will be the first man to agree that his Resolution does not refer to those abnormal conditions. Mr. Joshi's Resolution relates to normal conditions of peace, when every day transaction takes place. I fail to understand why in such times, Government should find it difficult to get provisions, carts, labourers. Take private individuals. They have huge wedding parties, shooting parties, etc., and sometimes they require hundreds of labourers, hundreds of carts, and, if they are able to manage them, I ask, in all seriousness, how is it that Government is not able to

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manage them? I do not wish to refer to petty tyranny, and for once I am in entire agreement with Mr. Hullah when he says: 'You may have a perfect law, but you cannot prevent these little tyrannies.' That is perfectly true. Mr. Hullah has very rightly told us that the real remedy is the education of the masses and their development of the spirit of self-reliance. I agree with him. What I say is this. If the masses were self-reliant, they would simply make it impossible for any *chaprasi* or head constable or *patwari* to take labour from them against their wishes. They would simply say: 'No, we won't submit to your orders.' But as they are not able to do it, it is for us who are in charge of their interests here to invite Government to do justice which is long overdue.

Rai Bahadur Bishambhar Nath (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I beg to support the Resolution moved by my friend, Mr. Joshi. My objection to the system of *begar* or impressed labour is based, first of all, on the fact that it encroaches upon the liberty of the people. Secondly, it brings a great hardship to them, and unfortunately the victims are not the rich and powerful but the illiterate and the poor. Imagine a person going on some urgent business with his cart, a Tehsil *chaprasi* or policeman comes in his way and forcibly takes possession of the cart and the poor villager has to follow him to the Tehsil. Then, perhaps, the order is only for 10 carts. But the Tehsil *chaprasis* would go and impress 50, take tips, bring only 10 and release others from whom the illegal toll has been exacted. This is only one case, which illustrates my point, of how the system is worked. It is open to horrible corruption and is a constant source of harassment to our simple and illiterate countrymen.

Thirdly, Sir, I would insist on the abolition of this relic of slavery in the interest of the Government itself. There is nothing which makes it so unpopular as the *begar* system. It is associated with the Government and naturally the feelings of the people who are harassed get embittered. It is true, the Government work has got to be done. But certainly the mighty Government ought to be resourceful enough to devise means for the execution of their work without interfering with the liberty of the people and subjecting them to unnecessary hardship and suffering.

With these few words I commend the Resolution to your acceptance.

Mr. Abdur Rahim (North-West Frontier Province: Nominated Non-Official): When I listened to the speeches of my Honourable friends, I thought that, as a Zamindar, it was my sacred duty to offer some observations and place my personal experience before the House. I have much pleasure in supporting this Resolution on a good many grounds. My first ground is this. When reforms were begun, I think we started from the wrong side. First, we must have the liberty of the individual or what I should call personal liberty; then liberty of speech and liberty of the press. Well, Sir, some Honourable gentleman said something about Zamindars. Well, fortunately I am one of the Zamindars in the North-West Frontier Province and I say that no Zamindar can possibly take money which is to be paid to other people, because when the officer who made the payment says that he has paid the money, the Zamindar will have to face the unpopularity of his own people. There is

another reason why this *begar* system is bad. It is because the labourer never gets what is his due. I think it is the sacred duty of every one here, whether official or non-official, to stop this *begar* system. These poor people have been fighting for the cause of His Majesty, for the cause of the country and, if this *begar* system is not stopped, it will be a disgrace. The Honourable Member said that they impressed labour on payment. Why should it be impressed if it is on payment. When the war was going on, in our own province the Honourable Chief Commissioner gave orders that no cart and no labour should be given either to the military people or anybody else unless those people were paid whatever wages they required. The result was that cartmen from different districts were coming because the military people were liberally paying.

But what I say is this. If officers have to go on tour, they get traveling allowance. It is, therefore, not right to find comfort at the expense of poor Zamindars. I think, in conscience, they should make their own arrangements instead of giving trouble to the Zamindars: and I say that it is the duty of the official Members and the non-official Members and every Indian to see that we do away with the *begar* system, so that the Zamindars may not be inconvenienced. As I said, when any officer comes, he is welcome. I say from my own experience, and this must be so in the Punjab and other provinces, that wherever the *begar* system is utilised by Patwaris and other petty officers, when officers come on tour, people run away whenever they come to know that the *begar* system will be enforced. So I say that the arrival of the officers is welcome, but I again request the Honourable Members that they may with one voice support this Resolution.

The Honourable Mr. B. N. Sarma (Revenue and Agriculture Member): Sir, there does not seem to be much difference between the Government point of view and that expressed by Honourable Members on the main issue before the Council. But, unfortunately, there seems to be a confusion of thought and misunderstanding owing to several points being mixed up in this Resolution and the wide prevalent feeling of dissatisfaction, as viewed in this Council, with the way in which, possibly, the administration is carried on in some parts regarding the questions to which this Resolution relates. Government do not want any power to impress labour or conveyance or provisions for the purpose of enabling their officers to tour conveniently. Mr. Joshi has not quoted any executive order, law or statute under which,—except in the cases to which allusion has been made at length both by him as well as by Mr. Hullah—he has not quoted any executive orders or rules under which this power is sanctioned by the Government, and, therefore, there is nothing for the Government of India to do by way of sending out instructions to Local Governments with regard to impressed labour, conveyance and provisions in respect of touring on which great stress has been laid. That is where my difficulty comes in. We are perfectly at one in condemning these practices where these abuses have crept in, in spite of precautions which the Government have been taking for a considerable time past: and, as Mr. Hullah said, if, unfortunately, in any places, carts are forcibly impressed, people are compelled to labour, provisions are forcibly taken, for the convenience of officers, that is a practice not sanctioned by law,—and no Government officer can enforce such practices by any penalties attached under any statute. Therefore, the question is really one of administration: and if, in any individual case, an officer offends against good morals and sound administrative methods, it is for the people of the tract concerned to bring to the notice

[Mr. B. N. Sarma.]

of the higher authorities those malpractices, and I am sure that these malpractices will be condemned readily by the authorities concerned.

The only practices which are sanctioned by law are where power is given to the Executive to impress labour in grave emergencies in which it would be disastrous to allow a canal or a river bank to be breached, washing away, it may be, hundreds of miles of fertile land and silting it up with sand, or washing away villages and towns. It is only in such emergencies that power is taken by the Executive, under existing laws, to impress labour, and that only in respect of villages adjoining the works which have to be undertaken during those perilous times. Wherein does the freedom of the subject come in here? I thought it was a social duty, a moral duty on the part of every villager, whether he belongs to the labouring classes or not, to co-operate with the officers of Government, to go to the spot where there is danger and to work in restoring the canal or embankment, as the case may be. It is not therefore a question of freedom, but a question of the duty resting upon every person to give his aid in time of emergency for the public weal so long as he is a member of society. And if there are recalcitrant persons who refuse to recognize this social duty, which they ought in reality to undertake without any payment, then the law steps in and says that the executive officers should and must be in a position to take labour from them and pay them at the highest rate possible. There is no question of individual liberty being infringed in a case of that description at all. The point does not arise and I think that, even in the most socialistic state, the Government must compel its lazy citizens, the citizens who have no conception of their moral duty, to do work for the State, at any rate in times of emergency.

Then, again, take the case of the military. There may be no question of war, but suppose there is a dangerous riot and troops have to pass through the country to reach the locality, or have to be moved from one place to another. What does the law say? The law says that the military officer in charge has to ask the civil officer of the district to furnish him with supplies *en route* according to his requisition. The civil officer will have to arrange as best he can, and he will most probably ask the officers subordinate to him to make the necessary arrangements. The law, the Bengal Regulation, the Bombay Regulation and the other Regulations, all enjoin upon the civil authorities that specific classes of persons, artisans, labourers and others, are to help in making the passage of the troops easier. There is absolutely nothing in that illegal or immoral, or which infringes the liberty of the subject. It merely asks the civil authorities to make provision for the passage of troops through the country. Supposing that no such arrangements were made, the military, as you know, would take the law into their own hands. They would obtain all the labour they required and the position would probably be worse than when the existing precautions are taken in the manner laid down by the civil statutes. It must be remembered also that it is only in exceptional cases, in cases of emergency, in cases where labour would not otherwise be forthcoming, and for the safeguarding of the general convenience, that this power of impressing labour or supplies on payment is given. All that the Government says is that it is impossible for it to surrender these powers, which it has to utilize in emergencies of the description I have given.

The reason why the Government are not in a position to accept the Resolution, as it stands, is not because it wishes, somehow or other, to retain

the power under which these abuses can continue, so long as the people can wink at them or are not yet sufficiently vociferous as to make it impossible for the Government to keep it, but because it asks us to take immediate steps for the abolition of impressed labour, conveyance and provision, wherever it obtains in India, either under local or Imperial statute or under local custom. It is impossible for us to undertake to repeal local laws, Imperial laws and customary laws in cases which I have mentioned, and I think in a way Mr. Joshi himself admitted, when he spoke on his proposition, that there are exceptions which must be met. Therefore, Sir, I would submit to the House that, inasmuch as Government have undertaken to do all that they can in respect of provinces directly under their administration, they cannot be asked to do more. Mr. Hullah has gone into the constitutional position at great length. If any Honourable Member of this House would bring to the notice of the Government of India that any Local Government, notwithstanding a Resolution of the Legislative Assembly, notwithstanding a Bill having been passed to modify any local law in that House, refuses to give effect thereto, then it would be for the Government of India, in the exercise of their supervising power under section 30 of the Government of India Act, to take the necessary steps, if any. But, for goodness' sake, let not the Members of this House ask the Government of India to abrogate completely the machinery which has been set up under the Reform Scheme, whereby vast powers have been granted to the Local Governments and to the Local Legislatures, whereby law and order are the first concern of Local Governments and not of the Government of India. Let us not tinker with that machinery, simply because we think that in a particular place Government or the Legislature is not able to come up to the mark. Let us not tinker with that machinery, but watch it sympathetically and carefully, and it is only when provincial Governments refuse blindly or wilfully and perversely to obey the mandates of their Legislatures, in this respect or in any other, that the Members of this House would be perfectly justified in coming up to the Government of India and making out a case for the exercise of their powers, and I, therefore, hope that this House would not press for Government taking any steps whatever in respect of provincial Governments and Administrations in what are known as Governor's provinces. We have told you that, under the law, there is nothing offending against good sense or taste or conducive to any ill-will, and that, if any Honourable Member would bring to our notice that in any province such laws are being wrongly administered, then surely it would be for us to see that these abuses are rectified. There seems to be a misunderstanding with regard to one of the remarks which fell from Mr. Hullah. No statement has been made on behalf of the Government that Zamindars, in general or on the whole, exercise their powers unlawfully or do not give the ryot what is his due or what is given to him for the purpose of its transmission. What he stated was that it is not individual officers of Government alone that perhaps are offenders, but the subordinates of the Zamindars also or it may be individual Zamindars. Nothing has been said on behalf of the Government to wound the susceptibilities of any class, and it was never meant to be the case. I hope, therefore, Sir, that, in making these reservations, Mr. Joshi will be able to see his way to accept the position of Government.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I beg to make a few observations on the Resolution that has been put before

[Mr. S. C. Shahani.]

the House to-day. No one, I think, objects to labour or conveyance or provision being impressed whenever there is an emergency. No one would, for instance, object that works such as bunds, whenever they are in danger of being breached, should not be quickly repaired with impressed labour or that the military, in their campaigns, should not be so aided. What is wanted is that the Government should assume a very stern attitude in the matter of unpaid impressed labour for normal purposes. Supposing an official is habitually guilty of such impressment of labour or conveyance or provision, and there is no doubt with regard to it, my own idea is that the Government should at once send him away, and not in any measure seek to whitewash his guilt. A few examples made thus will, no doubt, apply the requisite corrective to the evil. The evil is a great one and no one can rightly seek to make out that it is only the subordinate officials who are guilty of this misdemeanour. The officers too, so far as I can see, would be open to the charge. To say that their bills are being regularly paid by officers is, I think, an incorrect statement. If it is true that there is a grievance, let there be no attempt to belittle it. If the Government of India only make up their mind to give effect to their professed intention in their own jurisdiction, I think a very wholesome example will be set to the rest of the country. No interference is desirable and I think the Honourable Mr. Joshi will be the last man to suggest that the Government of India should unduly interfere in the concerns of the Local Governments. All that he wants to urge is that this evil, which is oftentimes wrongly represented as naturally springing from Indian hospitality, should be done away with. Except on occasions of emergency it should not be tolerated. If the Government propose to redress people's grievances and to conciliate them, and if they are desirous that there should be no alienation of hearts, really a very firm attitude should be taken in the matter by Government. It should be made very clear both to subordinates and to officers who draw allowances that they are in no circumstances to go in for impressment of labour or conveyance or provisions.

With these remarks, I resume my seat.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, I beg to move an amendment in the light of the remarks made by the Honourable the Member in charge of this Department. I beg to propose an amendment which will be acceptable, I take it, to the Government. It runs as follows :

'This Assembly recommends to the Governor General in Council to undertake the examination of the question of the abolition of impressed labour, conveyance and provisions wherever it obtains in India either under local or Imperial statute or under local custom.'

I think, Sir, that the Resolution, as it runs, is a counsel of perfection, but, human nature being what it is, I realise the practical difficulties which Government officers and other people feel. This has been the custom of the country where great works have been carried out by means of labour, willingly given sometimes and sometimes enforced. Great temples have been constructed, great historical monuments have been constructed in this way and the custom of the country does recognise this sort of labour. It is mildly forced, it is not really forced in the sense in which civilised beings should be ashamed of. But oftentimes man requires some sort of force to do even the right thing. We are not so ideally perfect and the people are not sufficiently educated

enough to advance voluntarily, and, therefore, I do think in such cases some sort of impressed labour is necessary so long as it does not offend against the laws of humanity. Take, for instance, Sir, where I live in the Tanjore district. There we have got a huge river; sometimes the stream bursts in the middle of the night and, unless you secure the stream and secure the water there, the whole village perhaps would be flooded and the whole village may have to starve, including those unfortunate labourers who have to labour in the fields. And, therefore, I do think that, in such cases you have to have some power under the law in order to get enforced labour. You cannot allow the flood to take its course and let the village lands and the village itself be submerged. There are cases of forced labour and forced labour, and it is, therefore, I think, inadvisable to pass this Resolution as it stands: 'To take immediate steps for the abolition of impressed labour, etc.'

I know it is very often abused. Although I am a landlord myself, I do plead guilty to the soft impeachment made by Mr. Hullab. I know that my tenants feel that they ought to carry my baggage, when I go to the village and have to return to the station; and I do not know where I would be without them in covering the distance of three or four miles between the village and the station. Of course, it may not be what you will have in an ideal society; but it is not impressed labour, and to go and say that you must abolish all these things seems to me to be a counsel of perfection. I do not think any society will ever reach that stage. No doubt my friend, Mr. Joshi, is a great lover of the labourer; but I do not know whether, if he had lands to manage, villages to manage, and property to manage, he would advocate such a state of things. I know, Sir, it was recently published in the papers, as reference was made to military requirements, that one regiment was marched in the Northern Sircars and Tahsildars were told that they should supply cows in calf. Now, that was most humiliating, most annoying to the people, to the Tahsildars and Deputy Collectors. It was stated in the '*Svarajya*' of Madras, I do not know whether it is true, that one Tahsildar actually died of heart failure on hearing of this order. Such sort of things ought not to be. Therefore, I say there is a good deal of evil to be examined and I hope it will be thoroughly examined. No doubt it is a matter affecting the Local Governments, but it is really a subject which affects also the Central Government; and I do appeal to the Central Government to seriously examine it, so as to impress upon all Local Governments that these old customs will not do. I myself should be very willing indeed if I had all the old customs in my village enforced. I would benefit by it; but my own people do not like it and I quite sympathise with the growing sentiments of the people. We should respect humanity and, therefore, Sir, I ask the Government to undertake the examination of this question at an early date. That is my amendment.

Mr. N. M. Joshi: Sir, I consider myself to be a very fortunate being in not possessing an inch of land and also the other encumbrances which would have compelled me to make use of impressed labour. Sir, my Honourable friend said that India is a country where by custom impressed labour has been sanctioned and considered necessary, and he indicated that it had been used in old times also and he said that we all want great works of utility as well as of beauty to be erected in our country to beautify our country and to make it rich, and he justified, on that ground, the use of impressed

[Mr. N. M. Joshi.]

labour for such a purpose. I assure him that I am not one of those people who would feel proud of even the Taj Mahal, if it had been built with forced labour; I would not feel proud of a country overflowing with the water of canals, if they had been dug with forced labour. Sir, after all; there is some value to be attached to human freedom. I am sorry, my Honourable friend does not attach any importance to that freedom. There is no doubt in my mind, Sir, that impressed labour cannot be tolerated in this country. It was said, on the side of Government, that on certain occasions, impressed labour becomes necessary, such as during times of war. I again repeat that I am not against the use of certain forms of compulsion during times of war. I am in favour of conscription, if in that conscription no discrimination is made. My Honourable friend, Mr. Rangachariar, drew a picture of an over-flooded river destroying a whole village. I appeal to him to say whether, at such a time, he would not himself come forward and offer his labour. Would he make any discrimination between a labourer and a great pleader like himself? Sir, my Honourable friend, Mr. Sarma, will say: 'You are lacking in the sense of social duty.' That is what he said only a few minutes back. I do not really want to say more on this subject, because I have already spoken for a long time, as I anticipated most of the arguments that would be brought forward from the Government Benches and gave my replies to them. I do not think that the Members representing Government have added anything new. But, Sir, there is only one point on which I should like to say a few words, and it is this. My Honourable friend, Mr. Hullah admitted that the evil practice exists, but he said that these practices cannot be removed except by the panacea of education. Sir, I am one of those people who believe that education is the real panacea, but I ask my Honourable friend to say who it is that kept this country in ignorance after 150 years of British rule. Is it the people of India who kept themselves in ignorance or is it the British Government? Whose duty was it to educate the people

The Honourable Mr. B. N. Sarma : It is poverty and three hundred millions.

Mr. N. M. Joshi : If the Government had done its duty, I am quite sure that, by this time, the people of India would have been not only educated but self-reliant, but the Government did not discharge their duty in this matter. Moreover, if people had been educated and self-reliant, where would have been the need for the Government which calls itself the special friend of the masses? It is the duty of the Government to protect the masses as long as they are not educated and self-reliant. My friend, Mr. Ahmed, from Bengal, asked, when people would be free from the tyranny of the non-co-operators? You cannot expect people to be free from the tyranny of the non-co-operators as long as the non-co-operators know there are Government officials whose tyrannies are tolerated. Do you think that Government will be able to suppress the tyranny of the non-co-operators as long as there are causes of real discontent for the non-co-operators to work upon? If you want to free the people from the tyrannies of the non-co-operators, remove all causes of discontent, and then only the power of the non-co-operators will be reduced. I do not want to dwell any longer on this subject. I am not willing to accept the amendment of Mr. Rangachariar.

The Honourable Mr. B. N. Sarma: Sir, I may state that the Government are perfectly willing to accept Mr. Rangachariar's amendment and to undertake an examination of the kind suggested.

Mr. President: The original question was :

'This Assembly recommends to the Governor General in Council to take immediate steps for the abolition of impressed labour, conveyance and provision, wherever it obtains in India either under local or Imperial statute or under local custom.'

Since which an amendment has been moved in the following terms :

'For the words ' take immediate steps for ' substitute the words ' undertake the examination of the question of '.'

The question is that that amendment be made.

The motion was adopted.

Mr. President: The question is that the following Resolution, as amended, be accepted :

'This Assembly recommends to the Governor General in Council to *undertake the examination of the question of* the abolition of impressed labour, conveyance and provisions wherever it obtains in India either under local or Imperial statute or under local custom.'

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 25th January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 25th JANUARY, 1922

Vol. II—No. 22

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Wednesday, 25th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

STATEMENT LAID ON THE TABLE.

The Honourable Sir Malcolm Hailey (Finance Member) : Sir, I beg to lay on the table the information promised in reply to a question by Haji Wajih-ud-Din on the 16th January, 1922, regarding the number of appointments of the subordinate accounts service, filled by members of the different communities, in the office of the Accountant-General, Posts and Telegraphs, Calcutta, and offices subordinate thereto.

Statement showing the number of appointments of the subordinate accounts service filled by members of the different communities in the office of the Accountant General, Posts and Telegraphs, Calcutta, and offices subordinate thereto.

—	Permanent.	Probationary.	Provisional.	Sub. pro tem.	Officiating.
Hindus . . .	60	2	1	...	21
Muslims . . .	1	1	...	...	...
Anglo-Indians . . .	8	...	...	...	...

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I move for leave to withdraw the Bill further to amend the Code of Civil Procedure, 1908, which was introduced in the Legislative Assembly on the 1st March, 1921.

Honourable Members will remember that this Bill was circulated for opinion as the result of a motion in this Assembly in March last. We received the opinions of Local Governments before the September Session. I then proposed to ask the Assembly to take the Bill further into consideration, but later decided to postpone that motion in order to enable me to obtain the assistance of a strong legal Committee to examine certain provisions of the Bill. That Committee sat and, as a result of its deliberations, the principle of the Bill has been changed materially. I, therefore, now seek leave of this Assembly to withdraw the present Bill and propose, within two or three days, to introduce a new Bill which will embody the provisions proposed by the Committee, because I think that that is a more suitable way of dealing with these proposals than proceeding with the Bill as it stands. I hope the Assembly will be able to accede to this request.

Mr. President: The question is :

'That leave be given to withdraw the Bill further to amend the Code of Civil Procedure 1908.'

The motion was adopted.

The Honourable Sir William Vincent: Sir, I withdraw the Bill.

THE DELHI UNIVERSITY BILL.

Mr. H. Sharp (Education Secretary) : Sir, I beg to move :

'That this Assembly do recommend to the Council of State that the Bill to establish and incorporate a unitary teaching and residential University at Delhi, be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 2 Members.'

I should like, Sir, if I may be permitted, to suggest at once a slight amendment to this motion, namely, that for the number '12' the number '14' should be substituted. It is desirable to have, and there are advantages in having, a small Committee in matters of this sort, but we found, on looking into it, that we could not get a sufficiently representative body out of 12 Members, and, if I may, I should like to substitute '14' for '12'.

Mr. President: The question is :

'That this Assembly do recommend to the Council of State that the Bill to establish and incorporate a unitary teaching and residential University at Delhi, be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 14 Members.'

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, before this Bill is consigned to a Select Committee, I should like to make a few observations on the existing Bill. The constitution of this University is described in the preamble as 'a University of a unitary teaching and residential type'. I have no objection to this description provided the Honourable Mover of this Resolution gives an assurance to this House that the word 'unitary' will be interpreted liberally, that the existing colleges of Delhi, the three Arts colleges, will be given a certain right to teach in the University and that, subject to the approval of the Academic Council, their teachers will be recognised as teachers of the University. The term 'unitary' in its rigid sense, as applied to Dacca and Lucknow, excludes the existing colleges and converts them into merely residential hostels. There is no doubt that the tutorial staff attached to these colleges performs a very different function to that which is performed by a unitary system as applied to the University of Calcutta. I have no doubt that the Honourable Mover of this Resolution desires that the three colleges in Delhi should whole-heartedly co-operate with the University of Delhi with a view to make it a success, and, in that view I hope the Honourable Mover will assure the governing bodies of those colleges that their identity will not be wholly destroyed in the new University of Delhi.

So much for the constitution of the University. I now pass on to its curriculum. The Honourable Mover will, I venture to think, agree with this House that, of the existing 11 Universities in this vast country, there is not a single University which possesses a Musical Faculty. Coming as he does and as I do from the great Universities of Oxford and Cambridge, he will realise the necessity of such a Faculty. Students in this country have

to apply to the Trinity College of Music in London or the Royal Academy of Music for their proficiency certificates, and, I think, the University of Delhi would greatly improve its constitution and prestige if it added the Faculty of Music to the Faculties therein described. I do not desire to say much with reference to the Faculties of Law, Medicine, Engineering and Agriculture beyond this, that the undergraduates and graduates of the University of Delhi should be given the right of prosecuting their further studies in the adjoining Universities of Lahore and Allahabad, a right which they possess to-day.

There must be a recognition by these Universities of the right of the graduates to prosecute their further studies for their legal degree and of undergraduates to prosecute their further studies in Medicine, Engineering and Agriculture.

I now pass on to the government of the University. The Honourable Mover will find that, under the scheme proposed in the Bill, of a total number of about 99 members of the Court, the majority are *ex-officio* and nominated members and the elected members are in a minority. I suggest, for his favourable consideration, that the Court should consist of a majority of elected members. This could be easily achieved by giving the graduate representatives 30 instead of 25 members in the Court. This Honourable House and the Council of State are given under the Bill only six seats in the Court. I understand that, in the preliminary discussion which culminated in the draft of this Bill, the intention was to give the Legislative Assembly and the Council of State six each, instead of six for both the Houses. I suggest that the Legislative Assembly and the Council of State should be represented on the Court in proportion to their numerical strength. As such, I would suggest that 12 members be elected by the elected Members of this House and 6 members by the elected Members of the Council of State, thus giving the two Houses of the Legislature 18 members for the Court. That will give the elected members a slight numerical superiority in the Court. In the Executive Council, I find, again, a disparity between the nominated and *ex-officio* members on the one hand and the elected members on the other and I suggest that this Honourable House should have a direct representation on the Executive Council and that it should elect three members from among the elected Members of the Legislative Assembly and that the Council of State should similarly elect one member, and that would give them four members in the Executive Council of about 20.

I now pass on to other matters. The Honourable Mover will find that, in regard to the constitution of the Court, the Chief Commissioner of Delhi has been given the except onal power of appointing members to the Court subject to the number fixed by the Chancellor. That may be an indeterminate number, and I do not see any ground why the Chief Commissioner of Delhi should be given the power of direct appointment to the Court. I should have thought that this Honourable House, as it is going to finance the University of Delhi and will continue to take a paternal interest in its literary offspring, would be given such power, even assuming that it was necessary, and I therefore ask the Honourable Mover to revise this provision, if not altogether to omit it.

Now, Sir, I turn to the power of the Chancellor. Honourable Members will find that these powers are somewhat wider than those possessed by the

[Dr. H. S. Gour.]

Universities of Lucknow and Dacca : see section 50 of the Lucknow University Act and section 51 of the Dacca University Act. I suggest, as I believe it is intended, that a clear provision should be inserted in section 45, making it clear that these powers will cease after the establishment of the University. I also think, Sir, that members of the Court should possess the power to propose the addition or alteration of the existing Statutes, but such a proposal should, in the first instance, be submitted to the Executive Council of the University who should draw up a report and send the proposal on to the Court for final decision. I find that, in the present Bill, the Vice-Chancellor is to be appointed by the Chancellor. The Honourable Member in charge of the Bill could not be unaware of the provision made in Allahabad for the election of the Vice-Chancellor, and, while perhaps the first Vice-Chancellor of this University may not be elected, I suggest that his appointment should rest with the Chancellor, with the concurrence of the Executive Council of the University. As regards finance, I understand that only about Rs. 75,000 are to be submitted to the vote of this House in the ensuing financial year. That is an extremely modest and small sum to start a University with. In the years to come, this University, if it is to live up to its reputation as a University established in the Imperial Capital of India, will require larger and more substantial financial assistance from the public and from the Legislature. I would, therefore, suggest to the Honourable Mover to consider the proposal to give the donors to the University a direct interest in its administration : and I suggest that donors of Rs. 20,000 or more should be made life members of the Court, and that donors above Rs. 5,000 to Rs. 20,000 should be given the right to elect not more than 10 per cent. of their number, subject to the maximum of 10 members for the Court of the University. I would also, in this connection, suggest the advisability of inserting a provision for the appointment of patrons from amongst those who make valuable and substantial pecuniary contributions to the University. In this connection, I would ask the Honourable Mover also to consider whether it would not be wise to have a Pro-Chancellor and a Pro-Vice-Chancellor. I make these observations because the Joint Committee, which is about to be constituted, may have something to go upon, and this Honourable House may be in a position to convey its wishes to the Select Committee upon these various points. The Honourable Member, in charge of this Bill knows that Members of this House feel strongly, and even enthusiastically, in favour of any proposal which is calculated to advance learning in this country, and there is no Member in this House who is not anxious to advance the cause of University education here. We welcome this proposal and welcome it heartily. The suggestions I have made are made in a friendly spirit, intended to strengthen and promote the cause of University education in Delhi, and I hope the Honourable Mover of this Resolution will accept my proposal.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, the many persons who were anxious for the establishment of a University in Delhi are getting somewhat nervous about the provisions contained in the Bill. I was originally asked by my friends in Delhi to move a Resolution upon this subject, and I thought they were very enthusiastic over it, but, now that the Bill has been before the public, there is a pardonable feeling of anxiety regarding the provisions of the Bill. And, Sir, I have been asked by my

friends to intervene in the debate for the purpose of drawing the attention of the Honourable Mr. Sharp to some of the vices in the Bill. Now, before I proceed further, I should like to allay some misgivings which have been entertained regarding the principles of the Bill. As everybody knows, the Sadler Commission, which is responsible for the changes which this country is going to witness in regard to educational matters, contemplated two kinds of Universities: one dealt with the existing Universities, the other dealt with the Universities to come into existence later on. As regards the existing Universities, which, as everybody knows, have been affiliating colleges, have been regulating the curriculum of studies, and have been examining bodies, that Commission said that they should as far as possible continue to affiliate, continue to have recourse to professors to teach higher branches of knowledge, and to appoint, from among the professors in the colleges, teachers who will be able to lecture not only in their own colleges but in affiliated colleges as well. That is the position, so far as the existing Universities are concerned. As regards the Universities to be started, if I remember aright, the Commission contemplated that they should be entirely unitary Universities, Universities engaged in teaching, and, on that suggestion, the Dacca and the Lucknow Universities have been established. Now, Sir, with regard to these Universities, on two points there is no difference of opinion. That is, as regards the colleges to be established, the Commission contemplated that they should be only second-grade colleges, or colleges teaching up to the intermediate studies and that the rest of the teaching should be undertaken by University professors to be appointed. But there is one matter upon which there has been some considerable difference of opinion; that is, as regards the position of the existing colleges which are to be attached to the University to be established, and that applies specifically to the case of Delhi. Where there are some established colleges, what is to be the position of these colleges? Are these colleges to be asked to give up the teaching of the higher Courses of study and to be reduced to the position of second-grade colleges, or are they to continue as before, the University taking upon itself the function simply of teaching certain subjects? Now, Sir, even here, opinion is unanimous upon the question that, as regards the Honours Course in the University, the existing colleges should not be asked to take up teaching work, because it is rightly felt that the equipment necessary for teaching the Honours Course cannot be expected in these various colleges. For example, take the science teaching. The apparatus that is necessary, and other things would not be found to exist, in the same efficient way and in the same efficient manner, in a private college as it would be in a University college. Therefore, there is no doubt upon that matter; the Commission was unanimous that, with regard to the higher teaching, the teaching for the Honours Course, it should be confined, as far as possible, to University professors to be appointed.

There is, however, one important matter upon which there is a considerable difference of opinion; that is as regards the preparation of these students for the Pass Course. As regards the Pass Course, Sir, the members of the Commission were of opinion, if I have read their report correctly, that the existing colleges should be allowed to prepare students for the Pass Course, and that, if new colleges are to be established, those colleges should have nothing to do with the preparation for the Pass Course, but that, if possible, the new students should go into the existing colleges, and that the new colleges should, as far as possible, be only Intermediate colleges which would prepare the students for the University course.

[Mr. T. V. Seshagiri Ayyar.]

That I take to be the recommendation of the Sadler Commission. Now, coming to the University of Delhi, the question is naturally asked, what is the position of the Government in regard to the three existing colleges. These colleges have really created educational life in this city; are you going to reduce them to the position of second-grade colleges or are you going to allow them to continue to teach for the B. A. Pass Course, allowing the University Professors to teach for the Honours Course? That is the question which is being asked for the last two or three days and which has been disturbing the minds of the various professors in the colleges, and I ask Mr. Sharp to give an assurance upon that matter. I may mention that when I read the Statement of Objects and Reasons, I thought there would be no difficulty about the matter, because the Statement of Objects and Reasons contemplates apparently that the existing colleges should be allowed to continue the teaching as before. It says:

'As the provision of sufficient funds for the complete realization of this University and the erection of suitable buildings will be a matter of time, it is proposed in the first instance to commence work with the existing colleges in their present buildings and to permit them gradually to modify their organisation, especially with reference to the separation of Intermediate classes in such a manner as to permit of the development of the University in its eventual form.'

I thought there would be some provision in the body of the Act with reference to this paragraph in the Statement of Objects and Reasons. I must say that I have searched in vain for anything which will enable this promise contained in paragraph 3 of the Statement of Objects and Reasons to be carried out. There is no provision, either transitory or permanent, which would enable the House to judge that it is the object of the promoters of this Bill that, so far as these three colleges are concerned, they will be allowed to continue to teach at least for the Pass Course until the University develops itself in such a manner as to make it possible for these colleges to give up the teaching altogether. I would suggest to Mr. Sharp to make it possible for the professors of these various colleges to be absorbed in the new University. It would then take away the sting of the objection which is being felt. If the existing professors are grafted as University professors, then, these people will have no difficulty whatsoever, and finally when the University develops itself fully, these colleges may be reduced to the position of second-grade colleges. That is a matter upon which some sort of assurance is necessary, and I hope Mr. Sharp will give such an assurance as would allay the feeling which is being felt in regard to this matter. Now, Sir, there are only one or two minor matters upon which I should like to say a few words. I find the University contemplates establishing only certain faculties; certain other faculties are not to be brought into existence for a considerable time to come. The teaching in the University should be of such a character as would enable the students to seek their education in other Universities where the new Faculties are in existence. Take concrete instance, the Law Faculty. There is no provision for a Law Faculty in the Bill. Now, the teaching in the B. A. course should be of such a character that a B. A. of this University must be able to find easy entrance into a Law college in any of the other Universities, for example, Allahabad, Lucknow, and so on. That is one question which should be borne in mind. Another matter, upon which I spoke to Mr. Sharp and about which I am particular, is this, that the course of education in the University should be of such a character

as would enable the students who find it difficult to continue the study to find admittance easily in other colleges. This is a serious difficulty which is being felt all over the country. For example, a father has employment in Delhi for about 3 or 4 years and he sends his son to a college here to be educated and afterwards he is transferred to Madras or Calcutta, and the Madras or Calcutta University authorities say that the education imparted in Delhi is not of such a character as would enable the student to get admission into the same kind of class in the college at Calcutta or Madras. That is a serious difficulty and many a parent has found great difficulty in consequence of this. I want Mr. Sharp's assurance that the curriculum of studies in the University will be of such a character that it would be easy for a student studying for a particular examination to find easy entrance either in Calcutta, Madras or Bombay when it becomes necessary for him to leave this place. These are matters upon which I should like to have assurances, and if such assurances are given, I am quite sure that persons who are feeling nervous over the provisions of the Bill will be satisfied.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, my Honourable friends, Dr. Gour and Mr. Seshagiri Ayyar, have undoubtedly voiced the sentiments on the subject of those who are engaged in University work in the city of Delhi. The existing colleges are very anxious to have their own entities duly recognised by the provisions of the Bill that has been put before us to-day. It has been said by my Honourable friend, Mr. Seshagiri Ayyar, that, in the body of the Bill, there is nothing which might enable the authorities to recognise these three colleges. I find, however, that there are some 3 sections of the Bill, under which the requisite recognition might be granted to these three colleges. I would draw the attention of the House to section 26, which says :

' Subject to the provisions of this Act, the statutes may provide for all or any of the following matters,'

and among these matters, clause (g),

' The recognition and management of colleges and halls not maintained by the University, and the withdrawal of such recognition.'

Further, under section 28, I find :

' Subject to the provisions of this Act and the statutes, the ordinances may provide for all or any of the following matters,'

and among these matters, No. (A) :

' The conditions of residence of the students of the University and the conditions requisite for the recognition of colleges and halls not maintained by the University.'

So under section 32. If there is a desire to do so on the part of those who have drafted the Bill, or on the part of the Select Committee that considers the Bill, due provision can easily be made for the recognition of these colleges in Delhi; and it is very desirable that such a recognition should be granted to them. They have grown gradually, stage by stage. They have now become highly organised institutions and serve very useful purposes in the economy of the province, and I respectfully submit that these colleges should not, on that account, be, contrary to their wishes, reduced to the position of Intermediate colleges. It is desirable that they should have the degree

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courses. I am rather doubtful as to the necessity or desirability of permission being given to these colleges to do Honours work. I have studied the report that has been put forward by the Sadler Commission and my idea is that Honours teaching should be centralised in the University, as far as possible, for it is not easy for every college to command a duly equipped laboratory, nor is it competent to organise its laboratories properly, and without such an organisation and such an equipment, higher standards of education could not be easily maintained in every individual institution. But it is very desirable that the number of graduates should increase. I know that some will insist upon the quality of education that is being imparted in colleges at the cost of the necessary dissemination of knowledge, and would make out that the number of colleges and the number of students should be restricted from that point of view. Proper education of a reasonably high type should be imparted to the bulk of students. But education of the highest type could be extended to comparatively a few.

I would beg to point out that we have no technical education worth the name, and that our B.A. degree is a good admission test to the various walks of life. I have found from experience that, if a man secures the degree of B.A., he is generally fitted for doing work in most of the avocations of life, and, from this point of view, I would be inclined to support institutions that are fairly well equipped, fairly well organised, for the purpose of imparting instruction for the B.A. degree. I would, in this connection, like to read what the Sadler Commission have said with regard to the utility of such colleges and the necessity of strengthening them :

'If the colleges are to exercise a greater and a deeper influence, it can only be by their being strengthened; and this can, in our judgment, be best achieved by giving them a fuller partnership in the University, and by enriching them by a real co-operation with the University, instead of leaving them as more or less isolated institutions, each dependent upon its own resources.'

This is said in Volume IV, page 248; and elsewhere, they go on to say :

'The Teaching University of Calcutta must, therefore, be a University of colleges superficially resembling Oxford and Cambridge, and more closely, the reconstructed University of London. * * * * * It must be a system wherein the University will be really responsible for the character of the teaching given in its name. * * * It must be a system wherein the colleges, while stronger and freer than they now are, and able to command more fully than ever the loyalty of their students, will neither be tempted to rival the University or claim independence of it nor have reason to feel any jealousy or fear of it, or to regard it as a competitor. If such a synthesis of college and University is to be achieved, the colleges which take part in it must be much stronger and better equipped for their work than most of them now are. * * * They must be prepared to work in harmony with one another and with the University to an extent now unknown. * * *

These ends can be secured if, in addition to the lectures provided by the colleges exclusively for the use of their own students, the courses of all the best lecturers in the University and in its constituent colleges are thrown open to all qualified students for whom there is room. * * * * * But these conditions imply a very complete departure from the existing system. They imply, in the first place, a carefully wrought-out system of co-operation between the University and its constituent colleges, whereby, in addition to, or as a substitute for, the ordinary college lectures, public and formal instruction given by either University or college teachers appointed for this purpose by the University shall be thrown open to Honours students, and also, though in a less degree, to pass students, from all the constituent colleges.'

I will read only three or four sentences more :

'The organisation of efficient co-operation between the colleges and University is one of the principal aims of the proposals which we shall put forward later in this chapter. * * Upon the University would obviously fall the responsibility of organising the co-operative system of lecturing, all the colleges contributing their share, and the University making provision for the filling up of gaps, as well as for the avoidance of needless reduplication and overlapping. Upon the colleges would fall responsibilities not less important. They would, of course have to provide their share of the total lecturing staff giving instruction to the whole University. They would have to provide courses of lectures and classes for their own students, and especially for the pass men'.

These institutions could be greatly strengthened by and could greatly benefit the creation of a University such as is intended by the Bill before us. The University teachers could help in the teaching of the degree courses of study in such colleges, and some of the best professors, lecturers or readers engaged in these colleges could be appointed to the University. Such a co-operation could materially improve the character generally of the education imparted to students. I have no objection to the establishment of a unitary teaching University which should be a model University ; but I am afraid the whole scheme has not been laid bare before the House.

It is said that buildings will be constructed for the University at a cost, I think, of about 35 lakhs. The recurring annual expenditure will be about Rs. 75,000. I wonder if Rs. 75,000 will suffice. If once you start a University, it will be very necessary for you to incur a large outlay and I do not know if, at this time, such a large outlay could be easily sanctioned by the Assembly.

I would also draw attention to one other thing, and that is this. So far as I see, there would be but about 500 to 600 students in the various colleges in Delhi. Is it right to start a University when the number is so small? Other places are probably riper, for instance Poona, which has about 5,000 students. If any expenditure is to be incurred on starting a new University, it ought to be incurred in the case of a city like Poona or a province like Sind. However, there are some considerations against this suggestion, *e.g.*, that Delhi is an Imperial City in an Imperial Province, and it will befit the dignity of this province to have a University. On that ground, probably, there should be no objection to starting a University here.

There is one other thing also to which I would draw attention. This Bill is a very important Bill and ought in fairness to have been circulated to the different educational institutions for opinion ; and it should, I think, have been sent to newspapers for comments. This would be a modern University and, if you want to organise it properly, the suggested preliminary course would be reckoned, I suppose, by anybody who lends a thought to the matter, as being correct.

Since the Delhi University is going to be a modern University, the popular element again ought, I think, to be much stronger than it would be if the Bill is passed as it is. By way of illustration, I would refer to a provision such as this, in section 9 and clause 7 :

'Every proposal for the conferring of an honorary degree shall be subjected to the confirmation of the Chancellor.'

If it is a felt by the Court of the University that an honorary degree should be conferred upon any distinguished man, I think it should not be necessary for the Court to make a reference to the Chancellor and get his

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sanction before any Resolution for the conferring of a degree is passed by the Court. The constitution of the Court is not, I think, rightly conceived. It ought to be thoroughly representative; it ought to represent all walks of life, and I think this is the intention of the University Commission presided over by Sir Michael Sadler. If we are to keep to the recommendations that have been made by the Commission, we might also bear in mind the recommendation with reference to the constitution of the Court. What I have said with regard to the Court would be equally applicable to the Executive Council and the Academic Council. The powers of the officials ought to be circumscribed and more powers should be given to the University and the University Court and Councils. And they should be more representative.

Before I sit down, I would once again draw the attention of the House to the necessity of not insisting upon the merging of the entities of the three Delhi colleges in the Delhi University. If the three colleges which are doing their work well have the desire to continue their work, there should be nothing to prevent their continuing it.

It should not become the object of the Bill to see that these three institutions disappear or are reduced to the Status of Intermediate Colleges. They serve a very useful purpose, and they should be allowed, on that account, not only to exist but every facility should be afforded them for strengthening their existence.

Mr. J. P. Cotelingham (Madras: Nominated Indian Christian): I would like to make a few general remarks on the Bill before us. In doing so, I would like to endorse the views expressed by Dr. Gour as to the constitutional powers of the University as stated in the Bill.

In the Statement of Objects and Reasons we have been given to understand that the Bill has been framed on the model of the Dacca University recommended by the Calcutta University Commission. The framers of the Bill have not confined themselves to the Dacca University Act, but they had also before them the provisions of the Lucknow University Act. If we look at the working of both these Universities which are unitary teaching and residential, we find that the colleges that ought to form a constituent part of the University have to a great extent lost their individuality. And if, according to the recommendation of the Calcutta University Commission, the University should be organised primarily as a teaching University composed of the incorporated and the constituent colleges, I see no reason why, in starting a University for Delhi, we should follow so closely the Acts laid down for Dacca and Lucknow Universities. It would be a great pity if the existing colleges, as has been pointed out by the previous speakers, should lose their individuality. I see no reason why the Delhi University should not itself be a model University, and the existing colleges, while contributing to the life and strength of the Delhi University, should not also have preserved to them as such their individual and corporate character. It has been mentioned that the University would do its part in regulating the Honours and Post-Graduate courses and in providing professors and lecturers. That is expected. But in the interchange of professors and lecturers, a great deal can be gained by the co-operation of three colleges that are at present engaged in higher education in the city of Delhi. I think this is an admirable opportunity for showing how the existing colleges can all be utilised in

the working of the University without their identity being merged in that of the University.

The Delhi University, for some years to come, will not have a large number of students. As matters stand, we have between 500 and 600 students on the rolls of all the three colleges put together; and, if it is decided to separate the Intermediate classes, there are barely 250 to 300 students who will avail themselves of the instruction given in the B.A. classes and in the classes for the Honours courses. If the framers of the Bill for the Delhi University are not going to be obsessed by the recommendation made by the Calcutta University Commission as to the excision of the Intermediate classes, there will be a sufficient number of students to form the nucleus of a strong teaching and residential University. Unfortunately, the circumstances that prevailed in Calcutta were such that the Calcutta University Commission had to come to the conclusion that the only way of improving University education was by cutting off the two Intermediate classes and having them attached to the High School. The situation in Calcutta, as will be known to Honourable Members of this House, is very different from the situation elsewhere. We, in Madras, are not so badly off as regards the quality of the students in the Intermediate classes. I, for one, am not yet able to understand that it is absolutely necessary for the improvement of collegiate education that the two Intermediate classes should be cut off and joined to the High School classes. If, here in Delhi, we are to follow the recommendation made by the Calcutta University, we shall have a smaller number of students to begin with and we shall lose all the co-operation that we can get from the three existing colleges. Speaking on behalf of the students in the Intermediate classes, I would say that they would lose by being added to the High School, whereas they would gain a great deal if the classes were to be attached to the colleges educating or teaching up to the degree. I am not one of those who think that the final word has been pronounced by the Calcutta University Commission on the matter of University reform, and therefore, while still we have the opportunity of making satisfactory provision for University work in Delhi, I trust that this question also will be considered in the Select Committee.

One other observation only, Sir, I would like to make before I sit down. I find that there is no provision made for any examination for admission of students to the University.

In fact, in clause 7, sub-section (6), it is distinctly stated that :

'It shall not be lawful for the University to frame or conduct courses, maintain classes or conduct examinations for the purpose of preparing or testing students for admission to the University.'

I hope more light will be thrown upon it by Mr. Sharp when he replies to the observations made here. In the Chapter on Admissions and Examinations, in clause 34, sub-section (2), there is no reference made to any examination for admission to the University. With these few remarks I resume my seat.

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, I too would like to get some explanation from the Honourable Mover of this Resolution before I decide either to support or to oppose it. Sir, in the matter of educational policy, there are two ideals. The first ideal is that the quality of the education which is being given at present should be improved and the

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other ideal is that higher education should be spread among the people as widely as possible. The two ideals are not inconsistent with each other, but, on account of the limit to our resources, it does not become possible always to carry out both these simultaneously. It, therefore, becomes necessary for the Government and for those who control the educational policy of the country to see which of these two ideals should be first carried out or should be given more importance. I find from the attitude of the Government, that they are more in favour of improving the quality of education, even if the spread of education suffers somewhat. This is indicated by the great speed, I may call it the speed of the Express Train, at which the Government is starting a new type of University, namely, the unitary residential, in India. They have given up suddenly the old type of the University that existed and did very good work in this country for a number of years. Sir, personally I believe, and even the Government of India will believe, that this new type of University is an experiment which must be tried sufficiently long before the whole country adopts it as the fittest type of University for us. The unitary and residential type of University has got certain essential features. The colleges must be in the vicinity of each other if the education or the instruction that is given is going to be really unitary. Then the largest number of boys must be residential in quarters or in halls which are controlled by the University. These are the two essential factors of a unitary residential University. Now, I would like to know, in the first place, from the Honourable Mover of this Resolution where he is going to locate the headquarters of this University, whether in the city of Delhi or in Raisina, four or five miles away from the city. This is a point of great importance from the point of view of the spread of education, and therefore I want a clear explanation and a clear statement from the Honourable Mover of this Resolution on this point. If the University is to be located finally, if not to-day, in Raisina, Sir, I believe that that University will come in the way of the spread of higher education in the Province and the city of Delhi. The University will be away four or five miles from the homes of boys, and those boys who cannot afford to go and live in the University halls or the University residential quarters will not be able to get the benefit of higher education. Sir, it is a matter of common knowledge that, as regards the spread of education, the more the centres of education, the greater is the spread. If, in the city of Delhi, there is only one college, it can attract a certain number of students, but, if there are colleges which are spread over the city of Delhi, say three colleges in different parts of the city, the number of students that will be attracted to the three colleges will certainly be larger. I do not think the truth of that statement can be contradicted by any one. From that point of view, if the University is located in Raisina, it will be difficult for the colleges in Delhi to be affiliated to that University, and I think, from the statements made in this Bill, as well as from the first speech of the Honourable Mover of this Resolution, it appears that the final aim of the University will be to have all the colleges located somewhere near Raisina. The colleges in the city of Delhi, then, cannot be affiliated to that University, if the University is going to be a really unitary and residential University. If the constitution of the new University will come in the way of the colleges in the city of Delhi being ultimately affiliated to the University, I, for one, shall oppose this proposal altogether. It was said by the previous speakers that the rights of the existing colleges should be safeguarded. I will go one step further and

say this, that, if some people hereafter want to start some more colleges in the city of Delhi, a little apart, a little distant from the seat of the University, they should not be prevented from starting those colleges. (Hear, hear.) Sir, this point also must be made very clear.

Then, secondly, as regards the term 'residential', I should also like to get some explanation whether the University will compel boys to reside in certain halls controlled by them and which boys will be thus compelled; whether those boys, whose parents or relatives live in the city of Delhi or who can get accommodated in families in Delhi, will be compelled to go to the University halls to reside. This point must be made clear before I decide either to support or oppose the motion, for I believe it is a wrong policy for any University or for any Government to try to take away boys from homes not only from their own homes, but from the homes of their relatives or from the families of their friends, in order that they should go and live in the halls maintained by the University. After all, the home is a more natural surrounding for any boy who wants to be educated as a good citizen, and, therefore, residence in the University hall is the last resort in my opinion for those who cannot make proper arrangements for their accommodation in families. I am not, therefore, against the University making arrangements for those who cannot make their own proper arrangements in the city with families, either their own or of their friends or of their relatives. I should like to get a clear enunciation of the policy of the Government regarding the University in this matter.

Then, Sir, there is another point about which I should like to say a few words, and it is this. The modern spirit of University education is that this education should not be confined to a few boys who have the means of spending their whole time in securing higher education. Even the ancient Universities of Oxford and Cambridge 50 years ago found it necessary to extend their work beyond the boundaries of the University. Those Universities found that their work was not complete unless and until they brought the large mass of the society into their sphere of work, and, for that purpose, the Universities in England started work, called the University Extension Work, the work of spreading culture and higher education amongst not only a few boys but amongst the whole society, the whole mass of the working classes, as well as those who had not the benefit of getting University education during their boyhood. I shall like to know whether the Delhi University is going to undertake this kind of work, the work of spreading culture and higher education amongst the society in general. Sir, regarding this matter, there is some reference in section 7, sub-section 5 :

'In addition to recognised teaching, tutorial and other instruction shall be given under the control of the University in each college'.

I do not know what is the clear meaning of this section, but if this means that the Delhi University is going to undertake the work of University extension, I shall be very much satisfied, but, if it does not mean that, I would insist that there should be a provision in this Bill throwing definite responsibility upon this new University to undertake the work of University extension, and, if the Government does not accept this principle of a modern University, I am going to oppose the Resolution. Sir, I am not against the tax-payers' money being spent, even for the education of a few boys, but, at the same time, let us remember, when we spend money, and we are going to spend most of the money for this University out of the country's finances, let us take care that

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the society in general, the whole community will derive benefit besides those who will enter the portals of this University. On these two points I want clear information as to the policy of Government in regard to the new University. //

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhammadan (Rural): I rise to support the principle of the Bill and also the motion that it be referred to the Joint Committee. The criticism that has been directed as to the details of the Bill may be considered by the Select Committee and I am sure that they will receive due consideration at these Committees. I shall take this opportunity of explaining to the House the principle upon which the Bill is based. It is based upon the sound principle laid down in the Report of the University Commission over which Dr. Sadler presided. I may tell this House that there are only two great experts in England on the question of education. One is the Right Honourable Fisher and the other is Dr. Sadler. Dr. Sadler has not only made a special study of the University system in England but also on the Continent, and, over and above that, he came out to this country, and for a year patiently studied the system that obtains in the Calcutta University. In the recommendations that he has made, he has tried to remedy the defects, shortcomings and drawbacks of the Calcutta University. The Calcutta University is a multi-collegiate University and it has of late developed a system of University teaching which I may describe as topheavy. It is now paying special attention to Post-Graduate study and the defect of the Calcutta University is that the under-graduate study is being neglected and is left entirely to the colleges without any material help or assistance from the University. The chief function that the Calcutta University exercises in respect of under-graduates, is that it is an examining body. It collects fees from the University students, appoints examiners and the examiners only go through the papers. The Calcutta University does not assist in, or supplement, the work of the colleges in teaching the under-graduates. It, no doubt, supervises to a certain extent the colleges but takes no part in teaching. What the Calcutta University is doing is that it is spending all its resources, which comprise the surplus left over from examination fees, in the up-keep of a large staff of lecturers for Post-Graduate teaching and this system has brought it almost to the verge of bankruptcy. There is a fundamental difference between the system which obtains at the Calcutta University and the system which obtains at Oxford, Cambridge or the Edinburgh University. When I was in England, I made a study of the system of University education there. First of all, I shall explain the system of teaching that is followed at the Oxford and Cambridge Universities. These Universities are, no doubt, multi-collegiate Universities, but they possess this advantage that all the colleges at Oxford or Cambridge are situated in one place. Thus the colleges are in a position to help each other. For instance, at Oxford, none of the colleges, except one or two, keep any laboratory for the teaching of science. So far as I remember there is no laboratory in any of the premier colleges, such as the Balliol College, the New College or Christ Church. There is only one laboratory in the Trinity College exclusively for the use of the students of that college. But there is a well-equipped laboratory kept and maintained by the University. At Oxford, it is the Clarendon Laboratory, and at Cambridge it is the Cavendish Laboratory. The science students of the University are allowed facilities for carrying on

their studies in experimental science at the University laboratory. Thus the University fulfills the functions of a teaching University so far as the undergraduates and the colleges are concerned, inasmuch as it furnishes facilities which the colleges are not in a position to furnish. Further, it is not possible for every college to keep a staff of lecturers or efficient teachers of a variety of subjects. A multi-collegiate system, when confined to one place, a place like Oxford or Cambridge, is helpful in this way. One college maintains an expert in economics, another in physical science, a different one in mathematics, and so on. Now, what the University authorities do at the beginning of a session is that they arrange for a system of inter-collegiate and University lectures. A course of elementary or advanced lectures on any particular subject by trained teachers as also by University professors is arranged at one or other of the University colleges or halls. Now, the students from the different colleges who are studying a particular subject are directed by their college tutors to attend these lectures. The primary function of the English Universities is the teaching of the undergraduates. The unitary Universities have no colleges but the teaching is done by the University itself. Let us take a University like that at Edinburgh. In the Edinburgh University, there is

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : May I rise to a point of order? The learned gentleman is giving a lecture on the teaching at Edinburgh University and at Oxford. He is saying nothing about the Delhi University.

Mr. President : I am very unwilling to interrupt the interesting discussion of the Honourable Member, but I am waiting to hear him mention Delhi.

Mr. J. Chaudhuri : I am explaining by reference to what I have said, the system which is proposed to be introduced and described in the Bill as the unitary system. I am quite relevant, for this reason that the system which has been introduced by Dr. Sadler, and which is embodied in this Bill, is not purely the unitary system, but as I was explaining, an adaptation of the system of unitary Universities to the existing circumstances in India. The Leeds University, the Edinburgh University, and all the more modern Universities in England are unitary Universities. At Dacca, there were two colleges, which have been split up into three, one being an Intermediate College, and the other two have been remodelled and they constitute the University. But if the separate identity of the colleges at Delhi are preserved, the University need only supplement the efforts of the colleges. If the system which is a compromise between a multi-collegiate and a unitary system is introduced at Delhi, as it is proposed to be introduced, the mistakes that have been made with regard to the Calcutta University in the past will be avoided. The future University system in India should be modelled on unitary lines. Wherever a new University is established, as the one that has been established at Dacca or at Lucknow, and the one that is going to be established in Delhi, it should be based on the recommendations of the Sadler Commission. We should not fall into the error into which the Calcutta University has fallen, namely, that of building up a big University composed of colleges distributed over a wide area, say from Chittagong on the one side to Bankura on the other. The Calcutta University has become an unmanageable body. On this occasion, I am not going to discuss how far Dr. Sadler's system can be appropriately adapted to the existing conditions

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of the Calcutta University. There are difficulties in the way, but I absolutely see no difficulty in the introduction of this system, or its adaptation to the proposed Delhi University. Some of my friends, Mr. Seshagiri Ayyar and Mr. Shahani, said that the colleges should not teach up to the Honours standard. But I see no reason why the colleges should not teach up to the Honours standard, if they want.

Dr. H. S. Gour: May I correct the Honourable speaker on a question of fact. There are only 20 students. There is no Honours Course, I believe. I believe, there is an Honours Course only in one college.

Mr. J. Chaudhuri: So, I say, if there is an efficient staff, I see no reason why that college should not teach up to the Honours standard. The University at Delhi should include within its scope the two or three existing colleges; the colleges may help each other, and the University supplement the efforts of the colleges. For instance, there may not be a Chair of Chemistry or a well-equipped laboratory at Delhi. If the University founds a Chair in Chemistry, the students who are studying Science may go to the University laboratory to study Chemistry. There is, however, one objection which will have to be practically solved by the Committee, and that is, that, if it is proposed that the existing divergence between the Intermediate course and the College course should be brought about, in my opinion it should be brought about gradually and not all at once. That is the system which, I am sure, will be followed in Calcutta also. If we separate the Graduate course and the Intermediate course at once, such a sudden disruption may make many of the colleges to collapse.

With regard to such matters of detail, the Select Committee will give their best consideration, and when the University is founded, the University authorities will also take them into consideration. I should not like that any of these colleges would suffer in any way. I do not see any insuperable difficulty in working out a scheme for adapting the existing colleges within the University Scheme. One defect of the Calcutta University system is this, that the Matriculation standard is very low in Calcutta now and an under-graduate, after matriculating and taking up the college course, cannot make any rapid progress. To ensure such progress, school education must be improved, and, if education up to the School Final is sound, then you can curtail the period of University training. The Sadler Commission recognises that the University training should take only three years. If you delegate the education up to the Intermediate course to the secondary school or second grade colleges, then it will not prolong the period of education. It will give, to begin with, sound education and in the course of three years, as at Oxford or Cambridge, one can complete one's college career. Now, one of the great drawbacks and hardships of the Calcutta students is this. It takes them six years to come out as an M. A. But we know that the M. A. course is by no means any higher than the B. A. Honours Course at Cambridge or Oxford. There, after entering the University, one takes one's Honours degree in three years. If the system recommended by Dr. Sadler and his Commission is adopted in this country, then it will curtail also the time in which our under-graduates will be able to complete their University career. With regard to Post-Graduate education, I would do away with lectures, promote research, self-help, self-reliance in the matter of study and would give the higher degrees by reference to

thesis on evidence of research or original work. I do not wish to take up more time of the House. I think I have been able to explain to the House what the present system is and the system that this Bill proposes to introduce. The system recommended by Dr. Sadler in the University Commission Report is not only a sound one, but is quite an up-to-date one. I would, therefore, ask this House to lend their unqualified support to this Bill. I am sure that the details of the Bill may be safely left to the Committee and that, when the Committee submit their report, the whole House will be free to discuss and take the Bill into consideration in all its details.

Mr. H. Sharp: Sir, I had no idea, when I entered the Assembly this morning to move this simple motion, that I was going to evoke a discussion lasting over about an hour and a half. I am glad, however, that we have had this discussion, because certain matters have been mentioned in such a way as to clear the air and to emphasise their importance both in this Chamber and also before the Joint Committee. I am also glad to see the very great interest which has been evinced by various Members of the House in this subject of the Delhi University, and I am particularly gratified by the reception which the principle of this Bill has received from Dr. Gour and from Mr. Chaudhuri. The only note of discord regarding the principle of the Bill, if indeed I need call it a note of discord, has been raised by my friend, Mr. Joshi; and I am sure that Mr. Joshi's remarks are not for one moment prompted by any hostility either to the scheme as such or to the cause of higher education. But, as we know, Mr. Joshi is very jealous of the rights and privileges of such classes as might perhaps not benefit *directly* by this kind of education. The opening remarks of Mr. Joshi have, I am glad to say, given me an opportunity of just mentioning a remark which fell from his lips yesterday—but at the moment I should not have been in order in saying anything about it—with reference to the spread of primary education. Now, as I have not had an opportunity of saying anything on this subject in this Assembly, I should like to take this opportunity of reiterating emphatically what I remember I did say ten years ago almost to a month in the Legislative Council regarding the attitude of Government towards elementary education in this country. Government does *not* desire to check the spread of primary education. On the contrary, Government has always given it every encouragement. The duty of spreading primary education is primarily the duty of local bodies—Municipalities and District and Local Boards. But Government has always done what it can to assist them, not merely by Resolutions on paper and so on, but, as I am sure some Members here will recollect, by substantial grants at times when funds were available and, even when so much money was not available, by giving what could be given to this object. And, if Mr. Joshi will consider the proportion of money spent on education to the revenues of this country and compare it with the proportion to the revenues of other countries, he will see that we do not fall behind with reference to those other countries.

Mr. N. M. Joshi: Publish a comparative statement.

Mr. H. Sharp: I shall be glad, if Mr. Joshi has any doubt, to show him some figures. There was one remark which Mr. Joshi made, which I should like to correct, because possibly it has caused a little misunderstanding in other minds as well. I think he said that the Government of India had abandoned the idea of affiliating Universities. Far from it. Certainly the

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Government of India has not abandoned that idea. In the Resolution on Education of February, 1913, if I remember aright, the Government of India clearly enunciated its policy regarding Universities as the necessary, essential, unavoidable preservation of the affiliating Universities; but it hoped to see carved out of their jurisdiction Universities of a newer type, Universities of the unitary type, of which we have heard a good deal this morning.

Now, Mr. Joshi asked me direct for assurances on certain points. I think those points were as follows :

- (1) the location of the University ;
- (2) the conditions of residence ; and
- (3) the possibility of University extension.

I understand that those are the points on which he desired an assurance.

As regards the location of the University, I will admit at once to Mr. Joshi that, at present, the idea is that this University will be located eventually at Raisina. But it will be in a good position, not too far from the city; and I have myself seen colleges, such as the Gujarat College in Ahmedabad, and other colleges in India, which have been located at some distance from the city, as much as four miles. Dr. Gour knows of a college in his province . . .

Dr. H. S. Gour: Yes, the Jubbulpore College.

Mr. H. Sharp: The Robertson College, Jubbulpore. Dr. Gour will recollect that College; its location has had no detrimental effect upon the numbers of the college. On the other hand, hostels can be situated in more sanitary and airy sites, there is room for larger playgrounds and the taking up of land is much more economical than if a college were in the middle of a city. But I may say at once, for the comfort of Mr. Joshi that the location of a University—I mean to say the minutiae of its location—are not fixed by legislation. As I said the other day, since the plan of the new city was made, a large plot has been set aside for this University in what seemed to us to be a very good place; but we are not bound to that by this legislation.

Now, as regards residence, I understand that the point at issue is, can students live with their relatives and friends in Delhi? Certainly they can; and I would invite attention to clause 31 of the Bill along with the statutes, clause 11, sub-clause (2). Those two passages I think are the clearest, as giving a definition of the conditions of residence. Of course, they do not give, by any means, all that might be said on the point, because this point is left to further statutes and ordinances; but that is the intention, and the Bill, as it stands, and the Statutes as they stand, do not bind down everybody necessarily to live in a hostel or a hall, although all must be attached, for the purposes of tuition, etc., to such an institution.

Now, as regards University extension—after all, this is, so to speak, the fine flower of established institutions of old date and of elaborate systems of education. But I can assure Mr. Joshi that, if this Bill, as it stands, does not compel the University to set up any system of University Extension Lectures, there is not one word which would prevent the University from so doing; and I would ask Mr. Joshi whether he considers that this measure, which has been laid before the Assembly, should be so rigidly drawn as to

leave no option, no room, for voluntary expansion to the University itself. Should we not leave many of these things that have been spoken of this morning to the authorities of the University? We cannot take a University, so to speak, by the nose and lead it along utterly against its own will. And, with reference to what Mr. Joshi said, and, with reference to certain other remarks that I have heard this morning, I cannot help feeling that there has been just a little danger of trenching upon those matters which must necessarily be dealt with in the Statutes or in the Ordinances or by Regulations of the University bodies themselves.

I do hope that Mr. Joshi will be satisfied with what I have said. I am sure he does not want to bind down this University, so to speak, in such a rigid way that it is obliged to do certain things, the possibility of which can only be seen when the University has got going. To do so would surely be going beyond the ordinary functions of University legislation.

Now, passing to other matters, many points were brought up this morning, such as the method of making Statutes, the selection of the Vice-Chancellor, the bringing in of donors, the creation of appointments of patrons and possibly of Pro-Chancellor and Pro-Vice-Chancellor. All these are matters which I have no doubt will be discussed in the Joint Committee. I do not think I need mention them this morning.

There are, however, one or two points which I must mention, because I have been asked direct questions or I have been asked for assurances here and now.

As regards the Faculties, I would invite attention to clause 22 of the Bill. Only the initial Faculties are mentioned, those the formation of which is already more or less easy. Other Faculties can be framed as the opportunity occurs; and I certainly join with Dr. Gour in hoping that this University will have facilities not merely for training in Music but for training in other forms of Indian Art.

There were just two little points which I should mention regarding the constitution. Dr. Gour said that the original intention was that there should be six Members of each of the two Chambers. I am afraid I cannot remember, after this lapse of time, whether that was the intention or not. It is, of course, possible that there may have been a little misunderstanding about it; but that is a matter which certainly will be looked into in the Joint Committee.

With reference to the nominees of the Chief Commissioner, I should point out, in order that there may be no misunderstanding, that the number of nominees is fixed by the Chancellor, not by the Chief Commissioner. However, that again is a matter which will be considered in the Joint Committee.

A matter of some importance, which was brought forward both by Dr. Gour and by Mr. Seshagiri Ayyar, is the right of the students of this University to enter, at various stages, into other Universities, in order to complete their graduation or training. There is nothing in this measure which will bring about any deprivation of any existing right, and I myself hope and believe that there will be full reciprocity in these matters. But, here again, we have to leave a considerable amount to the option of the Universities themselves. It is, of course, possible that one University might say that the Degrees of another—let us say, the Degrees which it is necessary to take prior to starting on the professional part of a medical course—were not

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quite up to its standard. I am sure, Mr. Seshagiri Ayyar will agree with me that that would be a perfectly legitimate position for a University to adopt. While, therefore, there is nothing in this Bill which will deprive any student of any existing right, the matter is one which has to be left to a considerable extent, to the University authorities. And, after all, this University will have, along with other Universities, to prove its capacity for the training of students when the authorities are formed and the instruction begins.

Now, there was one other point—the admission of students to the University. Mr. Cotelingam said that there was no provision for the admission of students to the University. I think that he will find that clause 34 of the Bill makes the necessary provision. Possibly it does not go quite so far as certain other University Acts read with the Regulations of those Universities; but I do not think that it is necessary that we should go so far as that at present. After all, this is a matter in which a good deal must be left for the Ordinances, and, whatever arrangements may be made for the admission of students and for their examination, I propose to bring before the Joint Committee one or two points with reference to this, which I think will meet the difficulty felt by Mr. Cotelingam, although I do think that he has exaggerated that difficulty, if I may say so.

I think, Sir, that it only remains for me to speak on one matter, and that is one of very great importance indeed. It has been mentioned by Dr. Gour and also by Professor Shahani. The words 'unitary University' in the Statement of Objects and Reasons, and some phrases throughout the Bill, appear to have given rise, in certain quarters, to a little apprehension. I think that, perhaps, I can make this point clear to the Assembly if I deal with it under two heads.

The first head has reference to the University in its early or transitional stage. Now this leads me on to speak of what Dr. Gour said about the powers of the Chancellor, namely, clause 45. I fully agree that that clause does look rather deterrent; and it will be within the memory of Members that I thought it right to call their special attention to that clause when I introduced the Bill, because I did feel that it seemed to present a vulnerable point in the Bill. Now, what is the position? The position is that we are faced with the fact that we have three Arts Colleges and also a Medical College situated in Delhi, organised in their own way. Also, we do not want to place before the Assembly any very large demand for starting this University just at present. Dr. Gour mentioned a moderate sum, and Professor Shahani doubted whether that sum would be quite sufficient to begin with. It certainly would not be sufficient to bring the University into complete shape, full-fledged like Minerva from the head of Jove. Certainly not. We must look forward to a transitional stage during which it will not be possible—with due respect to Mr. Cotelingam—to separate the Intermediate classes from the Degree classes, or to bring in all the other changes which are contemplated in this Bill, and we shall not be able for some time to erect the buildings, not merely because money is not forthcoming at the present time, but because buildings take some time to put up. We are, therefore, faced with this difficulty, that we have to provide for the transitional period, which may be rather long. Now, how do I visualise the condition of the Colleges during this transitional period? They will remain in their present buildings. They will

run their Degree classes. They will run their Intermediate classes. But we hope that gradually they will begin to adapt themselves, possibly in some cases by cutting off the Intermediate classes and so on, to the ultimate organisation which is contemplated in this measure. That will be their condition during this transitional period, and that is the reason why we have had to put in rather unusual powers, which I think rather frightened Dr. Gour. Well, I can assure Dr. Gour, and I can assure other Members here that I also was a little bit frightened by this clause and we shall consider it very carefully in the Joint Committee.

Now the second head that I have to speak of is the ultimate shape of the University. I do not think, Sir, that I am breaking any confidences if I give a little of the history of this case. When I introduced this Bill, I stated that we had had a meeting of representatives of the colleges in December, 1919, at which this idea of a unitary University was, I think I used the words 'enthusiastically and, I might say, unanimously adopted'. Well, there has recently grown up a little doubt in the minds of some of the representatives of colleges as to whether they were not, perhaps, giving up a little bit too much to the University.

(At this stage Mr. Deputy President took the Chair.)

I am sure, that is a feeling with which every body will sympathise; but I myself am doubtful whether any such apprehension is really warranted by the terms of this measure. I have spent many hours recently, since I came down to Delhi from Simla, in talking with representatives of the colleges and putting in points here and there which I thought would meet their wishes. Well, I have again had another talk with them since this Bill was introduced, and I find that their wishes are not yet quite met. This is a matter which we shall have an opportunity of discussing in the Joint Committee, and I hope that we shall be able to hammer something out. I do not really think it will require any radical change at all to satisfy the representatives of the colleges. For

I P. X. the moment, I may say, there is no intention whatever of destroying the identities of these colleges, nor has there ever been. We have a University of the unitary type which has been established at Dacca. Now, the Dacca colleges are older, more established, and, I think I may say, stronger colleges than two of those which are situated at Delhi, but I have not heard any complaints; I have not heard that they have lost their identity, although they are not even called colleges but are called Halls. Professor Shahani quoted some passages out of the Calcutta University Commission Report. But I must point out that the passages which he quoted have reference to the scheme which was put forward for reconstituting the University of Calcutta, and that the reconstitution of the University of Calcutta was never intended by the Commission to turn it into a unitary University. It was to be a University in which a certain amount of co-operative teaching was to be performed. But the Commission were faced with this difficulty, which we are not faced with here, that they had an enormous area in Calcutta itself with a very large number of colleges, and colleges of very different potentiality, and also with the still more difficult problem of a vast area in the *mofussil* with many colleges which would have to continue on some system of affiliation.

Those were the difficulties with which they were faced in Bengal. Here in Delhi, we have not those difficulties, and it ought to be possible to hammer

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out something more simple, more efficient, more economical, something that will combine the preservation of the identity of the existing colleges with the idea of a University which will be able to guide and help and control, without interfering unduly with any domestic matters. (Hear, hear.)

I need not say more upon this fascinating subject of the organisation of Universities, because my friend, Mr. Choudhuri, has already given you a lucid explanation of what a unitary university is and of its advantages; and I think that, if any difference does remain between Professor Shahani and myself, it is really one not of principle, but simply of degree. Is the University to be the handmaid of the colleges, or are the colleges to be the assistants, the willing assistants, of the University, and the collaborators with it? That is all. It is not a question of principle, it is a question of degree. (*Mr. S. C. Shahani: Completely organised in themselves.*) Professor Shahani says: 'completely organised in themselves.' I am a prudent man and I am not going to give myself away over the word 'organised', because to tell you the truth, Sir, I am not quite sure what it means; but we shall be able to consider the definition of the word 'organised' when we go to the Joint Committee.

I have not been able, Sir, to touch on all the points which have been raised this morning in this extremely interesting discussion. But I do hope that I have touched on those which, the Assembly will agree with me, are the most important and vital points; and I do hope that I have convinced Mr. Joshi, so that he will not, in any way, oppose the motion which I have placed before the House this morning. There are many other matters, some of which have been touched upon this morning, which we shall have to discuss in the Joint Committee; and, when this Bill emerges from it, I trust that Members will see that the remarks made this morning have not fallen on deaf ears.

Mr. President: The question is:

'That this Assembly do recommend to the Council of State that the Bill to establish and incorporate a unitary teaching and residential University at Delhi, be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 14 Members.'

The motion was adopted.

The Assembly then adjourned till Twenty Minutes to Two of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Two of the Clock. Mr. President was in the Chair.

THE INDIAN INCOME-TAX BILL.

The Honourable Sir Malcolm Hailey (Finance Member) : Sir, I beg to move:

'That the Report of the Joint Committee on the Bill to consolidate and amend the law relating to income-tax and super-tax be taken into consideration.'

The motion was adopted.

Mr. N. M. Joshi (Nominated: Labour interests) : I want to point out that there are some amendments standing in my name which I never intended sending. I do not know who made the mistake.

Mr. President : If the Honourable Member did not intend to send them, he need not move them.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : I beg to move :

'That the Bill be recommitted to the Joint Committee to suggest amendments to Chapter II of the Bill.'

My object, Sir, in moving this motion is two-fold. Firstly, Sir, I want that this new institution of a Board of Inland Revenue should be knocked on the head. It is mentioned by the Joint Committee that this Board will, at the present moment, consist of only one member, but I dare say that, in course of time, it will be a regular Board of more than one member as the term implies. At the present moment, when the finances of the country are in a very bad way, we should not create any new offices of this kind. It will be for the very serious consideration of this House whether it should agree to a proposal of this kind at this juncture. But my more important object is that the Bill be referred back to the Joint Committee for a reconsideration of the question of associating non-official agency with the income-tax officers of various grades and denominations mentioned in the Joint Committee's Report, for the purpose of assessment of the tax as well as for the purpose of hearing appeals. Sir, the practice under English law is that the administration of the income-tax is consigned to various bodies and these bodies are first the Board of Inland Revenue, known as the Commissioners of Inland Revenue, secondly, general Commissioners, thirdly, additional Commissioners, and fourthly, the special Commissioners. The Board of Inland Revenue exercises general control over the officials of the Board of Revenue and the non-official bodies, and is responsible to Parliament. For income-tax purposes, England and Wales are divided into divisions according to

Mr. President : In what respect does the Honourable Member differentiate his proposal from an ordinary amendment to the Bill ?

Mr. W. M. Hussanally : I want to associate non-official agency with the assessment of income-tax as well as with the hearing of appeals and I want to show what the law in England is on the subject.

Mr. President : I am not dealing with the merits of the point. I am dealing with the method the Honourable Member has adopted. Is the Honourable Member satisfied that the Joint Committee did not take these points sufficiently into consideration to justify recommitment of the Bill ?

Mr. W. M. Hussanally : On that point there has been a considerable difference of opinion on the part of the Joint Committee, as well as the All-India Committee that met in Simla some time ago, and so far as the Joint Committee is concerned, it did consider this question, I admit, but at a time when several Members who were in favour of this proposal were away and they carried this proposal by a majority of 7 against 5. The principle is a very important one and I think the question should be reconsidered by the Joint Committee, because, if we consider that point here, it will take a lot of time as the whole of Chapter II will have to be recast. Therefore, I think, Sir, that it is fit and proper that the whole question should be referred back to the Joint Committee with a mandate from this House to reconsider this question and, if they come to the conclusion that we

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should have non-official agency associated with income-tax officers, they should recast Chapter II altogether.

Mr. President : I find nothing in the Report of the Joint Committee to indicate that the consideration given to the subject was inadequate, and if the members of the Committee were not agreed as to the manner in which they should deal with this subject, they would surely have expressed their grievance in the form of a Minute of Dissent. I find no Minute of Dissent and, unless the Honourable Member can give me more substantial reasons, I do not think I can allow him to move the motion standing in his name.

Mr. W. M. Hussanally : I had a conversation with a member of the Joint Committee, who is a Member of the Council of State, the Honourable Mr. Lalubhai Samaldas, and he told me that he is quite in favour of the principle, and so is the Bengal Chamber of Commerce, but he was unfortunately away on that particular day when this discussion took place in the Joint Committee.

Mr. President : The Honourable Member is only making his case worse by referring to a Member of the other Chamber, with whom we have nothing to do.

Mr. W. M. Hussanally : He was a member of the Joint Committee.

Mr. President : We are only concerned with the members of the Joint Committee who are in this House.

Mr. W. M. Hussanally : I am entirely in your hands as to whether I am in order or not. It is a very important question which ought to be considered fully and this House has hardly the time or the opportunity to consider it. On that ground I think the Bill should properly again be referred back to the Joint Committee.

The Honourable Sir Malcolm Hailey : Sir, on behalf of Government, I may say that we are perfectly prepared to discuss this question on the floor of the House.

Mr. President : I think this is the proper place to discuss it. I have been asking the Honourable Member whether he can point to anything in the proceedings of the Committee or in the Report of the Committee, to show that there was any opinion expressed in the Committee that the question was inadequately examined or that it should be referred to the judgment of this House. If the Honourable Member thinks that the method adopted by the Committee was inadequate, he has not put that case to me. I can find nothing in the Report of the Committee to justify the course which he has taken.

Mr. W. M. Hussanally : I quite admit that so far as the Report goes, there is nothing to show that, but I would bring it to the notice of the House that even the Bengal Chamber of Commerce very strongly recommended that course, and I am informed—how far I am correctly informed I do not know—that even the Chairman of the Joint Committee, Sir Alexander Murray, favoured this proposal but did not press his view.

Mr. President : If the Chairman of the Joint Committee thought it inadvisable to press his view, the Honourable Member need not press it. (Laughter.)

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, my first amendment is that the phrase 'Collector of Income-tax' be substituted for 'Income-tax Officer.' My reason for this amendment is that the designation that I suggest will carry more weight, and I really do not understand why the Income-tax Officer, who has now so far been called the 'Collector of Income-tax,' should hereafter be called 'Income-tax Officer'.

The second amendment which I propose is that the appointments of Assistant Commissioner and Income-tax Officer be made by the Governor General in Council.

Mr. President : We will take one amendment at a time.

The Honourable Sir Malcolm Hailey : Sir, with regard to this point, I may say that the question of nomenclature has caused at different times a considerable amount of difficulty. We originally proposed that these officers should be called 'Assessors.' Now, Sir, I do not know whether there is attached to the name and functions of an Assessor, that is to say, a judicial Assessor, any such implication as makes that name unpopular in the country, but we received a number of representations asking us to remove the name 'Assessor' from the Bill and to substitute some other nomenclature. Mr. Shahani wishes to call these officers 'Collectors'. Now, Sir, I think perhaps he has been misled by the fact that, in the existing Act, we do refer everywhere to the Collector, but the Collector, in that case was, in the majority of cases also the Collector of the District. The word 'Collector' has a definite meaning in the Revenue Acts, and we wish to avoid any confusion with that officer, just as, coming to another grade, we desire to avoid using the term 'Deputy Commissioner' because the term 'Deputy Commissioner' has also a definite meaning in the Criminal Procedure Code. The new class, we call 'Income-tax Officers,' will, for the most part, be Provincial Service Officers, and we do not desire that any confusion should arise between their functions and those of the regular Collector of the District. It is for that reason, Sir, that we chose the term 'Income-tax Officer'; and, after a full discussion of various alternatives, it was decided by the Committee that this was the most convenient one to use.

Mr. President : Amendment moved :

'Substitute 'Collector' of Income-tax' for 'Income-tax Officer' wherever it occurs in the Bill.'

The question is that that amendment be made.

The motion was negatived.

Mr. N. M. Joshi : Sir, as I was explaining some time before, I am at a loss to know how this amendment came to be printed on this paper. I sent some amendment to another Bill, the Emigration Bill, but the Department has that amendment on this list of amendments to the Income tax Bill.

Mr. President : No doubt, that is good news for the Finance Member.

Bai Bahadur S. P. Bajpai (Lucknow Division : Non-Muhammadan Rural) : Sir, I rise to move the following amendment which stands in my name :

'After clause 2 (1) (b) insert the following :

'(c) Any income derived from forestry :

'Provided the piece of land on which the forest grows is either assessed to land revenue in British India or subject to a local rate assessed and collected by officers of Government as such.'

'And re-number clause (2) (1) (c) as clause 2 (1) (d).'

Sir, I regret to note that the representation of the Zamindars on the Select Committee to consider the Income-tax Bill was anything but adequate. It is, therefore, no wonder that the interest of the Zamindars did not receive sufficient attention at the hands of the Committee. Sir, I believe it will be admitted by all my Honourable colleagues here that forests are to a very great extent indispensable not only for the development of agriculture, but also of industries. I fail to see why a Zamindar growing a forest on a piece of land, which is assessed to land revenue, should also be called upon to pay income-tax. I may tell the Honourable the Finance Member that income derived from forestry is not even half as much as can be obtained from agriculture. Zamindars are doing very useful work ; their loyalty is proverbial ; they have received very high encomiums for war services from His Majesty the King-Emperor down to the Collectors. Their benefactions are known far and wide. Is it then desirable to overtax them and cripple their useful activities? I, certainly, with due deference to the Honourable the Finance Member, think that it is not fair that, simply because a Zamindar grows a forest, he should be called upon to pay both land-revenue and income-tax. In my humble opinion, justice, equity and good conscience demand that none should be taxed twice over. With these words, I commend this amendment to the acceptance of the House.

The Honourable Sir Malcolm Hailey : Sir, as to the representation of the landowning class on the Joint Committee, well, the appointment of the Joint Committee was in the hands of the two Houses, and, if no proposals were at the time put forward for a larger representation of that class, I think perhaps the House will see the reason is fairly obvious. It is that that class enjoys by law the privilege of avoiding income-tax entirely on any revenue that they raise from their land. Now, Sir, I admit the Honourable Member's main point that forests are indispensable to the country, but I am under the necessity of asking him, when he puts forward this amendment, what exactly he means by forestry. We had ourselves in the original Bill intended to include the word 'forestry' but when we came to discuss it, we found it very difficult indeed to arrive at any definite interpretation. If it is intended that a man who grows trees or forests on his own land should not be taxed for any income that he derives from them, then, I say, it is already sufficiently provided for, in section 2 (1) (a), which exempts :

'Any rent or revenue derived from land which is used for agricultural purposes.'

We tried, but could not improve on that definition. If, on the other hand, he means that a man who takes a contract in a forest, say in a Native State, and earns an income thereby, should escape from income-tax, then I, for one, am not with him. I would point out that if the House

accepts his amendment, all such persons, *viz.*, those who take contracts in forests for cutting down and selling the timber would escape assessment. It is for that reason that we ourselves have made no such amendment as he himself has now put forward and we have left the matter to the ordinary operation of the Act. I would add that if this point is not sufficiently clear from the Act, I am prepared to make it perfectly clear by executive instructions that if a land-owner grows on his own land, which is assessed to land-revenue, forests or trees and derives income therefrom, he will not be assessed on such income.

Rai Bahadur S. P. Bajpai: Sir, I am very thankful to the Honourable the Finance Member. All that I wanted the Government to do, he has agreed to do. I am perfectly satisfied with the assurance given by him. I did not say anything on behalf of the contractors. I only spoke on behalf of the Zamindars whose interests, I hope, will be quite safe now.

Mr. President: Amendment moved :

' After clause 2 (1) (b) insert the following :

' (c) Any income derived from forestry :

' Provided the piece of land on which the forest grows is either assessed to land-revenue in British India or subject to a local rate assessed and collected by officers of Government as such'

' And re-number clause (2) (1) (c) as clause 2 (1) (d).'

The question is that that amendment be made.

The motion was negatived.

Baba Ujagar Singh Bedi (Punjab : Landholders) : The amendment which I am to move to-day, I believe the Honourable Members will agree with me, is of such an important nature, that it deserves a close examination of the House.

Before I read out my amendment, I would humbly request the Government to kindly explain their policy, frankly and openly, and say whether or not they intend to exempt the agricultural product from the operations of the present Income-tax Bill, for I fear that, if the words of the clause which I wish to get amended remain as they are, there is every apprehension of the destruction of this class—I mean that of the landholders—on which rests the magnificent edifice of the Government.

Sir, I recollect here the story of a bangle who was once carrying his bundle of glass bangles on his back when, to his great misfortune, a policeman, with a baton in his hand, approached him, gave a stroke on his bundle and said : ' What is in this that you are carrying ' . ' Sir,' the poor man, in a trembling tone replied : ' Just one more stroke and you will find nothing in it.'

Sir, exactly the same is the condition of the poor landholders. The excessive burden of heavy taxation is crushing them down. The so-called theory of State-landlordism, to analyse which I will not pause, does not only claim one-half of their produce, but in some cases actually 30 per cent. has been realised ; while all other communities are taxed to the extent of one anna or so per rupee, although I am not jealous of them.

I readily admit that clause VIII of sub-head 3 of Rule No. 4 to the said Bill exempts ' agricultural income ' from the operations of income-tax, but I am quite surprised to find that the definition of ' agricultural income,'

[Baba Ujagar Singh Bedi.]

as given in sub-clause (iii), clause (b), of sub-head (1) of Rule No. 2, is quite incomprehensive in giving the desired effect, of exemption.

May I read out, Sir, for the information of the House, the said sections and clauses :

'Agricultural income'

says clause VIII of sub-head 3 of rule No. 4 :

'means the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce.'

Now I leave it entirely to the House to judge whether or not the original words of the definition, if left as they are, will meet the required purpose of exempting the agricultural income.

May I, here, ask a few questions which may throw some light on the incomprehensiveness of the said definition :

- (1) If a certain landholder, named A, sells half of his produce this year and the other half the next year, does the act mean shopping ?
- (2) If a landholder sells 50 maunds on Monday, 70 maunds on Friday and 125 maunds on Saturday, does this sale mean shopping ?
- (3) If a landholder of the class who have purchased lands to get some profit out of them as well as the safeguard of their money, does not sell his produce for full five years and does it after that, will it be regarded as shopping ?
- (4) It being a fact that all the well-to-do landholders, who have land produce more than their requirements, keep it in different stalls, to show to the public the different qualities they have, does this stocking mean shopping ?
- (5) If a landholder sends his produce to a *mundi* (market) to some '*arti*' (a broker) to dispose of it, does it mean that he is keeping a shop ?
- (6) There are many cases when, in times of scarcity, some generous landholders open their stalls for retail, to help the poor and the famine-stricken people. Would it mean that he has opened a shop ?

I have raised these few questions just to give the House an idea of the incomprehensiveness of the definition, which gives no line of demarcation between the shop of a regular *banya* and that of a cultivator.

It is just possible that the Government might say that a landholder opens a shop when he retails his produce, for thereby he makes double profits. Then, Sir, may I ask for the sake of argument as to whether there is any line of division between wholesale and retail dealing ; and if such is the case, do the Government give any concession to general wholesale dealers and treat differently the retail merchants ?

If this plea is brought forward, I cannot conceive for a single moment any life or strength in it. That a man, who has paid a tax and a very heavy tax on his produce, should be re-taxed, because he is selling it in small quantities, would mean, in other words, that he should throw away his produce and should give it to foreign big companies for export, at a very low price.

Sir, if this is the principle, I cannot understand how the landholders will be able to meet the high rate of assessment, which is realised by the Government from their limited incomes.

Therefore, I would humbly suggest to the Honourable the Finance Member either to give some definition of the words 'shop' and 'stall' or to delete them altogether from the clause or to kindly accede to my amendment, which reads as follows :

'That the following be inserted between the words 'produce' and 'or' :
'not being the produce of his land.'

The sub-clause thus reading as follows :

'The sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce, *not being the produce of his land, or*'

This amendment, in my humble opinion, seems comprehensive enough to cover the object of the Government and also goes to protect this class—which is the back-bone of both the country and the Government.

With these few words, I beg leave to commend my amendment to the House.

The Honourable Sir Malcolm Hailey : I see the Honourable Member is labouring under some anxiety on behalf of the land-owning community. But from his speech one would imagine that we had suddenly imported into the Act some new and astounding proposition. Could it be believed from what the Honourable Member has said that this identical sub-clause has formed part of the Income-tax Act and without alteration ever since that Act has been in existence? Its operation so far has certainly not ended in the disastrous consequences which were feared by the Honourable Member. I do not think that the land-owning classes have been driven into ruin by it, nor, if it remains unaltered, do I think that a single landowner will pay more in the future than he has in the past. As to the rather long series of questions which he has asked, I can give him definite answers. If a landholder sells half of his produce this year and half next year, there is, of course, no shop. The Act refers entirely to the keeping of a shop. If he withholds his produce for five years and then sells it, equally there is no shop. If he opens a shop for retail sale in times of famine or scarcity, then, Sir, it is true in that case he would be keeping a shop, but I assume that if he is the philanthropist that the Honourable Member predicates, he probably would be selling his produce at or below cost price. In that case there would be no profit or a loss and he would be paying no income-tax.

I do not know whether these replies are satisfactory to the Honourable Member. I again suggest to the House that it is unwise to alter a clause which has stood for so many years and, as far as we are aware, has caused no inconvenience or injustice in its operation. In any case, if any alteration is required, I would strongly advise the House not to accept that put forward by the Honourable Member for, if I read it aright—and it is a little difficult to understand—if I read it aright, it would have the effect of relieving of assessment any man who keeps a shop and at the same time draws an income from agricultural land. That, in itself, would not be a very desirable consequence.

Bhai Man Singh (East Punjab: Sikh) : Sir, the practical effect of this clause on the agriculturist is this, that, any agriculturist who has got vast lands cannot open a shop for the sale of the produce of these lands. This is a

[Bhai Man Singh.]

definite hindrance in the way of such a man entering trade. Either he must be prepared to pay double tax for his produce or he must be contented not to open a shop for the sale of grain etc. I see no reason why a man selling his own grain should be required to pay a tax for it, whether he sells it to a *banya* directly or whether he sells it through a shop of his own. The practical difficulty alluded to by the Honourable the Finance Member,—though I do not think that it was very definitely stated—was that if a man owning land opened a grain shop he would not pay any income-tax for its income at all. We can very well see that there are two sides to it. If a man buys grain from other people and sells it, it is one part of it; if he sells his own wheat, which is the produce of his own field, that is quite a different thing. This sub-clause, as it stands, taxes a man for selling wheat which is the produce of his own land as well. There is no reason why we should tax him over again, simply because he sells it in a shop. If you think a man can hoodwink the income-tax officer by all means, let that officer be more vigilant; let him prove that the man has sold much more grain than he can get from his own fields and tax him for its profits. There is absolutely no reason for saying, that, because a man sits down in a shop and sells the produce of his land and thereby he can hoodwink the income tax officer, so we should tax the produce of his own land as well on which he has already paid land revenue, and thereby tax the produce of land twice over. This, I think, is very hard for the agriculturists and, with these remarks, I support the amendment.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, there is a practical difficulty now that it has been pointed out. Under the old Act, the Honourable the Finance Member has to admit that agricultural income is defined so as to include :

'Any income derived from the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him *when he does not keep a shop or stall for the sale of such produce.*'

Let us take paddy or wheat, as the case may be. Supposing a landowner, who is also a shopkeeper, sells not only his own paddy but also paddy which he buys. As the clause now runs, it may be open to the construction that even for the sale of such produce he will be liable for income-tax. (*A Voice* : It is not so.) I do not know why my learned friend interrupts and says it is not. I bestowed some consideration on the matter, but my friend is ready to answer, it is not. I quite agree that it ought not to be, but to say it is not so, is rather venturesome, and, therefore I ask for an explanation from the Honourable the Finance Member what is the object of keeping that clause. The object, apparently, is not to tax him where he sells his own produce. Apparently, that is the object which the Legislature has in view. Where he sells other people's produce he is liable, but what is the object in keeping this clause when he does not keep a shop or stall for the sale of such produce? Would it not be better to omit it altogether?

Mr. G. G. Sim (Joint Secretary : Finance) : The reason why these words are contained in this clause is simply to have a handy distinction between the man who indulges in a regular trade in grain dealing and the man who occasionally sells his own grain. There is no double taxation whatsoever involved in this sub-clause, as was suggested by Bhai Man Singh. Where a man keeps a regular shop for dealing in grain, all that he is taxed upon for income-tax purposes, is merely the profits of the shop and not the profits he gets from cultivating the land.

Mr. President: Amendment moved :

'At the end of sub-clause (1) (b) (iii) of clause 2 of the Bill between the words 'produce' and 'or' add the words 'not being the produce of his land'.'

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—40.

Abdul Majid, Shaikh.
Abul Kasem, Maulvi.
Agarwala, Lala G. L.
Aiyer, Sir P. S. Sivaswamy.
Asjad-ul-lah, Maulvi Miyan.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Gajjar Singh, Sardar Bahadur.
Ghulam Sarwar Khan, Chaudhari.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Habibullah, Mr. Muhammad.
Hussanally, Mr. W. M.
Ibrahim Ali Khan, Lieutenant Nawab M.
Ikramullah Khan, Raja M. M.
Jatkar, Mr. B. H. R.
Mahadeo Prasad, Munshi.
Man Singh, Bhai.

Misra, Mr. P. L.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Shahani, Mr. S. C.
Singh, Babu B. P.
Singh, Raja K. P.
Singh, Rana U. B.
Sinha, Babu L. P.
Sinha, Beohar Raghubir.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Ujagar Singh, Baba Bedi.
Wajihuddin, Haji.

NOES—32.

Abdul Quadir, Maulvi.
Akram Hussain, Prince A. M. M.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Bradley-Birt, Mr. F. B.
Bray, Mr. D. S.
Bryant, Mr. J. F.
Carter, Sir Frank.
Chaudhuri, Mr. J.
Cotelingam, Mr. J. P.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fall, Sir Godfrey.
Ginwala, Mr. P. P.
Hailey, the Honourable Sir Malcolm.
Hullah, Mr. J.

Iswar Saran, Munshi.
Joshi, Mr. N. M.
Lindsay, Mr. Darcy.
Manmohandas Ramji, Mr.
McCarthy, Mr. F.
Muhammad Hussain, Mr. T.
Percival, Mr. P. E.
Rao, Mr. C. Krishnaswami
Renouf, Mr. W. C.
Sharp, Mr. H.
Sim, Mr. G. G.
Spence, Mr. R. A.
Thackersey, Sir Vithaldas D.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was adopted.

Sir Vithaldas D. Thackersey (Bombay Millowners Association : Indian Commerce) : Mr. President, I beg to ask your permission to allow me to replace the word 'Collector' by the words 'Income-tax Officer' in my amendment, because I find that, throughout the Bill, the term 'Income-tax Officer' is used.

My amendment, which I now beg to move, runs as follows :

'In clause 2 (14) for the words 'a registered' the word 'an' be substituted; and at the end after the word 'partners' the words 'of which the prescribed particulars have been registered with the Income-tax Officer in the prescribed manner' be added.'

The effect of this amendment will be that the clause will be worded exactly in the same way as in the existing Act. In the original Bill, it was proposed by Government that this clause be omitted altogether, and

[Sir Vithaldas D. Thackersay.]

no distinction be made between registered and unregistered firms; but later on, in the Select Committee, it was thought desirable, in order to minimise the inconvenience to smaller firms, that some definition should be introduced; and, when they introduced the definition, they amended it in such a way that, instead of registration being with the Income-tax Officer, they provided for a legally registered document. There have often been suggestions made by some people that all partnerships should be registered, but such proposals have always been opposed by the Indian Mercantile Community on grounds of practical difficulties. I am not discussing at this stage the merits or demerits of such a proposal but, if all the partnerships are to be registered, it should be by a law directly applicable and directly brought forward in this House, and not in this indirect way, by which we make registration practically compulsory, because the effect of the clause, as recommended by the Select Committee, will be that, if firms do not register their partnership, they will not be entitled to refund of the super-tax in cases where it has already been paid by the partners on the same income, and thus super-tax shall have to be paid twice on the same income. The original clause has worked very satisfactorily. All the partners of a firm have to make out a proper partnership document and register it with the Income-tax Officer, and, when he was satisfied he registered the document and gave the necessary certificate, the income-tax being afterwards charged according to law.

I hope Government will see the reasonableness of this and accept my amendment.

The Honourable Sir Malcolm Hailey : Sir, I accept that amendment on behalf of the Government.

The motion was adopted.

Clause 1, Clause 2, as amended, and Clause 3 were added to the Bill.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : I move the following amendment :

‘ To clause 4 (2) of the Bill, add the following :

‘ *Explanation* : - When a person carries on operations in British India and abroad, the mere fact that income, profits, or gains are received abroad and invested there, is taken into account in the balance sheet prepared in British India, does not amount to receipt within the meaning of this section ’

I do not think that many words are needed to commend this amendment for the acceptance of the Assembly. It only enacts what has been recognised by Courts as the accepted principle in construing the word ‘ received.’ But the question has been raised, to my knowledge, in the case of a Bank on the West Coast in Calicut, which has operation both in Cochin and in Malabar. The profits earned in Cochin were invested there and brought into account in the head office and they were sought to be charged. I think a similar case arose in Bombay, where a Company has got branches in the Native States and there also the same thing happened. Of course, the Madras cases did not go to Court. I know that the Bank was charged for those profits, although they were not actually received in British India. In the House of Lords, it has been decided, with reference to a similar case in England, that such profits should not be deemed to be profits received. I have taken this ‘ *Explanation* ’ from Halsbury’s Laws of England where he states it in this way.

I am advised that the word 'are' there is bad grammar. I think 'is' is perhaps a better word, although I have no doubt about the former. I think the sentence reads all right. I thought there was doubt about the word 'are', but I think the sentence, as it is, is all right. I propose that this '*Explanation*' be added.

Mr. G. G. Sim : Sir, I quite agree with the Honourable Member that in the circumstances mentioned in his '*Explanation*' profits received abroad and taken into account in the balance sheet prepared in British India are not liable to taxation, but I do not understand how they could possibly be held to be liable to taxation under the Bill as it stands. The cases referred to by the Honourable Member arose under the existing Act and he also referred to certain cases under the English law. But this provision—sub-clause (2)—is a new provision. It never appeared in the Act before and it makes it perfectly clear, I think, that profits and gains arising abroad are never liable to taxation until they are actually received or brought into British India. The '*Explanation*' is, therefore, I consider, unnecessary. But I do not oppose it on that account merely. The '*Explanation*' assumes that profits are to be taxed according to the receipts credited or expenditure debited in the assessee's account. The Committee which dealt with this Bill have spent a considerable amount of time in trying to make it perfectly clear that people need not be assessed in that particular manner, but, if they choose, they can be assessed on the basis of cash transactions, that is to say, according to the money actually received and money actually expended, and this '*Explanation*' seems to throw some doubt on the question whether a man can elect to have his account done on a cash basis.

Rao Bahadur T. Rangachariar : I do not see how it throws any doubt on the point raised by my friend. The word 'received' is in the English Act and the existing Act. The words are 'received in British India' and, therefore, the question will arise, and I want to make the point clear. As my friend has no objection to the principle of the '*Explanation*', I do not know why he should object to the '*Explanation*' as the question has been raised. I know it has been the subject-matter of a suit in the High Court of Bombay and in fact three Judges had to sit over it. I, therefore, think that the '*Explanation*' is necessary.

Sir P. S. Sivaswamy Aiyer (Tanjore-cum-Trichinopoly : Non-Muhammadsan Rural) : In the interests of grammar, I suggest that the word 'are' before 'received' be omitted, and for the word 'is' before 'taken' the word 'are' be substituted.

Rao Bahadur T. Rangachariar : I agree.

The Honourable Sir Malcolm Hailey : As Mr. Sim has explained, we do not regard this as in any way necessary. But if the House desires to have the '*Explanation*' inserted in the Act, my advice will be that the word 'income' should also be omitted because 'income' is not mentioned in the sub-clause which refers only to profits and gains.

Rao Bahadur T. Rangachariar : I have no objection.

Mr. President : Amendment moved :

To clause 4 (2) of the Bill, add the following :

Explanation.—When a person carries on operations in British India and abroad, the mere fact that profits or gains received abroad and invested there, are taken into account in

[Mr. President.]

the balance sheet prepared in British India, does not amount to receipt within the meaning of this section.'

The question is that that amendment be made.

The motion was adopted.

Rao Bahadur T. Rangachariar: This is only a formal amendment. It runs as follows :

'After sub-clause (3) (vi) of clause 4, insert the following :

'(vii) legacies not being annuities granted under a will' and re-number (vii) and (viii) as (viii) and (ix).'

In the original Act, as it was, legacies were excluded, but, in consequence of a doubt expressed as to whether annuities were included in legacies, the new Bill proposed to omit the word 'legacies' and I see in the report of the Joint Committee that they consider clause (vii), as it stands, does include legacies. It may be contended that legacies were sought to be included in the new Bill. Nobody looks at the report of the Select Committee or the Statement of Objects and Reasons when they construe the section and it might be open to the construction I have put. I think, therefore, that there is no harm in inserting this sub-clause as sub-clause (vii) in order to exclude legacies not being annuities granted under a will.

Mr. G. G. Sim: Sir, this point was discussed in the Joint Select Committee, and they were advised by the legal authorities consulted that legacies were clearly covered by sub-clause (3) (vii) of the Bill. The insertion of the word 'legacies' would, I think, throw a doubt on the question of whether sums similar to legacies such as gifts, are also included if they are not specifically mentioned. I am not a lawyer, Sir, but I would abide by the advice which was given by my lawyers.

Mr. President: Amendment moved :

'After sub-clause (3) (vi) of clause 4, insert the following :

'(vii) legacies not being annuities granted under a will' and re-number (vii) and (viii) as (viii) and (ix).'

The question is that that amendment be made.

The motion was negatived.

Clause 4, as amended, was added to the Bill.

Mr. S. C. Shahani: I move the following amendment :

In clause 5 (4) substitute 'by the Governor General in Council' for 'by the Commissioner of Income-tax.'

We have no Assistant Commissioners, but, judging by what happens in my own province, I find that the Collectors of Income-tax have so far been appointed, not by the Commissioner in Sind, who would be very like the Commissioner of Income-tax, but by the Local Government, the Government of Bombay. The Collector of Income-tax has been drawing salaries varying between Rs. 500 and 1,000 and I take it that the salary of the Assistant Commissioner would be something like Rs. 1,500 or Rs. 1,200 to 1,500. To my mind, it is not desirable that such important appointments should be

made by the Commissioner of Income-tax. The whole of the Income-tax Department should be placed under the supervision and control of the Government of India, and I therefore propose that these appointments be made by the Governor General in Council and not by the Commissioner of Income-tax.

Mr. President: Before I put the amendment, I would point out to the Honourable Member that the reading of the clause would be in the following unusual form:

'Assistant Commissioners of Income-tax and Income-tax Officers shall, subject to the control of the Governor General in Council, be appointed by the Governor General in Council,'

and so on. Does he wish to retain the words 'subject to the control of the Governor General in Council'?

Mr. S. C. Shahani: I am sorry I have forgotten to indicate that the words 'subject to the control of the Governor General in Council' must disappear.

The Honourable Sir Malcolm Hailey: Our new Income-tax administration scheme assumes that the Commissioners themselves will be appointed by, and be under the direct control of, the Government of India.

Mr. S. C. Shahani: Amend the language.

The Honourable Sir Malcolm Hailey: It, therefore, seems to me to be the proper function of the Commissioner (who will be an officer under the control of the Government of India) to appoint Income-tax Officers, and it is altogether unnecessary to bring the appointment of each Income-tax Officer up to the Government of India. So long as the Government of India retains, as is proposed in the Bill, the control of the operations of the Commissioner in making these appointments, it seems to me, Sir, that this is amply sufficient. It is useless for us to organise a branch of the Central administration on a definite scale, which provides that local arrangements will be in the hands of Commissioners, if, at the same time, we have to issue orders ourselves from the Secretariat on each point of administrative detail.

Bhai Man Singh: I rise to support the amendment of my Honourable friend, Professor Shahani. We are to see that persons of what status are to be Assistant Commissioners and Income-tax Officers and Commissioners. I know in my province,—and I believe the same is the case in other provinces as well,—that the Commissioner of Income-tax is to be selected from a grade of officers of the rank of Senior Deputy Commissioners or Commissioners, and the Assistant Commissioners are to be selected from among the Provincial Civil Service or the Indian Civil Service, officers in grades of say, between 800 and 1,200 or something of that kind, and the Income-tax Officers are selected mostly from amongst the Provincial Service men. As a matter of fact, I know that, in the Punjab, a number of Income-tax Officers who are called Collectors are taken from Provincial Service men.

Mr. President: The question is what authority should appoint these officers and not the class from which they should be drawn.

Bhai Man Singh: I am referring to the grade of men who are appointed to these places and then I will come to the other thing and draw the attention of the House as to whether posts of this grade should be left to be filled up by an officer of the grade of Commissioner or whether they should

[Bhai Man Singh.]

be filled by some higher authority. In the Provincial Governments, we know that no officer in the grade of Provincial Service is to be appointed by any Commissioner. They are to be selected by the Local Governments. We have not got any substitute for the Local Government unless we call the Commissioner to be a substitute. But when we begin to select persons of the grade of Commissioners to be Commissioners of Income-tax, then we cannot say that they hold the same position as the Local Government. Assistant Commissioners are never to be selected by persons who hold the grade of Commissioners. Now it would be a very deplorable state of things if such high officers are to be selected by an officer who is in the grade of a Commissioner. I would therefore urge most strongly that some higher authority should be in charge of these selections.

Mr. W. M. Hussanally: I beg to support this amendment. At present, Income-tax Collectors are appointed by Local Governments. Commissioners of Divisions and even the most senior of them do not get pay higher than Rs. 4,000, and their powers, so far as the Local Administration is concerned, are limited to appointments which carry pay up to Rs. 150 or 200, whereas these Income-tax Officers would draw much higher salary than that. They will draw at least Rs. 400 or 500 a month, and, if these officers are appointed by the Income-tax Commissioner, then, the position of these Income-tax Officers would be much lower than what it is now and their prestige will suffer in consequence. Therefore, I think, that the power of appointing these officers should vest in the Local Governments direct, if not in the Government of India, but, as these officers will not now be under the control of the Local Government, the only alternative is that these appointments should be made by the Government of India.

Sir Vithaldas D. Thackersey: There is a great deal in what is said by the Honourable Member in charge of the Bill, that unnecessary work should not be thrown upon the Government of India. At the same time, instead of leaving the matter to a local officer, like the Commissioner of Income-tax, who is at the head of the income-tax officers in the districts, if the authority were vested in the Board of Inland Revenue at the head office here, I think it will meet the case. That Board will, at present, I understand, consist of only one person and that person will always be in touch with headquarters and, if that man has been given the authority of appointing the Assistant Commissioners and Income-tax Officers, I think a great deal of the objection raised by Professor Shahani may be met. At the same time, it would not throw any large burden on the Government of India.

Mr. P. P. Ginwala (Burma : Non-European) : I am afraid this opposition by my Honourable friends is based upon a misconception of the provisions of this Bill. If we examine the Bill, we find that the Bill proposes to replace the present system under which the Local Governments administer the Income-tax Act as agents of the Government of India. The idea now is to have a separate Income-tax Department and, under this provision, the Government of India appoints its own officer, who is nominated by the Governor General in Council, to represent what at present is represented by the Local Government. He takes the place of the Local Government and, therefore, the appointment, though it is left with the Commissioner, is in the hands directly of the Government of India, as the Commissioner is himself directly appointed by the Governor General. Besides, there are these qualifying words 'subject to the control of

the Governor General in Council.' Therefore, if the Commissioner makes a wrong appointment, the Governor General can interfere and stop that appointment. So, I submit that if my Honourable friends will look at the arrangement now proposed, they will find that it will be a far more satisfactory arrangement that the Commissioner who represents the Governor General in Council in every province is placed in charge of these appointments. Besides there is one other point. The intention is that these Assistant Commissioners should ordinarily be taken from the Local Government. I mean they may be officers employed by the Commissioner, and the Commissioner, being on the spot, will be in a much better position than the Governor General in Council can ever be. On these grounds, I submit these remarks for consideration of my Honourable friends who are supporting the amendment.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor : Non-Muhammadian Rural) : Sir, I support the amendment moved by my friend. Apart from the detailed arguments that have been put forward by my Honourable friend, I say, on principle, the appointments rest with the Government of India, for this simple reason that it is an All-India Department, and the officers, especially the Assistant Commissioners, have large powers under this Act, and appointments made by the Government of India will command greater confidence than appointments made by Commissioners in each province. Well, of course, there has been a bit of confusion of thought in the arguments submitted. The point is simply that this Department, being a Department of the Government of India, and responsible in some measure to this Assembly, and where any question connected with its administration would come up for discussion, it is better that these appointments, at any rate the appointments of Assistant Commissioners, should be kept in the hands of the Government of India directly. As for Income-tax Inspectors, that is a different matter. There may be very many, there is the question of time, and all that. As to my Honourable friend, Mr. Ginwala's objection, if the appointments are to be made by the Local Government, as suggested by one of the previous speakers, no doubt it would be an illogical position, but what we want is that these higher offices should be made wholly by the Government of India. Of course, in making those appointments, we know that the Government of India would consult the Commissioner, would take the advice of the Local Government, as to the calibre, quality, character of the men appointed, but anyhow, the appointments must be made from here, so that the Department, in all its various branches, will be more easily amenable to criticism or discussion in this Assembly. Therefore I, Sir, support the amendment moved by Mr. Shahani, and, I think, it is a matter of principle on which this amendment rests.

Mr. G. G. Sim : There appears to be some confusion in the minds of several Honourable Members regarding the provisions of this clause. It is not intended, in any way whatsoever, to change the existing practice. The clause prescribes that these particular officers will, subject to the control of the Governor General in Council, be appointed and dismissed by the Commissioner of the Province. This particular control by the Governor General in Council, as explained in the Statement of Objects and Reasons, it is proposed to exercise through the Local Government. Every appointment made by the Commissioner will be subject to the approval of the Local Government, and any person dismissed from the service can appeal to the Local Government. That is clearly explained in the Statement of Objects

[Mr. G. G. Sim.]

and Reasons. The draft letter, conferring these powers on the Local Governments, was shown to the Select Committee, and the Select Committee, in their Report, have stated that they are in thorough agreement with these proposals. They suggested no change whatsoever in the present system under which these appointments will be determined by the Local Government.

Mr. President: Amendment moved :

In clause 5 (4), omit the words 'subject to the control of the Governor General in Council' and substitute 'by the Governor General in Council' for 'by the Commissioner of Income-tax.'

The question I have to put is that that amendment be made.

The Assembly then divided as follows :

AYES—29.

Agarwala, Lala G. L.
Ahmed, Mr. K.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Chaudhuri, Mr. J.
Gulab Singh, Sardar.
Hussanally, Mr. W. M.
Jatkar, Mr. B. H. R.
Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.

Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Sarvadhikary, Sir Deva Prasad.
Shahani, Mr. S. C.
Singh, Babu B. P.
Singh, Raja K. P.
Sinha, Beohar Raghunir.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Ujagar Singh, Baba Bedi.
Wajihuddin, Haji.

NOES—41.

Abdul Quadir, Maulvi.
Aiyer, Sir P. S. Sivaswamy.
Akram Hussain, Prince A. M. M.
Bradley-Birt, Mr. F. B.
Bryant, Mr. J. F.
Bray, Mr. D. S.
Carter, Sir Frank.
Clarke, Mr. G. R.
Cotelingam, Mr. J. P.
Dentith, Mr. A. W.
Fell, Sir Godfrey.
Gajjan Singh, Sardar Bahadur.
Ghulam Sarwar Khan, Chaudhuri.
Gidney, Lieutenant-Colonel H. A. J.
Ginwala, Mr. P. P.
Habibullah, Mr. Muhammad.
Hailey, the Honourable Sir Malcolm.
Hullah, Mr. J.
Ibrahim Ali Khan, Lieutenant Nawab M.
Ikramullah Khan, Raja M. M.
Iswar Saran, Munshi.

Joshi, Mr. N. M.
Kabiraji, Mr. J. K. N.
Lindsay, Mr. Darcy.
Mamohandas Ramji, Mr.
Maung Maung Sin.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.
Nabi Hadi, Mr. S. M.
Rao, Mr. C. Krishnaswami
Renouf, Mr. W. C.
Sharp, Mr. H.
Sim, Mr. G. G.
Singh, Rana U. B.
Sinha, Babu L. P.
Spence, Mr. R. A.
Thackersey, Sir Vithaldas D.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was negatived.

Clauses 5 and 6 were added to the Bill.

Rao Bahadur T. Rangachariar: Sir, the amendment which I have to move is :

'In clause 7 (1) after the words 'private employer' insert the following: 'who has entered into an agreement with the Income-tax Officer in accordance with the prescribed conditions to recover the tax on behalf of Government'.'

Mr. S. C. Shahani : Sir, what about my other amendment*?

Mr. President : It is not an amendment, but merely an expression of opinion. The Honourable Member could have raised his point
3 P.M. on the question that the clause stand part of the Bill.

Rao Bahadur T. Rangachariar : The new Bill makes a very serious departure from the existing law. I do not know if Honourable Members have seen the alterations made in the new Bill. It imposes on all private employers the liability to pay the income-tax due by their employees. There are private employers and private employees. There are several landholders in my province who pay handsome salaries to their agents and yet they do not keep proper accounts. Many of the landholders do not keep accounts and they do not know how to do it. They have to take note of the liability of their employees for income-tax whether they are earning sufficient income and also whether they are entitled to any reductions. This is an attempt to impose upon private employees the liability to pay the tax due by the employees and then to recover it from the pay of the employees. All these statutory obligations are sought to be cast on private employers, and that is a new departure quite unsuited to the conditions in this country, and I therefore ask the Government not to make this departure. This is not the time to make such a wide departure from the existing law. I therefore commend this amendment to this House.

Mr. G. G. Sim : Sir, in this matter the Honourable Member disagrees with the finding of the Joint Select Committee and also the Committee which met at Simla to make proposals for the amendment of the Act. Both these Committees held the definite opinion that this change should be made. They, unlike Mr. Rangachariar, were of opinion that the time had come to bring in this change. The question was debated, at some length in the Select Committee and the Select Committee held that the provision should stand.

Mr. President : The question is :

'In clause 7 (1) after the words 'private employer' insert the following: 'who has entered into an agreement with the Income-tax Officer in accordance with the prescribed conditions to recover the tax on behalf of Government.''

The House divided as follows :

AYES—84.

Abdul Majid, Shaikh.
Agarwala, Lala G. L.
Ahmed, Mr. K.
Aiyer, Sir P. S. Sivaswamy.
Asjad-ullah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Cotelingam, Mr. J. P.
Gajjan Singh, Sardar Bahadur.
Gulab Singh, Sardar.
Hussanally, Mr. W. M.
Jatkar, Mr. B. H. R.
Mhadeo Prasad, Munshi.
Manmohandas Ramji, Mr.

Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Sarvadhikary, Sir Deva Prasad.
Shahani, Mr. S. C.
Singh, Babu B. P.
Singh, Raja K. P.
Sinha, Beohar Raghurib.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Thackersey, Sir Vithaldas D.
Ujagar Singh, Baba Bedi.
Wajihuddin, Haji.

* 'In clause 5 (4) provision be not made for the appointment of separate all-India staffs for any classes of cases.'

NOES--35.

Akram Hussain, Prince A. M. M.
 Bagde, Mr. K. G.
 Bradley-Birt, Mr. F. B.
 Bray, Mr. Denys.
 Bryant, Mr. J. F.
 Carter, Sir Frank.
 Chaudhuri, Mr. J.
 Clarke, Mr. G. R.
 Dentith, Mr. A. W.
 Fell, Sir Godfrey.
 Ghulam Sarwar Khan, Chaudhuri.
 Ginwala, Mr. P. P.
 Habibullah, Mr. Muhammad.
 Hailey, the Honourable Sir Malcolm.
 Hullah, Mr. J.
 Ibrahim Ali Khan, Lieutenant Nawab M.
 Ikramullah Khan, Raja M. M.
 Iswar Saran, Munshi.

Joshi, Mr. N. M.
 Kabraji, Mr. J. K. N.
 Lindsay, Mr. Darcy.
 Maung Maung Sin.
 Mitter, Mr. K. N.
 Muhammad Hussain, Mr. T.
 Nag, Mr. G. C.
 Rao, Mr. C. Krishnaswami.
 Renouf, Mr. W. C.
 Sharp, Mr. H.
 Sim, Mr. G. G.
 Sinha, Babu L. P.
 Spence, Mr. R. A.
 Vincent, the Honourable Sir William.
 Waghorn, Colonel W. D.
 Way, Mr. T. A. H.
 Zahiruddin Ahmed, Mr.

The motion was negatived.

Clauses 7 and 8 were added to the Bill.

Rao Bahadur T. Rangachariar : Sir, I beg to move that :

' In clause 9 (f) after the word ' property ' where it occurs for the second time, insert the words ' situate in cities or municipal towns, and ' .

The object of this amendment is to exempt, from income-tax, house property which is situate in rural areas. Supposing a person is a landholder or a merchant and he has got a country residence in his village, he has now got to include it in the income-tax return, giving the annual rental value of that property. These houses are usually ancestral residences which have been there very long and in a country like this, where we have to deal with a vast population which go from villages to settle in towns, for professional or trade purposes or as officials, to be called upon to pay income-tax on their houses in rural areas is not right. I, therefore, propose by this amendment to make house property liable to income-tax only in cases where such property is situate either in cities or municipal towns. That is the object of this amendment which I now move.

The Honourable Sir Malcolm Hailey : Sir, it would, I think, be better if I had an opportunity of ascertaining first of all from the Honourable Mover of this amendment what exactly is the definition he attaches to the word ' city ' . I myself am not aware of any Act which defines a city.

Rao Bahadur T. Rangachariar : For the purpose of the Census, places with a population of 50,000 and upwards are taken as cities.

The Honourable Sir Malcolm Hailey : That is the first time I have ever heard that census definitions are equivalent to legislative enactments. Then again, as regards municipal towns, I suppose that the Honourable Member is aware that the result of passing his amendment would be that, whereas property situated in Delhi city would come under assessment, property situated in the civil station where we are now sitting would not come under assessment, for it is not a municipal town. It happens to be a notified area. Similarly, property in Raisina would not come under assessment. The country is full of small towns which are neither cities nor municipal towns; but they contain many wealthy citizens, and I myself see no reason

whatever why these citizens should enlist the sympathy of Mr. Rangachariar and escape assessment. You are, as a matter of fact, protecting one class against the other. The interests of the general taxpayer are that nobody should escape assessment; that the tax should be levied on everybody equally alike; and I myself can see no reason why the rural assessee should be favoured in this respect as against the urban assessee. Let that be the effect which Mr. Rangachariar wishes to attain. I claim that he does not attain it fully by his amendment, but even a revised amendment would be objectionable from that point of view.

Sir P. S. Sivaswamy Aiyer: (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural): Sir, I should like to point out that the object, which my friend, Mr. Rangachariar, has in view, is practically attained by the proviso in clause 2. It is distinctly provided there:

‘ Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building.’

Therefore, dwelling houses in villages required by agriculturists or cultivators would be exempt.

Rao Bahadur T. Rangachariar: Sir, but for Sir Sivaswamy Aiyer's intervention, I should not have risen to reply. Oftentimes a man has an ancestral house in a village which is of no use to him; oftentimes, it is a burden to him; but he has to include it in the return. Therefore, I think, to rely merely on the proviso would not be sufficient. I think the object of the Income-tax Act is not to assess such property. Income-tax is a tax on income derived from professions, trades and such other things. This is purely a property which is quite outside any earning area, and I therefore press my amendment.

Mr. President: Amendment moved.

‘ In clause 9 (1), after the word ‘ property ’ where it occurs for the second time, insert the words ‘ situate in cities or municipal towns, and ’.’

The question is that that amendment be made.

The motion was negatived.

Rai Bahadur S. P. Bajpai: Sir, I rise to move that:

‘ In clause 9 (1), after the words ‘ his business ’ insert the words ‘ or residence ’.

Sir, I have never been able to understand why residential houses should be liable to taxation. The owner of a house occupying it for residential purposes does not derive any income from it. All the money he has spent on construction of the house lies idle. He has, besides, to pay so many taxes, municipal taxes and so forth. The mere fact that this sort of taxation has been in vogue for a pretty long time does not justify its continuance. I think it is only fair that residential houses should be exempted from liability to taxation under the Income-tax Act. With these words, I commend this amendment to the acceptance of the House.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural): Sir, I also support this amendment. It is known to everybody that many people build houses at a very heavy cost and they live in those houses

[Lala Girdharilal Agarwala.]

themselves. They do not like to let those houses. Under those circumstances, the money is locked up. It brings no interest or profit—and then it means an expense which is not favoured by anybody. I know the principle that the general taxpayer should not be set against an individual taxpayer, but, in cases where people build their own houses for their own residence, I submit, it is not fair or proper that those houses should be taxed.

Rai Bahadur Pandit J. L. Bhargava (Ambala Division : Non-Muhamadan) : Sir, this amendment stands in my name also. Income-tax should be assessed on the income which one actually derives and not on the income which he may possibly derive. If a man who is the owner of a house occupies it for his residence, he does not derive any income from that house. If the principle that the tax should be assessed, not only on the income which one gets, but that it should be assessed on the income which he may possibly get, were adopted, then a good many anomalies would arise. Take a hypothetical case. A man possesses Rs. 20,000. out of which he deposits Rs. 15,000 in the Bank or invests it in some other way, and keeps Rs. 5,000 in his iron safe—he does not invest that amount in any way. Is he to be assessed on the income which he derives from the investment of Rs. 15,000 only, or is he to be assessed for the income to be derived by the investment of the whole amount of Rs. 20,000? I think the reply should be that he should be assessed on the income which he derives from Rs. 15,000 only and not on the income which he could have derived by investing the whole amount of Rs. 20,000. A man who has built a house will be reduced to the position of a tenant, if he is to be assessed on the income which he could have derived by renting it to a tenant—that is to say, the owner of a house will be deemed to be his own tenant—which is quite anomalous. I know there was a similar provision in Act II of 1886, that, when a building was occupied by its owner, it was deemed to be a source of income, but there is no justification for its retention now—especially when provision has been made for the exclusion of such portions of the property, consisting of any buildings or lands appurtenant thereto, as the owner may occupy for the purpose of his business. When property which is occupied by the owner for his business is to be excluded, there is no justification whatsoever for not excluding the property which he occupies for residential purposes.

Mr. G. G. Sim : Sir, I do not quite understand how any particular hardship is involved in taxing a man on the annual value of the house which he occupies. The Honourable Member who has just sat down has put us the case of a man who owns Rs. 20,000, part of which he invests in the purchase of a house. Well, take the case of two people with the same income, one of whom lives in his own house and pays no rent. Everybody has got to have a house, and his next door neighbour pays a rent of Rs. 3,000. Why should the man who has an income of Rs. 20,000, who has got a house of his own, be taxed at exactly the same figure as a poorer man who, with the same income, owns no house and has to find the rent of his house out of his income?

This tax has always been imposed since income-tax was first imposed in India. It is imposed, so far as I know, in every country in exactly the same way. The cost of omitting this provision from the Bill would be enormous. It would mean exempting most of the house property in

India. The result would be that an enormous burden would be shifted from the backs of those people who are fortunate enough to own their own houses, to the backs of those who have to occupy rented houses. It would be impossible for the Government to accept any proposal of this nature. It would make a radical change in the whole system of taxation and there appears to be no justification for it whatsoever.

Mr. President : Amendment moved :

' In clause 9 (1), after the words ' his business ' insert the words ' or residence '.'

The question is that that amendment be made.

The motion was negatived.

Bhai Man Singh : Sir, the amendment that stands in my name runs as follows :

' At the end of clause 9, sub-clause (1), add the following proviso :

' Provided that no income-tax shall be assessed for any income of the property assessed to land revenue.'

My reason for making this amendment is very simple.

Mr. President : Which amendment is the Honourable Member moving ?

Bhai Man Singh : I am moving No. 7 in the typewritten list, Sir.

Mr. President : He does not wish to move No. 5 ?

Bhai Man Singh : No, Sir, I have already submitted that I do not wish to move No. 5.

Mr. President : Then I must first call on Mr. Bhargava to move his amendments.

Rai Bahadur Pandit J. L. Bhargava : Sir, the following amendments are consequential amendments to the amendment which I proposed and which has been rejected by the House, and, therefore, they do not arise :

' In clause 9 (1) (i), delete the words ' where the property is in the occupation of the owner or ' and substitute the words ' the property ' for the word ' it ' in line 2.'

Bhai Man Singh : Sir, the amendment which I am proposing to move now is as follows :

' At the end of clause 9, sub-clause (1), add the following proviso :

' Provided that no income-tax shall be assessed for any income of the property assessed to land revenue.'

My object is very simple. There is absolutely no reason for saying that such and such a place is already paying a certain sort of tax; we will realise another tax from it. I know the provision to the effect that the land revenue paid over it is to be deducted from the income-tax that is to be assessed.

Mr. President : Does the Honourable Member mean to insert his proviso at the bottom of the page after the italic type in the Bill :

' Provided that the aggregate of the allowances made under this sub-section shall in no case exceed the annual value ?'

He wants to add another proviso ?

Bhai Man Singh: Yes, Sir.

Mr. President: Then I will call upon him later on. Mr. Bajpai.

Rai Bahadur S. P. Bajpai: Sir, the amendment * standing in my name does not arise now as it recommended merely a consequential change.

* In sub-clause (1) (i) of clause 2, delete the words beginning from 'is' in the first line up to 'it' in the second line.'

Mr. W. M. Hussanally: Sir, I beg to move that :

In sub-clause (1) (i) of clause 2, substitute 'one-fifth' for 'one-sixth' in the last line'.

This would only be fair to house-owners because when prices of material and labour have gone up so high, the original percentage for repairs fixed years ago is very small and it entails a great hardship especially in places where there are Rent Acts in existence under which a landlord cannot raise the rent by a single farthing, and, therefore, he has to pay much more heavily than this one-sixth out of his pocket to carry out repairs. I have, therefore suggested that the one-sixth should be raised to one-fifth.

Mr. G. G. Sim: Sir, I am afraid it is impossible to accept this amendment. The question was discussed by the Committee and they decided that the allowance of one-sixth is an exceedingly generous one. The Honourable Member said that the cost of building material has gone up. That is perfectly true. So have the rents.

If a house was rented previously at Rs. 600, the owner got an allowance of Rs. 100. He now puts up the rent to Rs. 1,200 and he gets an allowance of Rs. 200. I have seen no case quoted anywhere where this allowance of one-sixth, which is given to the owner whether he spends the money in repairs or not, has proved to be insufficient. The general impression I have found is that it is grossly excessive. (Laughter.)

Rao Bahadur T. Rangachariar: I support the amendment. I am the owner of house property in Madras, and I can testify, from my own personal experience, that, notwithstanding the rise in rents, the cost of repair is not covered by one-sixth of the annual value. (Hear, hear.) It costs much more. If the rents have gone up, the mason's charges, the bricklayer's charges, the carpenter's charges, and the cost of various other commodities have gone up, and the exasperating sufferings we have to suffer at the hands of these tenants (Laughter), tenants who always trouble you for this and that and whom you can never satisfy,—we have all that to take into account. I, therefore, join issue with Mr. Sim when he states that an allowance of one-sixth is enough. One-sixth is certainly not enough and I can testify to it. Moreover, the House ought to know that we have to pay heavy municipal rates and no deduction is made for municipal rates for that purpose. In every town, in Bombay, Madras and Calcutta, municipal rates are going up on house property like anything, and it is the house property which has to bear income-tax taxation and local rates, and there is a great deal of force in the amendment which has been moved. If it were left to me, I would omit the whole of the house property from liability in this respect, but this is a very reasonable request and it ought to be acceded to.

The Honourable Sir Malcolm Hailey : Sir, Mr. Sim has given reasons why my Department would have serious reason to regret if this amendment were passed. For my own part, I am perfectly prepared to leave it to the House. If the House really thinks that landlords are the humanitarians that Mr. Rangachariar professes that class to be, then, let them be given a larger allowance for repairs. If, on the other hand, the House thinks that landlords are what we tenants sometimes call them, let it leave the clause as it stands.

Mr. W. M. Hussanally : The only point I would bring to the notice of the House, in reply, is that Mr. Sim has taken no account of the several Rent Acts, which are existing now in the Presidency Towns and other cities. Under the local Rent Acts, which have been in existence since 1918, no landlord can enhance the rent. (*An Honourable Member* : 10 per cent. is allowed.) I agree that 10 per cent. increase is allowed, but that only upon the rental of 1916 which is entirely inadequate considering present circumstances. The rents cannot be enhanced according to the law of supply and demand.

Mr. President : Amendment moved :

'In sub-clause (1) (i) of clause 9, substitute 'one-fifth' for 'one-sixth' in the last line.'

The question is that that amendment be made.

The motion was negatived.

Lala Girdharilal Agarwala : I beg to move :

'In sub-clause (1) (iv) of clause 9 of the Bill, after the word 'rent' where it first occurs, insert the words 'or municipal or local taxes or rate' and, at the end, add the words 'or taxes or rate'.'

My submission is that when the houses are situate in big cities, where municipal tax and many other taxes have to be paid, it is the least that I demand that deduction should be made on account of taxes so paid. This does not require any elaboration. It is very clear that on houses in which owners live or which they have let to tenants, in every case they have to pay a large number of taxes in municipal towns. This would not affect houses or buildings which are not situate in municipal towns, and I submit that there is no reason why such a deduction should not be allowed. The Select Committee has not given any reason. They simply say : we agree that no deduction on account of municipal or local taxes should be allowed in this clause. With these few words, I move my amendment.

Mr. G. G. Sim : Sir, the Honourable Member has said that there is no reason for disallowing municipal taxes. If he will refer to the report of the Select Committee which dealt with what has become the present Income-tax Act, he will find the reasons given, and he will also find them stated in the reply given by Sir George Lowndes in respect of a similar motion. It was pointed out that municipal taxes are a personal expense. Sir George Lowndes, if I may quote from the speech made in connection with the present Act, pointed out :

'Municipal taxes are a purely personal expense. You may have a house with water laid on, municipal water, and if you pay rates for it, that is paying for something in addition to the house. Supposing you have no water laid on, you have to provide it otherwise. The man who gets water from a municipality will be allowed the municipal tax ; the other, who does not get it, will receive no allowance. As far as I can understand it, that is

[Lala Girdharilal Agarwala.]

able to say that that petty amount of municipal taxes should be deducted and thereafter the rest of the income from house property may be taxed.

Mr. Deputy President : Amendment moved :

'In sub-clause (1) (iv) of clause 9 of the Bill, after the word 'rent' where it first occurs, insert the words 'or municipal or local taxes or rate' and, at the end, add the words 'or taxes or rate.'

The question is that that amendment be made.

The motion was negatived.

Bhai Man Singh : Sir, the amendment that stands in my name is as follows :

'At the end of clause 9, sub-clause (1), add the following proviso :

'Provided that no income-tax shall be assessed on any income of the property assessed to land revenue.'

My plain object in putting forward this amendment is that when a certain property is assessed to one sort of tax, there is no reason why we should again assess it to another sort of tax. The effect of the present Bill, as it stands, is that if a man in a village builds a certain house and attaches to it a certain piece of land for gardening or anything of that sort, that house, as well as the land appertaining to it, would be assessed to income-tax as well. First they have to pay land revenue and then income-tax. Of course, I find that the land revenue paid by him is to be deducted out of the income-tax amount. All the same, I cannot understand the reason why we should assess the property first to land revenue and then assess it to income-tax.

If the property is so much changed in its nature that it is no more an agricultural property and has to be taxed with income-tax, we should take steps to have the land revenue remitted and to tax it with income-tax. I do not understand why, when a certain property is taxable with land revenue, it should be taxed over again with income-tax as well.

Mr. G. G. Sim : This clause applies only to land with buildings upon it. Land revenue is not always assessed upon such land. When assessed, it is not assessed by taking into consideration the amount of profit that can be made by constructing a building upon the land. It merely has reference to the agricultural value. Land revenue in such a case is on the same footing as ground rent paid to a private landlord. Provision is made accordingly in the Bill for deducting ground rent where ground rent is charged and land revenue where it is charged. But the Honourable Member's proposal would have the effect that if a piece of land has once been assessed to land revenue, and if profits are made from erecting buildings upon it, such profits will not be liable to income-tax. The proposal is one which I do not think would commend itself to the House.

Bhai Man Singh : One word, Sir, in reply, that if a building is built upon a piece of land which is assessed to land revenue, we could separately assess to income-tax the rent of the building, excluding the piece of land or appurtenant land which may be used by the owner as a garden or a compound.

Mr. Deputy President : Amendment moved :

'at the end of clause 9, sub-clause (1) add the following proviso :

'provided that no income-tax shall be assessed on any income of the property assessed to land revenue.'

The question is that that amendment be made.

The motion was negatived.

Sir P. S. Sivaswamy Aiyer : Sir, the object of my amendment* is simple ; it is to carry out clearly the intention of the Select Committee. The Select Committee has stated that, in the proviso to sub-clause (2) of clause 9, they have substituted the word 'total' for the word 'aggregate' in order to make it clear that it is the taxable income of the owner and not the aggregate income of the owner that is referred to. I wish to make the intention quite clear by inserting the word 'taxable' before the word 'total.'

Mr. G. G. Sim : Sir, I am afraid that the amendment has been put forward under misapprehension of the somewhat loose phraseology in the Report of the Committee. The Committee certainly meant that it was only income liable to taxation under this Bill that should be brought into account. But the words 'taxable income' are nowhere used in the Bill. If the Honourable Member will refer to the definition of 'total income', he will find, I think, that the actual words used by the Select Committee give exactly the result he wishes. 'Total income' means the total amount of income, profits or gains from all sources to which this Act applies. It cannot include any other income. It does not include agricultural income.

Sir P. S. Sivaswamy Aiyer : I must state for the information of Mr. Sim that, as a matter of fact, my agricultural income has been taken into account in calculating the total income for this purpose, and that is why I wish to add the word 'taxable.'

Mr. G. G. Sim : May I explain, Sir, that that was owing to the fact that previously the words used were 'aggregate income.' It has been changed to 'total income,' which, we have been advised by our legal authorities, is restricted entirely to income taxable under the Bill, and it cannot, under any circumstances, apply to agricultural income. The phrase 'taxable income' is nowhere used in the Bill. It can have no definite meaning.

Sir P. S. Sivaswamy Aiyer : Even in the present Act 'total income' was used.

Mr. G. G. Sim : 'Aggregate' income, not 'total' income.

Mr. Deputy President : Amendment moved :

'That in the Proviso to clause 9 (2) between the words 'total' and 'income' in the last line, insert the word 'taxable'.'

The question is that that amendment be made.

The motion was negatived.

Lala Girdharilal Agarwala : Sir, I move the last amendment to clause 9 of the Income-tax Bill. It runs as follows :

'In the Proviso to sub-clause (2) of clause 9, for '10 per cent.' substitute '6 per cent.'

'In the proviso to clause 8 (2), between the words 'total' and 'income' in the last line insert the word 'taxable.'

[Mr. G. G. Sim.]

what my Honourable friend means. It is almost an absurdity. These local rates are just like personal expenses for which we do not allow abatement of income-tax. They are like the expenses for servants, motor cars, clothes, or anything of that sort. Expenditure on such things as municipal scavenging, etc., are treated as purely personal expenses and are not allowed in England. We do not propose to allow it out here.'

Apart from that, I should like to point out that this proposal means that this Assembly is going to allow local authorities to tax income before the Central Legislature may do so. In any case it would be impossible to agree to a proposal of this nature owing to the heavy financial loss involved. That was pointed out by the Simla Committee. There a much more modest proposal was put forward that allowance be made on account of municipal taxes only in cases where houses are rented. It was admitted that it was most unreasonable to ask for an allowance on account of municipal rates where a man occupies his own house and the proposal simply was that the deduction should be allowed where a man made it a business to let houses. A rough estimate was made of what the cost of any such concession would be and it was discovered that in Calcutta alone, the loss of income-tax, if this concession alone were given, would amount to six lakhs a year. I see no reason for accepting this amendment. It has been rejected every time the Income-tax Bill has been under discussion. It was objected to by both the Committees which have dealt with this question and I think that the reasons that I have given are conclusive.

(At this stage Mr. Deputy President took the Chair.)

(Lala Girdharilal Agarwala rose to reply and Mr. W. M. Hussanally rose to speak.)

Mr. Deputy President : The Honourable Member did not rise in his place in time.

Mr. W. M. Hussanally : I am sorry. I have got a similar amendment and, therefore, I should like to speak a few words in support of my friend Mr. Agarwala. The only objection which I can see that has been taken to this amendment is that the taxes paid to the municipal or other local authorities are in the nature of personal expense. I fail to see how it can be at all construed that taxes paid to the municipal authorities over house property are in the nature of personal expense. These taxes are various in their character. In the first place, there is the house tax, then, there is land rent, next water-tax, drainage, etc. Just compare the case of municipal towns and towns where there is water laid on and other municipal towns where there is no water. What is the difference? A tenant, where there are no water works, has to supply himself with water and pays for it, whereas in a municipal town, where there are water-works, the landlord pays for water to the municipality, while the tenant gets free advantage of it; similarly, if you compare the case of a landlord in such towns where there is no house tax with the case of a landlord in a municipal town where there is a house tax, the landlord in the town where there is no house tax gets undue advantage over the landlord who has to pay house-tax. These are essentially taxes which the landlord has to pay in order to earn the little net income from his property on which he has invested large amounts of money. These house properties in various towns do not pay even as much as 3 per cent. or 4 per cent. I know, Sir, in Karachi, from which place I come, house property does not even pay as much as 3 or 3½ per cent. There are other towns like Bombay

where perhaps the house property pays even 10 per cent., but in places like Karachi house property does not pay and does not give an inducement to capitalists to invest money in house property although houses are very badly wanted in such towns. Therefore, I strongly support the amendment.

The Honourable Sir Malcolm Hailey : I should like to join issue with Mr. Hussanally in his statement that the only ground taken by Mr. Sim in his reply was that municipal taxation is a species of personal expense. That is not, of course, the only ground. There was a very important statement by Mr. Sim, namely, that if you allow this amendment, you will lose so much taxation that it will be necessary for us to raise our rates in order to recoup ourselves for what we have lost. (*Voices :* 'You can do that.') Where will the assessee gain if we have to come to the Assembly to raise rates in order to make this loss up? Now we have framed this Bill throughout with the intention of making our procedure as easy as possible for the assessee. We have nowhere tried so to frame it as to bring in fresh taxation to ourselves. I think I might very reasonably, in the circumstances, appeal to the House not to support an amendment which will have the effect of causing a very considerable loss of money to the general treasury. But, Sir, that is not really the only point. There is a valid point of substance. Let us take the general taxable income of the country as a whole. A number of the assessees live in towns. The town taxes them for certain services rendered. It is not true that it taxes them merely for supplying water or light; it taxes them for general municipal purposes and municipal services. But we also tax them for certain services rendered. We tax them for the general protection of the country; the contributor to central revenues pays for the protection of the country and the major services which we carry on in its interest. The main question really is this: are you going to allow the local tax-gatherer to have the first cut at the general taxable revenue? If you are willing to do so, you must be prepared to make a very heavy sacrifice; and I claim, and I think the House will support me in claiming, that the major services must have the first claim on the general taxable capacity of the country.

(At this stage, Lala Girdharilal Agarwala rose to speak.)

Mr. N. M. Joshi : Mr. Agarwala has spoken once and he has not got the right of reply as the Mover of the amendment.

Lala Girdharilal Agarwala : It was said that municipal taxes are levied for general convenience, including water. I do not want that house property which is situated in municipal towns should be exempted from taxation, but I simply want what monies paid actually on account of such taxes and rates, as are described in my amendment, should be included as proper expense. For example, in the city of Allahabad, from which I come, there is a rule that a person whose house is situated within 600 feet of the municipal tap where the municipal water line goes, is liable to pay water-tax although he may not take water. There is also a rule to the effect that a tenant may, without the consent of the owner of the property, have water laid in the house, if there is no water, and deduct the cost from the rent. Besides these, there are other taxes, for example, house tax. Those gentlemen who are living in cities know how much the cost of city life is increasing day by day. In view of all these circumstances, I submit, it is not unreason-

[Lala Girdharilal Agarwala.] •

Now, Sir, this clause affects those persons only who live in their own houses. Now, the first amendment on the subject was by my Honourable friend, Mr. Bajpai, which I also supported, namely, that residential houses should be exempted from the tax. That has been lost. The next amendment was that municipal taxation and local rates should be deducted as a proper expense. That also has been lost. Now, the result is that residential houses are to be taxed, and municipal and other taxes have to be paid. My last amendment, which is before the Honourable House just now, is that only 5 per cent. should be allowed on the maximum annual value of the income of a person, and that this may be deducted as the maximum amount. Now, I submit, that if 10 per cent. is allowed, that would be rather too much.

I submit that if 10 per cent. is allowed that would be too much and would be hard. Honourable Members will be pleased to remember
4 P.M. that now-a-days living has become very dear, and more so in the case of joint Hindu families. If there is a joint Hindu family consisting of, say, 10 persons including children, they have to spend for education, they have to spend for food, clothing, etc. Besides these, they have to spend for marriages and many other things. I submit that if 10 per cent. is taken out of their income for the purpose of income-tax, that would be too much, and I do not see that there will be very great loss if the amount is put down at 5 per cent. instead of 10 per cent. The real desire of the persons who are living in their own houses is, that the residential houses should not be taxed at all. Now, after all these other amendments have been disallowed, I submit, that this last amendment, which is a modest one, should not meet with the same fate.

Mr. R. A. Spence (Bombay : European) : I ask the Honourable the Mover of this amendment if he knows of any houses in this country which are obtainable by tenants for 5 per cent. of their income.

Lala Girdharilal Agarwala : My Honourable friend puts a personal question whether a tenant can get a house for 5 per cent. of the income. My reply to him is that perhaps he may not be able to get a house or in some cases he may be able to get a house. That depends upon the conveniences and the sort of house that my Honourable friend wants and the place where he wants it. If my Honourable friend wants a house in Raisina after the Legislative Assembly has broken up, probably he will be able to get a house for 1 per cent. of the income. (Laughter.) In fact some people would be willing to pay something to a gentleman who will keep the house in proper order. What I beg to submit is this. The case of those persons who live in rented houses cannot be compared to the case of those who live in their own houses. In some cases, persons who have built their own houses or who have inherited very costly houses from their ancestors would not like to leave them. Gentlemen who live in rented houses, even though they pay 10 per cent., do not keep houses when they go on leave. The house remains vacant. I know a certain gentleman in Allahabad who, when he came down to Allahabad, encamped just opposite to my house, Durbhanga Castle. They do not take any houses on rent. They may have to pay something higher on the hills, but when they come to the plains, they live in camps. Taking the average life of a Government servant to be 30 years, how much does he pay? Sometimes he remains in camp and sometimes he does not take any house. The Law Member has got a house worth a lakh of rupees in Allahabad, but here

he lives in a rented house and pays rent. There are many persons with small houses who live in their houses. I submit that all these considerations should be taken into account. It is not too much for me to ask that the amount should be cut down to 5 per cent. instead of 10.

Mr. Deputy President : Amendment moved :

' In the proviso to sub-clause (2) of clause 9, for ' 10 per cent.' substitute ' 5 per cent.'

The question is that that amendment be made.

The motion was negatived.

Clause 9 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 26th January, 1922.



LEGISLATIVE ASSEMBLY DEBATES

THURSDAY, 26th JANUARY, 1922

Vol. II—No. 23

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Thursday, 26th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

SITUATION IN GUNTUR.

Sir Jamsetjee Jejeebhoy (Bombay City: Non-Muhammadan Urban): Sir, may I be permitted to ask the Honourable the Home Member if he is in a position, and, if so, to give the House information as to what is happening in Guntur?

The Honourable Sir William Vincent (Home Member): I shall be very pleased to give any information I have; but perhaps it would be more convenient if I did so at the end of the questions in the list.

STATEMENT LAID ON THE TABLE.

Mr. H. Sharp (Education Secretary): Sir, I beg to lay on the Table the information promised in reply* to a question by Mr. P. P. Ginwala on the 5th September, 1921, regarding the number of national schools and colleges opened since the 1st of January, 1921, the number of students in them and the number of students in Government or aided schools and colleges in March, 1921, as compared with the year 1920.

* *Vide* Legislative Assembly Debates, Vol. II, page 303.

Statement showing the number of national schools and colleges, the number of students in them, and the number of students in Government or aided schools and colleges.

Local Government or Administration.	Number of national schools and colleges opened between the period 1st January and 31st July, 1921 (both dates inclusive).	Number of students in national schools and colleges opened between January and 31st July, 1921 (both dates inclusive).	Number of students in schools and colleges in Government schools and colleges on the 31st March.		Number of students in schools and colleges aided from public funds, i.e., by Government, Local Funds or Municipal Boards (vide General Table III appended to the annual report on education), on the 31st March.	
			1920.	1921.	1920.	1921.
Madras	92	8,072	55,968	81,025	9,38,146	11,76,805
Bombay	225	14,808	21,968	24,360	1,85,312	1,89,874
Bengal	115	16,969	36,374	33,680	19,66,006	14,60,920 ⁴
United Provinces	197 ¹	8,476	29,534	29,166	1,41,369	1,38,931
Punjab	21	1,416	17,497	17,656	1,24,304	1,26,372
Burma	79	14,538	10,650	7,268	8,56,224	8,48,319
Bihar and Orissa	166	No information available.	21,410	19,635	5,97,777	5,94,578
Central Provinces	86	6,388	9,064 ⁵	8,110 ⁵	11,047 ⁵	8,209 ⁵
Assam	88	1,537	17,116	16,846	81,344	30,210
Coorg	Nil.	Nil.	2,400	2,350	292	550
Delhi	Nil.	Nil.	331	402	6,857	7,468
North-West Frontier Provinces.	4	130||	1,250	1,864	9,927	10,374
Administered areas	8	965	21,267 [¶]	22,777 [¶]	24,754	25,107

REMARKS.

* Approximate. Correct figures not obtainable as authorities of many national schools refuse to supply the information.
 † The annual report is still under preparation.
 ‡ The figures therefore are subject to revision.
 § Includes one school which was opened last year in the Fyzabad Division.

§ These figures are based on the average during the first three months of the school year and exclude primary and vernacular middle schools.

|| The numbers vary considerably from month to month, but have not exceeded 130.

¶ Include students in aided schools in certain cases.

QUESTIONS AND ANSWERS.

SALARY AND COST OF ESTABLISHMENT OF THE BRITISH MINISTER AT KABUL.

118. * **Mr. K. C. Neogy** : Will Government be pleased to state what would henceforth be the amount of salary and cost of establishment of His Britannic Majesty's Minister at Kabul, and whether any share thereof would be borne by the British Government?

Mr. Denys Bray : The total emoluments of the British Minister at Kabul have been fixed at Rs. 4,000 per mensem. The cost of his establishment is still under consideration. For the present the Government of India will contribute the whole of the expense of the Legation.

DEPUTATION OF INDIA OFFICE OFFICERS TO INDIA.

119. * **Mr. K. C. Neogy** : Will the Government be pleased to state the names of the officers of India Office, London, who have been sent out to India on deputation this cold weather, detailing the functions they are to perform and the approximate cost of their deputation?

The Honourable Sir William Vincent : A statement giving the information asked for is laid on the table.

Name of Officer.	Functions.	Approximate cost of deputation debited to Indian Revenues.
<p>Sir L. J. Kershaw, K.C.S.I., C.I.E., Secretary, Industries and Overseas Department, India Office, London.</p>	<p>To obtain a first-hand knowledge of, and to consult the Government of India and Provincial Governments concerning the many new problems now engaging the attention of the Central and Provincial Governments in India in the subjects which he deals with in the India Office, viz., League of Nations, Emigration, Indians in Self-Governing Dominions, Crown Colonies, Mandated territories and abroad, Imperial Conference, Aliens, Naturalization and law of nationalities, Foreign missionaries, including Basel Mission, Commonwealth Trust, Passports, Opium, Labour, Industrial questions and services, Geological Survey, Mines and Minerals, Mineral Oil, Stores, Exhibitions and Timber.</p>	<p>The expenditure to be incurred in India on account of his subsistence allowance, travelling allowance, a stenographer and a peon has been estimated at Rs. 12,500. That to be incurred in England on account of passage and outfit allowance is about £300.</p>
<p>Salibzade Aftab Ahmed Khan, Member of the Council of India.</p>	<p>Came out to India with the object of serving later on the Indian Students' Committee which at one time intended to tour in this country. That tour was however eventually abandoned.</p>	<p>The only expenditure which the Government of India have so far finally agreed to defray is the railway fare for a reserved saloon placed at the disposal of the Salibzade for his journey from Bombay to Aligarh. No correct estimate of that expenditure is as yet available.</p>

REPORT OF THE ARMY REQUIREMENTS COMMITTEE.

120. * **Mr. K. C. Neogy** : Will Government be pleased to publish the report of the Army Requirements Committee, and to state what orders, if any, have been passed thereon ?

Sir Godfrey Fell : I would refer the Honourable Member to the reply given in the Council of State on the 15th September, 1921, to the Honourable Mr. Bhūrgri's Question No. 74.

The report in question is still under the consideration of a Sub-Committee of the Committee of Imperial Defence.

REVISION OF SALARY AND PENSION OF IMPERIAL SERVICES.

121. * **Mr. K. C. Neogy** : Is any scheme for the revision of salary, allowances or pension of any Imperial service under consideration at present ? If so, will Government indicate the nature of the proposals that are being considered ?

The Honourable Sir William Vincent : No such scheme is under the consideration of the Government of India.

COMMUNICATION FROM SECRETARY OF STATE RE TREATMENT OF POLITICAL PRISONERS.

122. * **Mr. K. C. Neogy** : (a) Have Government received any communication recently from the Secretary of State on the question of special treatment of persons sentenced to imprisonment on charges of a political character ?

(b) If so, will Government be pleased to state its purport and what action has been taken thereon ?

The Honourable Sir William Vincent : (a) Yes. (b) Government are not prepared to state the purport of the communication which is still under consideration.

Mr. K. Ahmed : Arising out of the answer just given, is there not special treatment given in England to political prisoners ?

The Honourable Sir William Vincent : So far as I am aware, no special treatment is accorded to political prisoners in England. Certain prisoners are classed as first division prisoners and certain prisoners are classed in the second division ; I do not think there is any special treatment prescribed for political prisoners as such. I speak subject to correction.

Mr. K. Ahmed : Have the Government of India heard from various provinces that these political prisoners are very badly treated, that no blankets are supplied to them, and that political prisoners of different castes are not provided with meals properly according to their religion ?

The Honourable Sir William Vincent : The information that I have in regard to prisoners who have recently been convicted under the Criminal Law Amendment Act or under the Seditious Meetings Act is that they receive differential treatment and are well treated.

Mr. K. Ahmed: Are the Government of India in a position to say that blankets, utensils and cooking pots are supplied according to the requirements?

The Honourable Sir William Vincent: The administration of Jails is a provincial subject, and I am afraid the Government of India have no detailed information as to the supply of crockery and cutlery to particular prisoners.

Mr. K. Ahmed: Is it not a fact that there are a very limited number of blankets supplied to the prisoners.

Mr. President: Order, order. The Honourable Member is aware that the administration of jails and prisons is a provincial subject. He must get his colleagues in the Bengal Council to ask these questions.

SITUATION IN GUNTUR.

The Honourable Sir William Vincent (Home Member): Sir, may I now answer the question which was asked by Sir Jamssetjee Jejeebhoy, of which he has given me private notice. The Government of Madras have issued a communiqué on this subject, and it appeared in the newspapers of the 21st January. I have a reproduction of that communiqué here, and if any Honourable Member expresses a wish to that effect, I am quite prepared to read it out to the Assembly now. (Cries of 'Read it.')

The telegram begins:

'Regarding the state of affairs in Guntur, where civil disobedience, non-payment of taxes campaign and resignation of village officers are in operation, the Madras Government propose to undertake emergency legislation in the direction of amending the Madras Revenue Recovery Act, mainly to do away with the intervening period allowed under the present Act between distraint and attachment of property and to bring at once to sale the effects of ryots who refuse to pay their dues. Other steps will also be taken by the Government on the executive side, such as the institution of extra police at the expense of the inhabitants, subject to such exemptions as may be ordered by Government in favour of persons who shall, by a date prescribed, have paid into the Government treasury or to the officer appointed for the purpose the taxes due from them. Owing to combination to prevent bidding, Government will undertake to provide land for members of the depressed classes. With regard to resignations of village officers, Government say that they cannot be accepted in the present circumstances, and if officers refuse to carry on their duties, they must be dismissed.'

On receipt of private notice of the present question I wired to the Madras Government inquiring whether any further information was available; and I have received a telegram yesterday saying that no further detailed information was available, but that the Collector regards the situation as serious and has apparently not succeeded in collecting any appreciable amount of taxes. No disturbance had as yet been reported. At the urgent request of the Local Government a section of armoured cars and a company of Indian infantry have been sent to Guntur to co-operate with the local authorities. I have no further information than that.

STATEMENT OF GOVERNMENT BUSINESS.

Mr. President: I ask the Honourable the Home Member whether he is in a position to make a statement regarding Government Business for next week.

The Honourable Sir William Vincent (Home Member) : Sir, I will begin by stating, if I may, the business for Saturday. In addition to the business left over from yesterday's meeting, it is proposed to introduce the following two Bills : (1) A Bill to provide penalties for spreading disaffection among the police and for kindred offences. (2) A Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings. That, Sir, is the Bill to which I referred in this Assembly yesterday.

On Wednesday, the 1st of February, 1922, the Government have allowed time for the discussion of the following Resolutions. This, I may say, has been done after consultation with a number of leading Members of this Assembly : Mr. Joshi's Resolution on female suffrage, and Sir Sivaswamy Aiyer's Resolution on the Indian Navy.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : May I ask, Sir, when the Resolution on Retrenchment will be taken up?

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I ask, Sir, whether my Resolution for the appointment of a Retrenchment Committee was understood to be set down for the 1st, and whether it is likely to be taken up?

The Honourable Sir William Vincent : I think the Honourable Member is in error in saying that I gave any undertaking that it would be put down for the 1st. I said I would give him a Government date early in February and I hope to be able to do so. I cannot state the exact date now, but, I think, it will be the 6th or 8th. This must be regarded as a provisional statement.

GOVERNOR -GENERAL'S ASSENT TO BILLS PASSED BY THE LEGISLATURE.

Mr. President : I have to acquaint the House that His Excellency the Governor General has been pleased to give his assent to the following Bills passed by both Chambers of the Indian Legislature :

The Indian Electricity (Amendment) Act, 1922.

The Indian Factories (Amendment) Act, 1922.

RESOLUTION *RE*: ABOLITION OF DISTINCTION BETWEEN 'VOTABLE' AND 'NON-VOTABLE' ITEMS IN THE BUDGET.

Mr. P. P. Ginwala (Burma : Non-European) : Sir, I beg to move the following Resolution :

'This Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between 'Votable' and 'Non-Votable' items in the Budget, and to submit the whole of the Budget to the vote of this Assembly.'

Before going on with the discussion of this Resolution, I may just remind the House that at Simla we spent the best part of two days in debating Mr. Majumdar's Resolution, which was known as the Swaraj Resolution, and that we were told, at the end of the two days, that no further progress in the direction of Self-Government was possible without fresh legislation by Parliament. We were also told that Parliament had set down a limit of 10 years, before which nothing could reasonably be done, but that, if the House was of opinion that the ten years fixed was too long, that opinion would be conveyed to His Majesty's Government, in order that the time may be shortened. Soon after that, in reply to a question in the House of Commons, the Secretary of State stated, with reference to this Resolution, that he was of opinion that a Commission could be appointed within the limit of 10 years, but that no further legislation could be undertaken, without the appointment of a Commission, even within that period. Now, Sir, that is the position with regard to what may be expected of Parliament. We must have a statutory Commission appointed before any further inquiry can be undertaken and any recommendations made. My submission to the House, however, is that long before any legislation by Parliament becomes necessary you have got to show that all other powers conferred either on the Governor General in Council or on this House are exhausted, that we have obtained everything that we could under the reasonable exercise of those powers from the Governor General, and that we have after that reached a stage when legislation is required in order to free ourselves from the control of the Secretary of State and of Parliament.

The position briefly, but differently, put is this. We have to pass through three stages before we can obtain for ourselves full responsible Government. The first is that we must get as much as we can out of the Governor General in Council, that is to say, we must free ourselves from what was described at Simla by the Honourable the Finance Member himself as the tyranny of our natural enemy the Executive Government, represented by the Governor General in Council. Next we must free ourselves from the control of the Secretary of State, and, lastly, of Parliament, and, when that is done, India has Swaraj. But, before these two later stages are reached, much, I submit, can be done by a reasonable modification of the Government of India Act by establishing conventions, by entering into mutual understandings and by mutual compromises. Now, Sir, it has been truly said that political power really rests with the person in whose custody is the national purse. The history of your country has shown that all her battles for freedom have been fought and won, round the national purse and its control has meant the control of the Executive Government. In order that this House should have real power, it should obtain real control over the national purse. That is the first and the most important step towards responsible Government. I respectfully submit that, in order to achieve this, it is not necessary to have any legislation by Parliament, because, as I shall show presently to the House, it is open to the Governor General or to the Governor General in Council to exercise his powers under the Government of India Act in such a way as to secure to this House a reasonable control over the national purse.

The Budget is placed before the House under section 67-A of the Government of India Act. That is reproduced on page 54 of the Legislative Assembly Manual. The first clause of section 67-A says that :

' The estimated annual expenditure and revenue of the Governor General in Council shall be laid in the form of a statement before both Chambers of the Indian Legislature in each year '.

[Mr. P. P. Ginwala.]

That is sub-section (1). Then in sub-section (3) of the same section there are what are called the exceptions. That sub-section reads as follows :

'The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor General in Council otherwise directs'.

The position may be explained thus : first of all the estimates are put before the House ; then, under this sub-section, there are certain exceptions, but these exceptions are subject to the proviso contained in the words 'unless the Governor General otherwise directs' and the Governor General has, therefore, got the power to direct that the whole of the Budget may be placed before the House ; in other words, these exceptions only arise if the Governor General does not otherwise give his directions ; and it follows that, if the Governor General chooses to give his directions to place the whole of the Budget, including the excepted items, for the vote of the Assembly, he can do so. Now, I submit, with great deference to all the lawyers present in this House and also to the legal advisers of the Government, if they have advised to the contrary, that this is a correct interpretation of the statute as it stands. When the words of a statute are clear, it is a fundamental maxim that the words must be interpreted in their grammatical and ordinary sense, and I doubt very much if any person reading this statute, as it stands, would come to any other conclusion than that these words 'unless the Governor General otherwise directs' govern both the previous sentences, and imply that the Governor General has the discretion not only to submit the estimates for discussion but also to submit them to the vote of this House. The next question then is what are these exceptions which it is in the power of the Governor General to ignore if he so chooses? First, the interest and sinking fund charges on loans ; (2) expenditure, of which the amount is prescribed by or under any law ; (3) salaries and pensions of persons appointed by, or with the approval of, His Majesty or by the Secretary of State in Council ; (4) salaries of Chief Commissioners and Judicial Commissioners ; and (5) expenditure classified by the order of the Governor General in Council as (a) ecclesiastical ; (b) political ; and (c) defence. In this last clause, there is an exception within an exception. First of all, the Governor General in Council has got the power to classify expenditure under the heads ecclesiastical, political and defence. Now, Sir, if we were to arrive at a Convention, if we were able to give something in return to the Governor General in Council and so come to a compromise, it would be open to the Governor General in Council not to make any classification at all. He can do so if he chooses, for there is no statutory obligation on his part to make any classification. But if he does, though I say it is not necessary for him to do so, there is still another authority in the person of the Governor General who has the discretion to place those subjects before this House for discussion, and ask for a vote of this House on them.

I do not propose to deal in detail with the first four classes, because they refer to Statutory obligations, and, even if those items were included in the Budget, a vote upon them will be a mere formality. I cannot conceive of any occasion when this House may interfere with Statutory obligations imposed by this Act or any other Act, though it will have the satisfaction of having a vote even in respect of those items.

The most important, of course, is this sub-clause (5), Ecclesiastical, Political and Defence. If you examine the Budget of last year, as it was presented to the House - I have not been able to rectify the figures in the light of subsequent discussions, but I will take the Budget only as it was presented to the House - you will find that there was a total expenditure of Rs. 129 crores in round figures out of the revenues. Out of that, a sum of Rs. 24½ crores, *i.e.*, less than one-fifth, was votable by the House, and a sum of Rs. 104½ crores was not votable. Of this sum of Rs. 104½ crores, Rs. 66 crores was set apart for the Army. It was subsequently reduced to Rs. 62 crores, I believe. Political charges were about Rs. 2 crores, and ecclesiastical charges about Rs. 31 lakhs. The balance of this non-votable item, namely, Rs. 36 crores was for what may be described as the civil administration. All this was non-votable. So that, you see, Sir, that every five rupees in six was not votable. The Army alone was responsible for half our total expenditure. This is a very old question, which has been debated both in this Council and in other places and in newspapers, but the time has arrived, when it has become necessary for the Executive Government to satisfy this House, in order that the Members of this House may afterwards satisfy the country that all this enormous expenditure is necessary in the interests of the country. We are accused, Sir, of not co-operating with the Government to the extent to which the Government expect, but the Government fails to realise our own position. When we are told that, out of this revenue of Rs. 129 crores the first bite is taken by the Military Department, we are not even allowed formally to scrutinise any item. We are not allowed to debate questions of policy, we are not allowed to see what frontier defence means, we are not allowed to see how the Army does its work, and yet we are expected to go and tell the country that what the Executive Government does is right and, therefore, they must accept it. Now, Sir, I put it to you that, in your own interests, it would be better and more expedient, especially in the present political condition of the country, to lay your cards on the table and here, on the floor of the House, satisfy every Member of this Assembly that this expenditure is required and that India cannot defend herself unless this expenditure is incurred, and I assure you that there is not a single Member of this House who will not stand by you. What you want us to do is to go out to the country and tell the people that this expenditure is necessary, that their attacks upon it are ill-advised and that the safety of India depends upon this expenditure. If you do what I have asked you to do, we shall have got something to say. But here, in this position, what can we tell? All my knowledge of the Army is gathered from a memorandum that I read last year, from an informal discussion that we had on one or two occasions and from the newspaper reports that we read now and again. Is that sufficient knowledge upon which we can conscientiously go to the country and say that what the Government is doing is right and that the defence of India requires an enormous expenditure? Do you suppose, Sir, that, if we had this power which we are asking for, we would exercise it in such a way that the defence of the country would be in jeopardy? Do you think that we shall wipe out our national debt if it was submitted to our vote? Do you think that the churches will be closed down or that anything dangerous to the interests of the country will be done by us? On the contrary, if you trust us and if you place more responsibility in our hands, we would exercise it in a far more responsible manner than we are expected to do under the present conditions, because, now, while you saddle us with responsibility, you do not allow us to scrutinise your own position

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Why should you expect us to take any responsibility if you do not take us into your confidence? Why are you so afraid? If you are able to lay the cards on the table and satisfy us that you are playing a proper game, there can be no question that the whole House and the whole country will be with you.

Now, Sir, I know that Government will come forward with certain objections. First of all, the Governor General in Council will say that, even if my legal contention is right, they cannot do anything. In fact, the answer has been given more than once that it is not the function of the Governor General in Council to advise the Governor General. When I received such an answer in a formal letter, I said to myself: 'If that is the conception that the Governor General in Council has of his duty, the sooner we get rid of him the better.' They may, of course, take their stand behind the letter of the constitution and say that the Governor General in Council cannot advise the Governor General. But, I think, Sir, that we are entitled to assume that the Governor General, isolated as he may be constitutionally, keeps himself in touch with what is going on in this House and in the country, and that, therefore, he knows what our opinion is and realises what we ask him to do. But, even if he did not take any interest in our proceedings, even if he never followed the debates and never read the papers, still there is a procedure by which we can bring matters to his notice. I will briefly refer to that. It is provided for in the Rules—Rule 138 on page 47 of the Legislative Assembly Manual of Business and Procedure. It says that communications from the Assembly to the Governor General should be made by a formal address after a motion made and carried in the Assembly, or through the President. If this House accepts this Resolution and if our Honourable friends constituting the Governor General in Council have any doubt in their mind as to whether they can convey this message to the Governor General, a second motion may be made on this subject for moving an address to the Governor General and praying that effect be given to our Resolution of to-day.

Then, we shall be told as we have been told before, that the Governor General in Council is responsible to the Secretary of State and through him to Parliament and, if he gives up any of his powers here without consulting the Secretary of State and his colleagues in His Majesty's Government, that responsibility cannot be properly discharged. Sir, what is the implication in that, what is the assumption? It means that if the Governor General in Council entrusts us with these more extensive powers, then these powers will be so exercised by this House that he will be prevented from performing his duties properly and carrying out his functions in the manner contemplated by the Government of India Act. Speaking for myself and for many Members of this House, I repudiate such a charge. We shall do nothing that will prevent the Governor General or the Governor General in Council from carrying out his or their statutory duties and fulfilling his or their responsibility both to the Secretary of State and to the House of Commons.

So much for the legal aspect of the case. I shall now just briefly point out some of the practical reasons why the Governor General should try and meet us as far as possible if this Resolution is adopted. The Governor General in Council has got to realise, as we also realise, that the Government of India Act has created a most impossible constitutional position, both for

the Governor General in Council and for ourselves. As reasonable men, we have got to get out of that impossible position by coming to such a compromise as will prevent that impossible position from wrecking the Reforms. What do we find by looking at it from the point of view of the Governor General? You find an elected majority in this House, an elected majority of Members which has not yet, if I may say so without disrespect, come into its own, a majority that has always been amenable to reason, has always listened to argument, and has always been willing to listen to anything that will conduce to the best interests of the country. I see some smiles on the Treasury Benches, because there have been occasions on which it has been said that we have not listened to reason but had made up our minds before coming to the House. I think that argument applies to both sides of the House. (Laughter.) But you have got to reckon with the possibility of this elected majority not being always with you if they find that you are unreasonable in the execution of the powers entrusted to you and in the discharge of your duties towards this House. That is a factor which has got to be taken into account, whether it becomes important immediately or hereafter. Then you have got now a deficit budget. We do not know, I am not in the secrets of the Finance Department, but it is conjectured, and it is being commented upon, that the deficit this year will probably be anything between 30 and 40 crores. That deficit has somehow to be met out of additional taxation or perhaps, I do not know, the fertility of the Finance Department's brains may devise some other method. It is an unfortunate circumstance that this House, as soon as it has come into being, has got to meet a deficit Budget. Last year the deficit was 18 crores. (*An Honourable Member*: 19 crores.) This year we may have anything between 30 and 40 crores. That deficit, the country will say,—and many reasonable men will say, is due to army expenditure. Of course, the anticipations of the Finance Member may not have been fully realised, customs duties have not flowed in as he expected, Exchange also has not behaved satisfactorily, and a number of unfortunate events have happened. But the fact still remains that there is a tremendous deficit, and this House, which was inaugurated by the Reforms, has got to be a party to additional taxation without any chance of scrutinising the most important item on the expenditure side. How does the Honourable the Finance Member think this House is going to listen to such proposals unless, as I say, on the floor of this House he satisfies us that this deficit was due to causes over which nobody had any control, that the army had to run on its present lines and that no reduction is possible.

Let us turn to the other side of the picture. Supposing that the Governor General in Council does not think it advisable, from his point of view, to take this House into his confidence, I do not wish to be misunderstood, but would it be a matter of surprise if, as reasonable men, the Members of this House consider themselves justified in exercising the powers that have been conferred upon them by statute. If the Governor General in Council will not exercise his discretion in order to ease the situation, this House will be compelled to exercise its powers, constitutionally conferred upon it. I pray that this may not be taken in the nature of any threat because we have not the slightest intention of making any such threat, but I am just trying to point out the impossible position that may be created if some sort of compromise is not arrived at before long on this point. What is it that we can do? We can hit you all round. We can run amock. At present, if you

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look at your demands, for instance, in respect of general administration, you will find that we can close down every important office and give the Governor General a holiday. If his pay is not on the estimates, practically all his staff is. We shall dismiss his stenographer, his *chaprassi*. (Laughter.) We shall refuse his hill allowance and he can do what he likes. With regard to the Army, we shall say to the Army Secretary : 'Your pay is not on the estimates. But you will not have your superintendent, your stenographer. We won't give you servants, and you can stay in Delhi and enjoy fresh air.' In the same way, we can disintegrate practically the whole administration. Then we have got last year by a fortunate chance this convention established that the Finance Bill is to be in operation for one year only at a time.

That Finance Bill includes one of the most important sources of your revenue—the Income-tax—besides other taxes. Income-tax and Customs are the two most important sources of your revenue. We will say : 'All right, you don't show us how you spend your money. We won't pass your Finance Bill.' The idea is to make the Civil and the Military Departments fight like Kilkenny cats, so that the Civil authorities may prevail upon the Military authorities to put their Budget on the table of the House and internecine warfare may go on to the advantage of the House in the long run. Then, against that, of course, the Governor General may say : 'Oh, yes, you may do what you like. I have got my extraordinary powers. I shall restore these items that you have rejected. I shall get the Finance Bill passed through my Council of State or if the Council of State does not pass it, I shall pass it under my extraordinary powers, and also Parliament has got paramount authority to legislate for the whole Empire and what you cannot do in this House, we shall get done by Parliament.' But, Sir, is not that going a much longer way than is necessary to go first to compel us to exercise powers in a way which may lead to a deadlock and then compel the Governor General to use his extraordinary powers in this extraordinary fashion? Would it not be simpler for him to place the whole of the Budget, especially the Army Budget, before the House, and, if the House rejects any item, would it not be simpler for him to restore that item, as he may under section 67-A to which I have referred? Clause 7 of that section reads as follows :

'The demands as voted by the Legislative Assembly shall be submitted to the Governor General in Council, who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.'

Clause 8 runs as follows :

'Notwithstanding any thing in this section the Governor General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquility of British India or any part thereof.'

Now, as practical men, with practical commonsense, which is the safer course for the Governor General or the Governor General in Council to adopt the extraordinary course of compelling this House to use its extraordinary powers, followed by retaliation by the Governor General or the Governor General in Council by the use of their extraordinary powers, or this simple remedy by which if this House cuts down any military expenditure on insufficient

grounds to restore those grants. You may take it, Sir, that knowing that the Governor General has got the power to restore any item that is rejected by the House, this House will take good care that it does not place itself not only in the wrong with the Governor General but with the public. This House cannot with impunity reject items which the Governor General must restore, any more, Sir, than can the Governor General continue to over-rule us by the extraordinary powers that he has got. He may do it once or twice, but the time will come when he will realise that his extraordinary power must be reserved for extraordinary occasions and that in any case extraordinary occasions should not be created by any person who has not extraordinary powers in his hands. One point more and I shall finish. As I pointed out to you, an impossible position has been created, or, if it has not been created, can be created. This House will, in the ordinary course, be dissolved in another two years. It is possible, Sir, that you may find that, after all, you have not had to contend against very stubborn majorities in this House, as it is constituted. You may find that, in spite of our demands being reasonable, we may be in a minority. But take it from me, Sir, that, when this House is replaced by another House, you will not find men so reasonable as you have found us. If you are not reasonable to them, they will not fail to be unreasonable to you, and they will use their powers to the utmost and they will create a deadlock in this House because the majority will be theirs. Then what will you do? Will you come to terms with those of our critics who have kept out of the House and who have avoided your Council, who are abusing you every day and who will come here to abuse you, or will you come to terms with this House which is prepared to stand by you, provided you stand by it, which is willing to assist you in every possible way and to enable you to carry out your constitutional duties provided that you allow it also to feel that it is in a position to perform its duty towards the public to whom it owes its existence? Sir, any practical man would say: 'I will make my terms now, because I can get better terms. I will not wait until I have got to surrender.' I therefore appeal to you, Sir, to be reasonable. If you have got any doubt as to the legal position, give the benefit of the doubt to this House and do not give yourself the benefit of that doubt, for there is nothing, I submit, to prevent you from exercising your discretion in a way conducive to peace and harmony between the Governor General in Council and the Members of this House. These are not hard terms that we are asking for. They are reasonable terms. If you refuse them, you will find that you will be responsible, if hereafter a state of affairs arises which makes the business of this House difficult, if not impossible.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): Sir, two vital questions are raised by the Honourable Mover's Resolution, one the construction to be placed on section 67-A of the Government of India Act, and the other one of expediency. If the Honourable Members will turn to paragraph 3 of section 67-A of the Act, they will find that the language used in that clause is somewhat ambiguous; for it says that:

'The proposals shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor General otherwise directs.'

It is perfectly obvious that, placing upon this clause the narrowest construction possible, the Governor General is entitled to direct that the proposals may be open to discussion. Of this, there can be no doubt. It is an old power.

[Dr. H. S. Gour.]

But the question as to whether the Governor General has further power to direct that the proposals shall be submitted to the vote of the Legislative Assembly raises in the minds of some Members some doubt; and that is the crux of the whole case. I submit, as the Honourable Mover of this Resolution has pointed out, that, if there is any doubt in the construction of this clause, that doubt should be resolved in favour of this House. It is an exceptional clause, and exceptions must be narrowly construed. It is not intended to limit the power of this House and I, therefore, venture to think that, if there is any doubt, as I admit there is, it must be decided in favour of this House. But, whatever may be the attitude of the Honourable Members on the opposite Benches as regards the submission of the proposals to the vote of this House, there can be no doubt that it is open to the Governor General to permit discussion of the proposals enumerated in that clause. So much for the law. Now, as regards the question of expediency, I am extremely glad to find my Honourable friend, Sir Godfrey Fell, present in the House. Honourable Members will recall the Budget discussion that took place in this House last year, when the Honourable Sir Godfrey Fell, speaking for himself, if I remember aright, opined that he should be glad if the military Budget was open to the discussion of this House.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : To the vote of this House.

Dr. H. S. Gour : And to the vote of this House ; if I am wrong, the Honourable Member who is here will correct me. Now, that is as regards expediency, and expediency regarding a matter upon which the Military Department seem to entertain no doubt. As regards other matters, interest, sinking funds and the like, these are of subordinate importance. As the Honourable Mover has pointed out, the most important expending Department of the Government of India is the Military, and, if the Secretary of the Military Department, speaking here for himself, had no objection to the discussion and vote of this House on the military Budget, I think there should be no difficulty whatever for the Government to accede to the proposal now made. I do not wish, Sir, to anticipate the gloomy forebodings of the coming Budget. I hope and I devoutly hope, that the deficit adumbrated by the Honourable Mover will not be so appalling as he has forecasted. If it is, it will create the gravest constitutional crisis in the history of this House. I do not wish to go into the details of that Budget, because it is not before this House, and I should commend the proposition which the Honourable Mover has made for the acceptance of this House without reference to what is possible in the coming year. We should confine our case to the broad issue that this question raises. Last year, when there was a discussion, judging from newspaper reports, it was said that the Right Honourable the Secretary of State for India expressed the opinion that the Government of India Act had yet not been exploited. Well, Sir, I do not know what were the *ipsissima verba* of the Secretary of State's message. I hope the Honourable the Home Member will take us into his confidence and tell us what that despatch was. But be that as it may, popular feeling in this country is that we must exploit the Government of India Act before we go any further. An attempt was made here the other day by one of the Honourable Members of this House when he asked the Government to appoint Standing Committees and associate them with the various branches of the administration. My

friend, Mr. Spence, and my friend, Mr. Darcy Lindsay, strongly advocated the appointment of Parliamentary Under Secretaries, and that is a matter upon which this House is unanimous. Now, these are matters upon which, I submit, it would be futile for the Government to refuse to act. This proposal is, moreover, in the nature of an olive branch presented to the Honourable the Finance Member who is drooping his head, no doubt thinking of what he will have to say in the ensuing months to justify his budget. But I assure him and his fellow-colleagues in this House that his task will be lightened and his way made smooth if he accedes to the extremely modest and reasonable proposal which the Honourable Mover of this Resolution raises before the Government. If the Government receive these proposals in a sympathetic spirit, they may be sure that they will receive a sympathetic response to any proposals that come from the other side of the House. There must be reciprocity in matters of this kind. I am told, Sir, that the stronghold of irresponsibility cannot be breached by any soft words that may come from this side of the House, that that stronghold can only be stormed by weapons far more powerful than the simple worded Resolutions which private Members move in this House. But I still have confidence in the Members of the Executive Council and hope that, while there is time, they will at any rate take the leaders representing public opinion in this House into their confidence and make their own and our task easy. If they receive this Resolution in that spirit, I think it will bring peace and harmony in the coming months, and I assure the Members of the Finance and the Home Departments that this is a Resolution which must not only receive the assent but the unanimous assent of the Government Benches, not in the interests of the public or of this House, but in their own interest.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhammadan Urban) : Sir, I beg to support the Resolution which has been moved by my Honourable friend, Mr. Ginwala ; but I must say at the very outset that all this talk about peace and compromise, about deadlocks and the coming budget, are utterly irrelevant to the issue which this House has got to consider at the present moment. It is a very simple question which this House has got to consider and it is this. Having regard to the provisions of law on the subject, is it open to Government to allow us to discuss and to vote on those items that are regarded as non-votable? If that be so, is it expedient, is it wise that that step should be taken by the Government of India? As regards the first question, Sir, happily the Honourable the Law Member is present here ; he will be able to enlighten the House whether or not it is open to the Government of India to take this step under the statutory law on the subject. I venture to hope that his opinion will be in favour of the view just now being put forward by the non-official Members. If that be so, then, I submit, the large question, the really important question, remains, is it expedient, is it wise to grant this right to this House? I shall beg this House and I shall beg the Honourable Members who represent the Government to dismiss from their minds all that has been said or suggested, and, might I say, insinuated, as regards the future attitude of the non-official Members towards the next budget or towards other questions that might come up for consideration. I put my case on this simple ground. If, as has been repeatedly said, there is an earnest and sincere desire that these Reforms should be made successful, is it not then in the fitness of things that this right should be given to the non-official Members? If we can be trusted to vote with a proper sense of responsibility on certain

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items, why should we not, I ask, be trusted to vote as regards some items which are considered non-votable up to the present moment? Sir, I submit that, if you place confidence, confidence will beget confidence. There is the feeling in this House that the non-official Members of this House are not really trusted with votes on important items. Sir, as far as the non-official Members of this House are concerned, the Government, I do sincerely hope, will give them credit for a sense of responsibility, and for the sense of restraint with which they have acted so far. Of course, I need not repeat here the opinion that is held about this House outside in the country by a particular section of our people. So, Sir, I shall submit once more that if you look at the question from the broad statesmanlike point of view, the conclusion, I respectfully submit, becomes strong if not quite irresistible, that you should extend and expand the powers that are being used by the non-official Members of this House. When the non-official Members realise that they have got to consider the Budget as a whole, they will feel that the responsibility is theirs for the entire Budget and not for the Budget in bits. What they find to-day is this; they see in the Budget certain items which are non-votable over which they have got no manner of control; and the votable items—I do not mean to insinuate anything objectionable,—are really not so important as the items which are noted down as non-votable, and, therefore, naturally they feel that the power that has been given to them is not all that they ought to have. I, therefore, submit that, for the working of these reforms, in order that the goal of responsible Government might be brought nearer, it is necessary that Government should give this right to the non-official Members; and that it can do, I submit, without any reference either to Parliament or to any higher authority. That power, if my submission about the legal aspect of the matter be correct, can be exercised without any reference, provided the Government is satisfied that the grant of that privilege to the non-official Members will be expedient and wise. I do sincerely hope that the action of the non-official Members, so far, has been such as to induce the Government to grant them the right that they are asking for.

Rao Bahadur C. S. Subrahmanayam (Madras ceded Districts and Chittoor : Non-Muhammadian Rural) : Sir, at the last Simla Session, when Mr. Majumdar brought forward his Resolution to alter the constitution, I spoke against his motion. No doubt, I might have been disagreeable to a considerable body of my friends, but my argument then was that we ought to work what we have got under the Government of India Act for what it was worth. That was the statement I made then, and now we have to-day placed before the Assembly a proposal to work the Act as it is without going beyond the confines of India; that is, that with the power which is vested in His Excellency the Viceroy, we could make certain advances, and the request that is now made by this Resolution is to make such an advance. Apart from the detailed arguments which have been submitted by my Honourable friends who have spoken before me, I think on this one ground, that the Government ought to lead us, step by step in matters which are entirely in the hands of the Government, on that ground I think this Resolution ought to meet with the approval of Government. The great objection to asking for changes outside the Government of India Act was that it would be a difficult thing to approach Parliament, and Parliament is not always in good humour: its temper is sometimes ruffled by what the

Assembly does on this matter or that ; and therefore it would not be expedient, it would not be politic, to go to Parliament for changing the constitution itself. But such changes as are permissible under the constitution, such changes as could be made by the Government of India or His Excellency the Governor General, I think, ought not to be opposed. And, if once that attitude of opposing everything, even a modest request from us, is assumed by Government, it only strengthens the hands of those who have sincerely, or for purposes of agitation, assumed an attitude of disdain of this Assembly. A great argument which carries weight outside the Assembly, is that this Assembly, while it is earning a name for moderation, for responsibility and other characteristics, which are now and then thrown out for its gratification, that this Assembly has not done anything definite, or has not been able to achieve much in the way of liberalising the present Government.

Well, Sir, there is a good deal of truth in this. It cannot be said that we have really achieved much. No doubt we have been told, and we believe also that we are on the way to achievement. But it is one thing to be on the way to achievement and it is quite another thing to achieve the object and show tangible results. From that point of view, I would say that it would be a very proper and graceful thing to accept this Resolution. Well, I ask wherein lies the danger if this Resolution is accepted? I cannot see any, because if we go wrong—and who does not go wrong—there is the power vested in the Governor General of veto, and we are not likely to act in a matter of such vital importance to court the exercise of that authority. We know our responsibilities and, when we make a proposal or resolve upon a particular course of action, we shall no doubt, conscious as we are of our defects and shortcomings, take care not to court a veto against our action. Therefore, there will be absolutely no danger whatever if this Resolution is accepted. On the other hand, it will only strengthen the hands of the Members of this Assembly in their attitude of defending the Government outside this House, and it would, in a great measure, inspire confidence in the utility of this Assembly. Well, Honourable Members remember His Excellency the Viceroy's speech at Simla, advising us not to limit our activities to work in the Assembly alone but, when we went out of this Assembly, to explain to the people outside the attitude of Government and tell them that everything that is good and useful is being attempted to be done so as to nullify the mischievous attacks of agitators outside. We have done so, or at any rate some of us have tried to follow this advice, and tried to explain, not on large platforms, but in small rooms, the attitude of the Government of India. We have also tried to explain how sympathetic, how reasonable, how cordial and how ready the Government of India are to meet our reasonable demands. That, as I said, many of my friends and I myself have done. Now, at this Session we have had some burning questions already before the House, and to-day we have placed before this Assembly a Resolution which tests the sincerity, the confidence and the cordiality of the Government in regard to what has been said in the past. Therefore, I appeal to my Honourable friends to support this Resolution whole-heartedly, because there is no lurking danger in it, and it is not possible that this power can be misused by this Assembly.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions : Non-Muhamadan Rural) : Sir, it may be said that the recommendations of the Joint Committee are in conflict with the section on which my Honourable and learned friend now relies. I wish, therefore, to read the relevant passage from the Joint Committee's Report :

[Mr. J. Chaudhuri.]

'The Committee consider it necessary (as suggested to them by the Consolidated Fund Charges in the Imperial Parliament) to exempt certain charges of a special or recurring nature which have been set out in the Bill, for example, the cost of defence, the debt charges and certain fixed salaries, from the process of being voted'.

Mr. N. M. Samarth: Read the next line.

Mr. J. Chaudhuri:

'But otherwise they would leave the Assembly free to criticise and vote estimates and expenditure of the Government of India.'

I read these last lines at the request of my Honourable friend, Mr. Samarth. But I see no conflict between the recommendations of the Joint Committee and section 67-A 1) (3) as enacted now. I need only remind the Honourable the Home Member, who will very likely speak on this subject, that, whatever the Committee might have said in their report, may not now be taken into consideration for the interpretation of this section, but I am not going to be technical at all. I say there is no conflict between the recommendations of the Joint Committee and the section as eventually enacted. The section gives a discretionary power to the Governor General. Now, the whole question is whether the Governor General is prepared to exercise that discretionary power at the present moment, and we say that, without any misgivings, His Excellency may exercise that discretion, according to the wishes of this House. I need only mention that the Committee's recommendations are based on the analogy of the Consolidated Fund Charges in the Imperial Parliament. I shall say only a few words with regard to the expression 'Consolidated Fund Charges'. As it is, the maintenance of the Army in England does not entirely depend upon the passing of the Appropriation Bill. Here I mention this for this reason, that ours is an infant institution, and, so far as practicable, we should follow the same procedure as is followed in the House of Commons. It will be impossible to maintain the Army or Navy in England if the expenditure in connection with them entirely depended upon the Appropriation Bill, or, at any rate, if it awaited the passing of the Appropriation Bill. The procedure followed in the House of Commons is this: On the 31st of March, or just before, a Consolidated Charges Bill is introduced. It does not give any detailed estimate of the Army expenditure, but it only obtains the sanction of the House, authorising the Treasury to pay out of the consolidated funds the expenditure for the Army and the Navy. If this process were not followed, many difficulties would arise. I say that, if a similar Committee was appointed here, and the Military Budget was introduced in this Assembly on analogous lines, there is no reason to apprehend that this House will not be prepared to pass a vote for sanctioning the expenditure in connection with the Army. This Consolidated Charges Bill not only brings in supplementary estimates of the expenditure which have been incurred by the Army over and above what was sanctioned in the previous year under the Appropriation Act, but also makes provision for prospective charges. If the Military Secretary and the Finance Member are prepared to explain to the House the reasons for which this money is wanted, I do not think that this House will be wanting in its sense of responsibility to give its sanction to it. All that the House desires to do is to keep an eye over the expenditure, be that in the Military Department, or be it in the Civil or any other Department. That is the function of the representatives

of the people. It is for the experts to lay their case before them and it is for the latter to criticise and suggest economy where practicable. So I say that, in such circumstances, there is absolutely no apprehension that, if this procedure is followed, the upkeep of the Army or the sanction of the Military expenditure or the safety of the Empire will in any way be jeopardised. I may also mention that in connection with the Appropriation Bill, the details of the Army may be furnished to the House, but, so far as I am aware, neither in the Consolidated Charges Bill nor in the Appropriation Bill are the prospective increases in the strength or rank of the Army given in detail. The Army Act itself provides that, in case of necessity, the military authorities or the War Office may meet the requirements and raise the Army to the necessary strength. I believe that the object of it is that it is not always advisable to disclose the details of military defence in all its detail to the House, which then becomes public property. So, I say that, with necessary safeguards, the procedure that is followed in the House of Commons may, without prejudice, be introduced into this House. It will give us training in the due discharge of our responsibility to the country and to the Government. It will have to come, and I think it is very desirable that a beginning should be made, and the sooner the better.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): Sir, I do not know whether I am to congratulate my Honourable friend the Mover for launching this Resolution in this Assembly or to ask him to cry halt and point out to him that it is premature. My hesitation in the matter is due to the fact that, from the time this Assembly started last year up to this time, we have not met with any hindrance in the proper discharge of our duty in having some non-votable items in the Budget, and I do not find my Honourable friend has been able to make out a strong case in support of his Resolution. It is for this Honourable House to decide the point.

I may also point out that exercise of rights and privileges has with it a corresponding performance of specific duties. I have my own doubts whether we are doing our part of the contract before we ask the other side to do theirs. In my infancy I learnt a phrase which is: 'First deserve and then desire'. Whenever I give any consideration to this Resolution, the expression above comes vividly to my mind. I ask the Honourable House to give proper consideration to this point as well. My Honourable friend the Mover said that the Executive officers of the Government are the natural enemies of the Assembly or of the country. I believe my Honourable friend does not mean what he says, and I ask my Honourable friend the Mover to enlighten the House as to whom he considers his natural friends. Are they the extremists or the non-co-operators? If he considers them as his natural friends, I may point out to him, with all humility, that my Honourable friend has come to a wrong place. He ought to have been among his friends and not among his enemies. There is a party in this country outside this House who wants to straighten the Government by kicks, whereas we have got a party in this Assembly who wishes to straighten the Government by kisses. I can say, at the same time, that the Government will find the kisses more uncomfortable than the kicks, and I think the Government will like immediately to extricate itself from such friendly embraces.

With these few words, Sir, I oppose the Resolution.

Dr. Nand Lal (West Punjab: Non-Muhammadan): Sir, as you know, we are a party to taxation, because we call upon our people to pay taxes. When we do like that, we are called upon by them to explain why we have taxed them. Our reply to them naturally, as this House will presume, is that we have examined each and every item and we have arrived at the conclusion that the demands are right. Sir, do you know what reply they give to us in replication? They say: 'No, you are wrong. You are in a fools' paradise.' Sir, I think they are right when they level this criticism against us. They say: 'You have not got the right to vote. There are certain items which you particularly skip over and which you have not got the privilege to criticise in a true sense. You cannot scrutinise them effectively, because they are 'Non-Votable' ones. Therefore, we are fully justified in telling you that you are not doing the duty of a really good representative. You are allowing these items to be passed which you do not really get a chance of scrutinising though nominally they are placed before you. Are you doing your duty properly?' Then we feel constrained to tell them: 'Certainly your criticism which has been launched against us is well placed.' Now, we ask the Government of India, Sir, to kindly come to our help and save us from this criticism. It is quite probable your demands may be perfectly right, the items which you claim for military expenditure may be perfectly justifiable. Your demands may be correct. Give us the right of voting. We shall not prove disloyal to the promise which we hold out this afternoon in this House that we shall help the Government and pass the items if the demands are legitimate and reasonable and the money is really required. Now, logically speaking, we are asked to pass a certain Budget, but that Budget practically is not before us in its entirety because we are not entitled to criticise and we do not possess the power of voting. We simply seek for that power, and this prayer, Sir, is very modest. This is what we want, and we do not wish to see the Government hampered. We quite realise the responsibility of the Government. Sometimes the Government requires to spend money and they do not like to lay all the items before us, because some of the items are confidentially spent. We pray that we may be taken into their confidence and we shall not betray that confidence, we shall never stand charged with a breach of confidence. We put forward that solemn promise. While saying like that we feel that it is our legitimate right to lay our claim to that privilege, *viz.*, power. Now, as you know, there is a general cry in the country that the military expenditure is appalling, is too high, and I think some of the official Members will sympathise with the criticism that a very exorbitant sum of money is spent. As a matter of fact, we sometimes feel constrained to say that Government is spending this money lavishly, and on certain occasions I was compelled to give expression to this humble view of mine that the Military Department is spending money lavishly, and that that Department does not give us sufficient reasons for that expenditure.

All these remarks and criticisms will be answered and the criticism levelled against us will be met when once we have got the privilege and power of effectively examining every item. This is what we want. The subject has already been discussed fully. Consequently, in the interests of the economy of time and brevity, I finish my remarks praying that this Resolution, which is very modest in its terms, may be accepted unanimously.

Rai D. C. Barua Bahadur (Assam Valley, : Non-Muhammadan): Sir I beg to support this Resolution entirely. It is asserted in some quarters, and

perhaps in many quarters, that the Reforms given by the present Government of India Act are inadequate. Why is it so asserted? My humble reply is that the absence of the boon we are asking for in this Resolution is perhaps mostly responsible for that sort of criticism or attitude taken up by the people at large. It is not only said by the non-co-operators but by co-operators and the people at large, that the Reforms granted to us are inadequate. In my humble opinion, Sir, if this boon had been given at the outset, perhaps the non-co-operators would not have had the occasion to say or to assert that the Reforms were inadequate. It was expected in almost all quarters that the powers given to the people were substantial powers, but, as was rightly remarked by my friend, Dr. Nand Lal, it is always asked by our constituents whether we have been enjoying the powers of voting in respect of expenditure, and when we say 'No,' they are surprised and they come down with the remark that the Reforms are all sham. Sir, as kindly advised by His Excellency the Viceroy in opening the Simla Session recently, I visited some of my constituencies in order to make some consultations during the recess after the Simla Session, and even before that I did the same thing although we were not advised by His Excellency the Viceroy, and the inquiries made by our constituents were generally as to whether the military expenditure will be reduced in the next Budget. My humble reply to them was invariably that it depended upon the people, that it depended upon the people's behaviour, because if the people grew disorderly they would have to pay more taxes to meet the military requirements and the Budget might rise to 80 crores, but if they behaved more soberly, then the Military Budget might come down. When I said that the Military Budget might go up to 80 crores, my remark and advice to them was that the Government would be quite justified in enhancing the Military Budget to 80 crores, even if that amount should be required to meet the exigencies of the time; that is, if the people grew more disorderly, if there should be more internal disorder, to put down those disorders, the expenditure might be more. That was and is the mentality of my humble self and I think that mentality is also shared by many of my Honourable colleagues in this House. If that is so, what is the occasion for the Government to distrust us? So, there is no occasion whatsoever for the remark that we do not deserve such powers. We really deserve such powers and we have that amount of commonsense that we will support Government for the maintenance of peace and order, and for that purpose at least expenditure is required. Government would still be going on if that one-fifth of expenditure over which we have the power to vote had been withdrawn or had not been granted to us and the country would not have run to the Indian Ocean. My humble remark, then, Sir, is that if one-fifth could be given to us, the remaining four-fifths also might be given. There could be no danger, no harm in doing so, but, if there should be any danger apprehended at any future time, my friends in the Government Bench might come forward with proposals, or Resolutions or even Bills to curtail some of the powers that have been entrusted to us, and the things could be put in proper order. But let experiment be made in the meanwhile and let us enjoy the whole boon that has been asked for in this Resolution. With these remarks I humbly support the Resolution again.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I support this Resolution which my Honourable friend has so

[Lala Girdharilal Agarwala.]

ably moved before this Honourable House. I beg to submit one point which perhaps has not been fully dealt with by other Honourable speakers and it is this. My Honourable friend, Dr. Nand Lal, has said that we shall not betray the trust that may be placed in us. I submit that the Resolution, as put in the agenda paper, even if passed, would do no harm, in view of the clear provisions of the Government of India Act and the Manual of Business which I will lay before the Honourable House presently. The Resolution reads as follows :

‘ This Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between ‘ Votable ’ and ‘ Non-Votable ’ items in the Budget, and to submit the whole of the Budget to the vote of this Assembly.’

Now, section 67-A of the Government of India Act lays down as follows :

‘ The estimated annual expenditure and revenue of the Governor General in Council shall be laid in the form of a statement before both Chambers of the Indian Legislature in each year.

(2) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor General.

(3) The proposals of the Governor General in Council for the appropriation of revenues or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor General in Council directs—

(i) interest and sinking fund charges on loans; and

(ii) expenditure of which the amount is prescribed by or under any law; and

(iii) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(iv) salaries of chief commissioners and judicial commissioners; and

(v) expenditure classified by the order of the Governor General in Council, as—

(a) ecclesiastical;

(b) political;

(c) defence.

(4) If any question arises whether any proposed appropriation of revenue or moneys does or does not relate to the above heads, and decision of the Governor General on the question shall be final.

(5) The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant.

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor General in Council who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(8) Notwithstanding anything in this section the Governor General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.

The Manual of Business further prescribes in Rule 126 :

If the Governor General in Council declares that he is satisfied that any demand which has been refused or reduced by the Assembly is essential to the discharge of his responsibilities and acts as if such demand had been assented to, or if the Governor General, in case of emergency, authorises such expenditure as in his opinion is necessary for the safety or tranquillity of British India or any part thereof, the Finance Member shall, as soon as may be thereafter, lay on the table of the Assembly a statement showing the action so taken by the Governor General in Council or the Governor General, as the case may be, but no motion shall be made in regard to that action nor shall the statement be discussed.

Therefore, I submit that even in cases where this Honourable House is required to vote on Demands, the result of the voting is merely a sort of advice and not a sort of order or command, because the Governor General in Council or the Governor General, as the case may be, has power to modify the decisions of this Honourable House. So, I submit respectfully for the consideration of this Honourable House that, even if we are allowed to add one more item to the business of this House, which some people call a debating House (I do not say it is a debating House, but some people call it so) and we are allowed to discuss and use our voices a little more, where is the harm? If the Governor General does not think we have done our duty properly and if he thinks that we ought to have granted more moneys, then he can modify. Similarly, the same powers, which the Governor General has got to modify the grants or to increase the grants of the Assembly in the case of votable items, could, in that case, be applied to those items which are at present non-votable but which we want to become votable, so that, in the end, the result would be the same. There will be no difficulty if the Governor General in Council accepts this Resolution, and I earnestly appeal to the Treasury Benches to see their way to accept this Resolution. In reality, it does not take away any right which, under the law, he possesses at present. The right is there. At present the Government have got a double armoury. Even one of them would be equally good. So I submit that, from all points of view, there is no difficulty in the least to Government. So far as our work is concerned, I submit it has been appreciated everywhere. We do not want to say anything from our own lips, but, looking to the fact that we have so far realised our responsibility and that even if the Resolution is accepted that would not take away any of the powers of the Government, there is no reason why the Government should hesitate to accept this Resolution.

Sir Godfrey Fell (Army Secretary): Sir, in rising to speak on this Resolution I wish to make it perfectly clear, at the outset, that I am not replying on behalf of the Government of India to the main Resolution. That will be dealt with, and much more ably dealt with, by the Honourable the Finance Member. My only object in speaking is to correct, if I can, one or two misapprehensions, which, I think, have been expressed by previous speakers, regarding the capacity of this House to consider the details of military expenditure. My Honourable friend, Mr. Ginwala, in his speech in moving the main Resolution—a speech in which, if he will allow me to say so, he stated his case with admirable lucidity and moderation—said that the Assembly was not allowed to know what the military policy is, that it was not allowed to know what our military expenditure relates to. And again, Dr. Nand Lal said that the Army Department does not give the Assembly any information on the subject. Now, Sir, I think that that is rather unkind. I would remind the Assembly that, at

[Sir Godfrey Fell.]

the very first Session, this time last year, the Army Department prepared a memorandum, which I have here: a memorandum running to no less than 17 pages of print, which was circulated to every Member of the Legislature, and in which we attempted, to the best of our ability, to explain, item by item, every detail of our Army expenditure, and in which we compared the figures with the corresponding figures for 1913-14. That memorandum not only dealt with figures, but it dealt also with the question of the policy which His Excellency the Commander-in-Chief and the Army authorities are pursuing in respect to the Army in India.

The next point I wish to make is that more than one speaker has complained that the Assembly has no opportunity of scrutinising our military budget. Now, Sir, I submit that the Army Budget forms a part of the Government of India Budget, which is laid before this Assembly. To the best of my belief, the details of the Army Budget are given quite as fully as those of any other civil Department of Government. I am not speaking now of the question of the Assembly being allowed to vote upon this Budget; that will be dealt with later. I am only pointing out that it is not quite correct to say that the Assembly has no power of scrutinising the military budget. Lastly, Sir, there is one other point. More than one speaker has said that the Assembly has no opportunity of criticising military expenditure. Well Sir, I disagree; for I recall two hot days in March last—hot in more than one sense of the word—I remember listening to speaker after speaker dwelling, to the best of my recollection, on very little else but military expenditure; I remember sitting cowering in this corner amid a shower of brickbats aimed at us from every corner of this House.

Mr. F. McCarthy (Burma : European): Sir, I shall be very brief. I rise only to make a suggestion. Generally speaking, I am in sympathy with Mr. Ginwala's proposition, though I would deprecate the somewhat threatening note of some passages in his speech, a note, which, I am sure, was quite unconscious. No harm can possibly be done by an extension on the line suggested by the Resolution, for the change proposed would be made under the direction of the Governor General, and, if we go wrong in this Assembly, the Governor General has full powers to set us right. Under the circumstances, I see no possible danger in the suggested change and I hope that the Government will see their way to meet, to some extent at least, the almost unanimous wishes of the non-official Members of this House. My suggestion is, Sir, that in the third line of the Resolution moved by Mr. Ginwala, the word 'coming' be inserted before the word 'Budget'; that is, that the change should be effected for the Budget of this year. My object is obvious. This is an experiment and I think it might be tried at once. We will see how it works and, if it does not succeed, we can see if some other change can be made. I suggest that the word 'coming' be inserted in the third line of the Resolution before the word 'Budget' the first time it occurs in that line. The Resolution would then read:

'This Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between 'Votable' and 'Non-Votable' items in the coming Budget, and to submit the whole of the Budget to the vote of this Assembly.'

Mr. President : Amendment moved : —

'That in line 3 of the Resolution the word 'coming' be inserted before the word 'Budget' where it occurs for the first time.'

Mr. P. P. Ginwala : Sir, I am willing that the word 'coming' be added as suggested by my Honourable friend, and that the Resolution, so amended, may be debated afterwards and put to the House.

Rai Bahadur Pandit J. L. Bhargava (Ambala Division : Non-Muhammadan) : Sir, no doubt the present Legislature exercises some control over the Budget, but this control, though in certain respects important, cannot be said to be real, as its scope is very limited so far as some of the most important items are concerned. The distinction between votable and non-votable items, which at present exists, is the real measure of this control. Sir Godfrey Fell has remarked that last year the military budget was fully discussed and a memorandum giving the details of the expenditure was circulated amongst the Members. This is no doubt correct ; but the real question is not whether the military budget is open to discussion or not ; the real question is whether the items which are called ' non-votable items ' are open to the vote of the Assembly or not. What this Assembly wants is that the distinction between ' votable ' and ' non-votable ' items should disappear. As regards the discussion of the military budget, it was allowed through the indulgence of the Honourable the President, because, if I remember aright, the rules did not allow a discussion of all its details and the Honourable the President was a little lenient in allowing the Members to discuss it. Sir, if it is true that the Legislature has done good work so far, if it is true that the Legislature has given ample proof that it realises its responsibilities in a proper manner, if it is true that the Legislature has shown moderation and sanity of judgment in its deliberations, if it is true that the Legislature has demonstrated its capacity for discharging the trust committed to its charge, then, to my mind, the time has come when the distinction between ' votable ' and ' non-votable ' items should disappear. The Legislature, as a part of the Government, is responsible to the country for its good government. That responsibility is, at present, exercised without the power to touch the matters which, in the opinion of the Legislature, make for successful administration. Moreover, if the realization of full responsible Government is to be progressive in reality, the first step in that direction should take the form of the abolition of this distinction. The Members of the Legislature are not likely to use their powers in such a manner as to jeopardize the interests of their country and they may safely be trusted to exercise them in a reasonable and conscientious manner.

With these words I support the Resolution.

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

The Assembly re-assembled after Lunch at Two of the Clock. Mr. President was in the Chair.

Sir Frank Carter (Bengal : European) : Sir, on the assurance of the Honourable Mr. Ginwala that the increased powers he asks for
 2 P.M. will not be abused by the Members of this House, I, on behalf of the non-official European Members of Calcutta and Bombay and others, desire to associate myself with the views represented by my Honourable friend, Mr. MacCarthy, and we support this Resolution.

The Honourable Sir Malcolm Hailey (Finance Member) : Sir, before I deal at length with this important Resolution, may I first of all make a few brief remarks regarding certain statements put to the House and which

[Sir Malcolm Hailey.]

seem to me to require correction. It is not of course the case that the Governor General could avoid classifying any expenditure at all as 'defence' or 'political'. Such a course would be unthinkable; if the Act really means that defence expenditure should be reserved from the vote, he could not adopt this device to bring such expenditure under the votable head; I think indeed that Parliament itself might reasonably object if he did so. Then, Sir, as to the amount of votable and non-votable expenditure. We had that question in reference during the debate last year. Various estimates were given to the House, but on a careful calculation I gave the following figures, which I should like to repeat to the House now. The votable expenditure charged to revenue is just over Rs. 94 crores, and that charged to capital is 18 crores—or a total of 112 crores. Non-voted expenditure charged to revenue is Rs. 105 crores, and charged to capital about Rs. 6 lakhs, making a total of just Rs. 105 crores. These are the figures. I will not say that they in any way invalidate the arguments put forward by my Honourable friend, Mr. Ginwala; but it is just as well to be quite clear regarding the exact area of votable and non-votable expenditure. Sir Godfrey Fell has already dealt with another point. Honourable Members who say that we do not give them an opportunity either of knowing what our military expenditure is, or that we do not give them a chance of scrutinising it, are obviously under a misapprehension. I doubt if any Government has placed before its Legislature fuller or more carefully prepared details than those which were placed before this Assembly last year in respect of our military and our political expenditure. And now, Sir, for the Resolution.

It is framed in wide terms, and I gather that it is so framed in view of the fact that the wording of the Act appears (as speakers admit) to allow of two alternative interpretations. Either the full discretion rests with the Governor General to open all expenditure to vote, or he has no such discretion, and if so, the law would require modification in order to allow the excepted classes of expenditure to be open to the vote. If the power rests with the Governor General, then it is a personal and a final power, and it follows (and this is a point which I wish to make clear, from the first to this House) that it is not the function of the Governor General in Council to make recommendations to the Governor General, in regard to the exercise of his personal power, nor can they in any way seek to sway his decision. Let me again repeat the alternatives as I see them; either no discretion lies with the Governor General, in which case this class of expenditure could not be opened to the vote without an alteration in the Government of India Act, or full discretion does lie with the Governor General, in which case the Executive Council would not be in order in making any recommendation to him on the subject whether on their own initiative or at the suggestion of this House. They could not undertake to this House to attempt to influence the Governor General in the exercise of a personal power voted solely in him.

Now if there are these two possible interpretations

Lala Girdharilal Agarwala: That is for the Honourable the Law Member to say.

The Honourable Sir Malcolm Hailey: We shall see. For my own part I naturally disclaim any intention to put forward on behalf of Government any authoritative interpretation of the wording of the Act; I confine

myself to suggesting that there is a reasonable doubt; and if so, that doubt obviously cannot be resolved without a reference to the Law Officers of the Crown. We are dealing with a British Statute. Mr. Ginwala placed upon the section the interpretation which, as he claimed, flows directly from the wording of the Act as interpreted by the ordinary canons used in reading the law. I would suggest however (and with the necessary deference) that in this case it is difficult to follow exactly the same procedure in reading the law as one would follow in a case which comes in the ordinary course before a Court of Justice. I would suggest that the case is somewhat peculiar; the Act embodies the delegation of certain constitutional powers from one Parliament to another; it almost might be said to resemble one of those cases in which high contracting parties commit their intentions to an agreement, and when a difference arises as to the interpretation of such a document, then it has to be viewed in the light of the previous history of the case and the intention of the parties. Again let me say that I am not attempting to put forward any decisive view as to the interpretation of the Act, but I merely desire, in the light of the acknowledged difficulty found in interpreting the Act, to put to the House the history of the manner in which this particular clause came to be drafted. It was not in the Bill of May 1919 at all, for I may remind the House that at that stage there was no question of placing the Budget before the vote of the Assembly. The matter took shape in the following October, and on the 31st of the month the Secretary of State introduced in the Joint Committee a clause providing for voting and discussion of the Imperial Budget subject to the proviso that :

'Nothing in this section shall require proposals to be submitted to the Imperial Legislature in regard to expenditure which is declared by rules under the principal Act to be a permanent charge on the revenues at the disposal of the Governor General in Council'.

At this stage, therefore, something in the nature of a Consolidating Fund was clearly intended, and the nature of that fund was to be declared by rule. Events were, however, moving somewhat rapidly, and on November the 3rd, the clause was re-drafted as follows :

'The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to heads of expenditure specified in the second Schedule of the Act shall not be submitted to the vote of the Assembly, nor shall they be open to discussion by either Chamber'.

So that you see the exclusion was still categorical; the main change was that the subjects which were reserved were to be declared by schedule instead of by rule. There followed a third stage on the 10th November. It is interesting, because it shows exactly how the discretion of the Governor General came to be mentioned. This is how it ran :

'The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor General otherwise directs'.

Now, it might not unreasonably be held that the manner in which the words 'unless the Governor General otherwise directs' came into the clause shows that it was intended that this discretion of the Governor General should refer entirely to discussion and not to vote, for you will see that the framers introduce simultaneously a mention of the discretion of the Governor General and of the fact that the Budget was coming under discussion. Now leaving here the point

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of history and coming to the point of intention, Mr. Chaudhuri has already quoted to the House the exact wording used by the Joint Committee in dealing with this matter.

'The Committee consider it necessary (as suggested to them by the Consolidated Fund Charges in the Imperial Parliament) to exempt certain charges of a special or recurring nature, that is to say, the cost of defence, the debt charges and certain fixed salaries, from the process of being voted.'

You see it is not there suggested in any way that the Governor General should have any discretion at all in the matter of opening these heads to the vote. Then again in introducing the Bill in the House of Lords, Lord Sinha also made it clear that he was thinking of the consolidated fund procedure. He said 'certain heads of expenditure are not to require the annual vote in much the same way as the consolidated fund in this country'. So that on the point of the history of the case and the intention of the Act it is at least reasonable to hold that the intention of the framers was that the discretion of the Governor General should be limited entirely to opening these matters to discussion and should not extend to opening them to vote.

I come now to a final point, based not on the history of the the clause or the intention of the framers, but on the subsequent tenour of the Act itself. If Members of the House will turn to sub-section (5) of the Act, they will find that there is no procedure provided in the Act by which matters such as defence, political or other reserved expenditure can be put to the vote of the House. The sub-section says :

'The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.'

Thus, if we give full effect to this sub-section, we should have no method by which these reserved cases could be brought before the Assembly. Let me be clear again ; I only adduce these considerations by way of showing that there is a real difficulty of interpretation, and Government is in consequence placing the matter before the Law Officers of the Crown.

Sir, as I have said, this Resolution has been drafted widely, and I quite realise that the real demand of Mr. Ginwala and his friends is that we should at once give some indication of the manner in which we would deal with this question. In effect he asks us this : 'Supposing that this requires an amendment of the Government of India Act, is Government prepared to support that amendment or not ?' I fully recognise the anxiety expressed by every speaker in this House on the subject. I fully recognise that the House, proud of its former achievements, anxious to establish those conventions which will give it an increasing position of power as against the Executive, would be deeply gratified if its members could add this fresh achievement to their credit,—if they could in fact go back to their constituencies and say : 'We have won from the Executive full power to vote every item in the Budget'. That laudable aspiration I recognise fully. It was not necessary, therefore, to support the case by some of the arguments used by my Honourable friend Mr. Ginwala. He told us that if we do not yield now to the feelings expressed in the House, the House could, and probably would, force a dead-lock ; that it would resort to every expedient, and if, for instance, it found itself owing to the section of the Act unable to touch the salary of a Secretary, it would deprive him of his establishment and would not allow him to travel to Simla. That, Sir, is a threat of a kind which I do not think he need have

made to us. We know full well what the powers of the House are, and we recognise quite well what are its aspirations. We have had to trust to its good sense in the best and must do so in the future. Again, he need not, Sir, have threatened us with what would happen when another and less reasonable House had to be faced by us. For that in itself is an illogical argument. If, as he says, this House is prepared to use reasonably and moderately the full powers which it claims, then obviously that forms an argument for giving it those powers. But what of the successor with which he threatened us? If we are now to concede those powers, if we are to abandon every guarantee, how are we to face that highly obstructive Assembly with which he threatens us in the future? Sir, I do not believe that this Assembly will, to use his own words, ever run amuck, and I do not think that it adds any force to his argument to prophesy that this House is likely to do so. Nor, Sir, was it necessary for Mr. Agarwala to point out that the concession, if granted, will be really a matter of minor importance on the ground that the power of the Governor General will still remain, and if necessary expenditure is refused by the Home it can always be restored by him. I need only confront Mr. Agarwala with the argument used by Mr. Ginwala himself. For while Mr. Ginwala suggested on the one hand that we can quite safely concede this power in respect of the military expenditure because the Governor General can always restore any particular item that may be necessary, he hastened to add on the other, 'He may restore it once; he may restore it twice; but heaven defend him if he restores it a third time.' Finally, Sir, it was not necessary for Dr. Gour to suggest that if we accept this Resolution, it would be a very easy way of getting over the difficulties that must occur when I present the next Budget. He pointed to my bowed head, Sir. Well, I like to think myself with the poet that "My head if bloody, is unbowed". The Government are prepared to face as best they may the difficulties that may be forced upon us by an adverse financial situation; and I would ask Dr. Gour to remember that you can do a great number of things with your Finance Member, but you need not attempt to bribe him. Sir, recognising as we do the very strong feelings entertained in this House on the subject, I say that these additional arguments need not have been used, and I should have been content, if they had not been put forward so forcibly, to have left them entirely on one side and gone on to deal with the substantive reasons which exist for retaining the present restrictions of the Act. For, Sir, there are substantive reasons. The decisive consideration in a matter of this importance is not merely the desire of the House, legitimate as that desire may be, to gain greater powers, or to place itself in a better position to meet its constituencies. I maintain that there is an actual reason why this reservation was placed in the Bill and why it should be maintained. Here again, let me go back a little into history. I will not go back in the past as far as my Honourable friend Mr. Majumdar did last September in talking on a parallel case, and hark back to the reign of Chandra-gupta. I shall confine myself to recalling to you the year 1919 when a number of political bodies in India, represented by deputations specially chosen for that purpose, put their case before the Secretary of State and the Joint Committee. What did the National Congress ask for then in regard to this particular question? I admit that the National Congress was, in those days, somewhat different from what it is to-day, for in those days it did not arrogate to itself the power of appointing a Dictator of India nor of substituting for the unpopular but still not entirely inefficient administration of the present

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its own chaotic mess of the future: I will quote to you what it asked for. Its demands were put forward by Mr. V. J. Patel, not, as experience has since shown, a very reactionary thinker. Paragraph 5 of the demands was as follows :

' The Legislative Assembly should have full control over the budget except in respect of the reserved subjects, the allotment of which should be fixed and be a first charge on the revenues.'

So that they contemplated reserved subjects the financing of which should not be voted on at all by the Legislative Assembly. Then, again, we had the deputation from the All-India Conference of the Moderate Party. They attacked the Government of India keenly on the ground that it was not prepared to extend the dyarchical system to the Central Government, but their memorandum did not attack this particular provision in the Bill, and the reason will be clear when we turn to the examination of Mr. Samarth who represented the case on their behalf. It is obvious that at this stage they did not even contemplate the control of the Assembly over the Budget. " We want," said Mr. Samarth, " some degree of Budget control in the Government of India "; just that; some degree of control; and again he said, " If the budget is going to be put to the Legislative Assembly ", mark the hypothetical case, " if the budget is going to be put to the Legislative Assembly of India no doubt that will be a welcome advance (Laughter), but if that is not going to be done, then, at any rate, we ask for an advisory finance committee to be set up in the Government of India which will be consulted and taken into confidence by the Finance Member before the budget is framed and placed before the Legislative Assembly of India." So you see that at that stage we were very far indeed from the suggestion that it was essential that the whole budget should be placed on the vote of the Legislative Assembly. Then take Mr. Sastri's evidence. " It is intended," he said, " to enact something like a consolidated list. I have no objection to such a fund being provided for and certain items being taken out of the annual vote of the Legislative Council, but I do trust that the Legislative Council will take care to examine items connected with the salaries of smaller officials." That was the limit up to which Mr. Sastri was prepared to ask for powers over the budget to be conferred on the Assembly. Now, of course, it is clear that we have gone far beyond what the Congress asked for, or the Moderate Deputation asked for, or what Mr. Sastri asked for. We have placed the whole of the budget before the Assembly, and we have given the Assembly the power of voting in regard to a very considerable portion of it. We have gone further than that and we have given, or perhaps I ought more correctly to say that the Assembly has obtained for itself, the convention for which Mr. Samarth pleaded so strongly before the Joint Committee, namely, that our main items of taxation should be voted annually. Mr. Ginwala may of course say, that merely because our advocates did not ask previously for this full measure of authority, we are not estopped from asking for it now. That is a fair and legitimate argument, and therefore I have to address myself to answer the question whether, admitting all the advance that has been made by this Assembly, admitting the desirability of allowing its conventions to grow, nevertheless anything substantive can be said for retaining these reservations in the statute book.

Now, Sir, I shall take them in my own order. Probably the House cares very little about the head, Ecclesiastical. After all, it is not a very considerable item. A greater part of the expenditure is concerned in maintaining chaplains for our troops, and I assume that the House, so long as we retain British troops in India, would not care that those troops should be without that useful adjunct to their moral discipline. I now come to a somewhat more important head, that is, Political. Now, Sir, that head is concerned with our relations with allied states and with foreign powers, and it seems to me only reasonable that the Executive Government should retain somewhat of a free hand in regard to expenditure incurred in maintaining those relations. But, of course, neither of these two items are of commensurate importance with military expenditure, and indeed it is in regard to military expenditure that the greatest feeling has been expressed by previous speakers on this Resolution. Is there any argument at all for the maintenance of military expenditure as a reserved item? To me there is some such argument. At present India has not yet developed her own means of defence. She is still dependent on the services of the British Army; she is still dependent on the services of the British Navy. Her aspiration and it is an aspiration with which I think everybody must sympathise, is that she should develop fully her own means of defence, that she should, as far as may be possible, be absolutely self-dependent in this matter. But I deal with facts as they are. She is not at present fully self-dependent, and the result is that the British Parliament has a responsibility for the defence of India. We pay for the British Navy a small sum of £100,000. If we were seriously jeopardized by attacks on the land frontier, we should have to ask for the assistance of troops from Great Britain. While the British Parliament therefore retains that responsibility, is it unreasonable that the British Parliament should retain also some measure of financial control in this matter? (*Dr. Gour*: They have not got it in Australia). Australia, Sir, is different from India. Australia has no immense land frontier such as we have, and Australia has made a very substantial beginning with her own navy. I come now to the remaining item, which relates to the reservation of certain salaries. Here again, is there any substantial case for retaining the reservation in this respect? The reason is sufficiently obvious. As long as you have all-India services, of which a considerable part is European, their recruiting agent is the Secretary of State and the Secretary of State must be able, when he recruits those services, to guarantee them certain rates of payment. Those services are becoming rapidly Indianised, partly by our own administrative action, even more strongly so by the force of circumstances in regard to recruitment. That process will obviously grow. Indeed many of us foresee that what at present are all-India services may become provincialised, in which case, of course, the Act will not apply to officers so employed, as they will not be appointed by the Secretary of State. But it is not unreasonable that, while you retain the Secretary of State as a recruiting agent, you should place in his hands power to guarantee to the officers he recruits certain definite rates of salary and general conditions of service. That is the reason in my opinion why this particular item must be reserved, and I do not think that the reason is entirely without justification.

Now, Sir, I have, first of all, explained to the House how the position stands from one point of view. I have explained to the House that difficulty about the correct interpretation of the Act is no fanciful one. I have pointed

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out that if the Governor General has full discretion, then the Governor General in Council can have no authority to make a recommendation because the discretion is personal to him and does not flow from his position as a member of Government. On the other hand, if the Governor General has no such discretion, then an alteration in the Statute will be necessary before the House can achieve its object. In the second alternative therefore our discussion here to-day becomes somewhat similar in character to that which took place in September last when the House debated the question of an advance in the general constitutional position. I do not think that it was unanimous by any means in feeling that a radical change should take place in the constitution before the ten years period was over. I am aware that this particular question is of a somewhat restricted nature; I appreciate also from what we have heard that probably the House is far more unanimous in feeling that a radical change should take place in regard to the Budget than it was in regard to the general constitutional position. But, Sir, arguing on the second of the two alternatives, you will realize that the case has still to be made good to Parliament. It has to be made clear to Parliament that the guarantees which the House told us to-day could safely be dispensed with in their own case, could also be dispensed with in the future. Let me say this that I do not think, considering what the British Parliament is, and how slowly it has attained its own position, how it has, through a course not of a few years but of centuries, compacted that position in face of the executive, it is likely to be swayed by any exhibition of undue precipitance of this House. As far as I am concerned therefore the matter rests there. We are seeking to obtain a definite ruling from the law officers of the Crown as to the interpretation of the Act. If that decision shows that the Act requires amendment, the Government of India will have to consider the case in view not only of the desire of this House and the strongly expressed feelings of this House, but in view of its own responsibilities. If, on the other hand, that decision shows that the full discretion rests with the Governor General, then the Governor General in Council can take no action, since the authority which rests with him is personal; it must be his sole decision and his sole judgment.

Mr. N. M. Samarth : Sir, I am fully aware that when I gave evidence before the Joint Parliamentary Committee, I pleaded for some real control over the Budget in regard to many, though not all, of the items. The situation was this. In the Bill there was no provision whatever made to submit the Budget either to the discussion or the vote of the Legislative Assembly and at that time I, as an advocate, was trying to get as much as possible from the Joint Committee, but that is now an absolutely irrelevant matter, so far as the decision on this Resolution is concerned. The decision on this Resolution, I am speaking not only on behalf of the non-official portion of this body but, I take it, even the Governor General in Council, should be on two matters. Firstly, is it legally permissible under the Act, as it is worded, for the Governor General to direct the items which are specifically excluded in this section to be made votable? Secondly, is the demand just and reasonable? I say the answer to both these must be in the affirmative. To my mind, there is absolutely no doubt as to the interpretation of the section which has been enacted. I hold in my hands the authorised copy issued by the King's Printer of the Acts of Parliament, and, in section 67-A, clause 3, it will be noticed that there is a comma after the words 'Legislative Assembly,'

there is a comma after the words ' under consideration ', and then follow the words ' unless the Governor General otherwise directs.' Now, if the Legislature had really intended that the words ' unless the Governor General otherwise directs ' should be made referable only to the discussion and not to the vote, there would not have been that comma after the word ' consideration.' Remove that comma and you will get what is contended as the real interpretation by the Honourable the Finance Member. That comma makes absolutely clear and unambiguous the legal position taken up by the Mover of the Resolution that both the submitting to the vote as well as the discussion of the excepted items is in the entire descretion of the Governor General. Now, that is the Act, and whatever may have been the debates before and whatever may have been the original intention even of the Legislature, as every body knows who is well acquainted with the interpretation of statutes, we have to interpret statutes as they are passed. As the question has been raised, I will just read a small passage from Maxwell on the interpretation of statutes.

That writer says :

'The Legislature must be intended to mean what it has plainly expressed, and consequently there is no room for construction. It matters not, in such a case, what the consequences may be. Where, by the use of clear and unequivocal language capable of only one meaning, any thing is enacted by the Legislature, it must be enforced, even though it may be absurd or mischievous.'

I take my stand upon the well-known rule of interpretation which I have read. There is the Act, and I appeal to the Government Benches and to His Excellency the Viceroy, to whom I need not appeal for the proper interpretation of the statutes in accordance with the rules of interpretation, to give effect to this clause in spite of what may have happened in the debates, which are absolutely irrelevant. Therefore, it is legally permissible to the Governor General to give effect to this Resolution. Is the demand just and reasonable? Who will not say 'Yes'?

I will now go back to the debates. What did the Joint Committee say? They said, by analogy of the Consolidated Fund Charges in England, that certain special and recurring items of expenditure may be exempted from the vote of the House. I put it now to the House, when the Military Budget was discussed last time, what did you find in it. Did you find only recurring charges? You found non-recurring charges included in that non-votable Budget. For example, the expense of 10 crores on Central Waziristan is not surely a recurring charge. The expense on the Afghan war is surely not a recurring charge. I can understand your laying aside certain recurring charges for the Services and the Army which should be exempted from the vote, in accordance with the analogy of the Consolidated Fund Charges in England, but that was not done, and it is surely right for this House to ask the Governor General in Council to influence the decision of the Governor General, which they do as a matter of practice, in order that he may give effect to the Resolution in spirit and carry it out in the next Budget.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, the spirit of sweet reasonableness, almost persuasive, which was the prevailing note in the Honourable Sir Malcolm Hailey's speech, made us hope that his own dictum was going to be given effect to and that the question of interpretation should not be rigidly dealt with, as in a court of law, but would be in accordance with the intention of what he was pleased

[Bhai Man Singh.]

But, Sir, is it any reason that we should have no voice in these matters. It is all the more necessary that we should have that power given to us.

The second question was about the Services. Of course, one could say with a plausible reason that the Secretary of State engages certain people for all-India services in England. Surely, Sir, we cannot be expected to be so very unreasonable as to break all the contracts made on our behalf by the Secretary of State. But at the same time there is a very great complaint that just at present our expenses are going too high and that our higher officials are given too high salaries; and there was a Resolution (that, of course, unfortunately did not come on the other day) which required that all future recruitments to all-Indian services carrying salaries above a certain amount should not be made except at a certain percentage below their present rate or something of the sort. All that shows, Sir, that there is a great demand for curtailment of expenditure in this matter. This shows that these demands should be brought under the vote of the Assembly. There is one more reason, Sir. With more responsibility placed upon us, we shall discharge it more carefully and we shall be more cautious in creating any sort of deadlock in the administration. This power of voting on the whole Budget is enjoyed by the popular Houses of most countries that have got responsible Government. I should like to know --and this is my last argument --what is the special reason why we in India should not be given that power, and what are our special drawbacks, what are the special drawbacks of Honourable Members of this Assembly, that debar us from that claim?

Mr. R. A. Spence (Bombay : European) : I propose, Sir, that the question be now put.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division : Muhammadan) : Am I to speak on the original Resolution or on the amendment?

Mr. President : The Honourable Member being the only member in the House with an amendment on the paper, I thought I was justified in giving him an opportunity of speaking. The amendment moved by the Honourable Member for Burma precludes his now, because it substantially covers it, and, therefore, when the House has taken a decision on the amendment to insert the word 'coming' before the word 'Budget', he will not have an opportunity of putting his case before the House.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Will the Honourable President allow somebody else to speak?

Khan Bahadur Sarfaraz Hussain Khan : Sir, I have no objection whatever in having non-votable items treated as votable; but my one great objection in this matter is this : Section 67 A(2) of the Government of India Act says :

'No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor General.'

If all the items become votable, then I do not understand how this sub-section (2) will read. It is chiefly on account of this that I raise my objection. I have already said, the matter should be left to the Governor General in Council so that he may consider and decide when it is necessary to place all the items as votable. Then there is one thing more, Sir, and that is the question of defence. Of course, the Members of this Assembly can vote and

discuss the matter, but, then, it will mean shifting the responsibility from the military experts to this Assembly. I am afraid I must tell this plain truth that there is not a single non-official Member who has had any experience in military matters or who has been in the field. For these reasons I do not support this

Mr. N. M. Joshi (Nominated : Labour Interests) : I move, Sir, that the question be now put.

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : Sir, the Resolution and the amendment have been discussed thoroughly, and I need not go over the same ground again. But what I want to say at present is as regards the remarks that fell from the Honourable the Finance Member. I can assure him that there is not a single non-official Member in this House who will not support the Government in the items which have been mentioned by him. We all know that to keep up an ecclesiastical establishment for the religious training of the British soldiers is a very essential thing. We all know that India is not at the present stage fit to defend her own shores, and that we have to depend upon the British Army and Navy. It will, therefore, be ridiculous for any Member of this Assembly not to vote for that item if they consider that it is necessary for the defence of India. With regard to the other head, namely, fixed salaries of the officials, we also know that India is making a great deal of improvement by having Indian Members in the all India Services, and as long as British officers remain in the all-India Services, we are not going to curtail any expenditure under that head. So it is useless for the Government to entertain any kind of fear on this score, and I think it will ease the situation a great deal if the non-official Members are taken into their confidence, because, as has been said by several Honourable Members of this House, we have to show our faces to the public, and when we are questioned we must justify our position. It is, therefore, very necessary that the non-official Members should be taken into confidence by Government, and if this is done it will benefit both the parties, because they will vote easily for the items which Government require, and there will be a party like the Government. Instead of being critics, we will join the Government party. At present if certain items are not voted, we simply criticise, because we are absolutely in the dark as to whether those items are really justifiable or not. But, when we know that there is a real and just demand for a certain thing, we certainly vote for it if we feel that it is really for the good of the country.

Now, reference has been made to the appalling military expenditure, but I think it is not a matter which can properly be discussed at present. There will be some other occasion to discuss the military question when a Resolution on the subject is brought forward, and to mix up the question of military expenditure with the Resolution now before the House is not quite correct. This is a very simple question, and we need not go into the details of it as much has already been said. With these few observations, I support the amendment.

Mr. R. A. Spence : Sir, I move that the question be now put.

The motion was adopted.

[Sir Deva Prasad Sarvadhikary.]
 to call the 'high contracting parties'. Therefore his somewhat abrupt and ineffective ending came as a surprise upon the House which had been looking forward to a compromise. It is significant, Sir, that the Honourable the Law Member, to whom Munshi Iswar Saran made almost a passionate appeal, has found it convenient to disappear from the House at a somewhat critical moment; and when, in a speech like that to which we have been treated—upon which I compliment the Honourable the Finance Member—we are told a little hesitatingly about the need of going to law officers on questions like this, possibly because the point of view of Government or the non-official Members does not find support from his Honourable colleague the Law Member, lawyers of other ways of thinking are left to draw their own conclusions. This would not be exactly the place where difficult questions of interpretation should be or can be gone into at any length. But I think we can advantageously press for the exercise of that high ethical notion that the Honourable Sir Malcolm Hailey has laid down in doubts and difficulties. When this House and the Government accepted a short time ago a Resolution that would forward another stage of the Reforms measures, there was a certain amount of feeling in England. I happened to be there at the time, and one of the most suggestive and statesmanlike remarks that came from a Member of the Ministerial Bench was to this effect:

'Supposing the House has not got definitely certain powers; supposing the constitution has not yet given all that the country demands; what would real statesmanship do in placating the people and helping the Reforms? Go on as if the powers are there: give the people a training in citizenship—responsible citizenship—that will enable them to become capable of carrying out responsible powers, and pull them up if there be real necessity. This should have been done much earlier than even the Reforms.'

We have the necessary safeguards here and I need not reiterate the position in regard to them. Even if there be legal disabilities, as an object lesson in responsible training and citizenship, let the concession be allowed, at least for a year. That is a plea in which our European colleagues have joined, and I congratulate the Assembly that this state of affairs has so soon come about. I have said on previous occasions, and I say so now, that one of the outstanding features of the proceedings of Legislative Assemblies and its predecessors, as well as the Provincial Councils, has been that they have been fairly free of the spirit of cliqueism and cabals. We have to the best of our light been able to discharge what we conceive to be our duty and we have not yet erred. I shall lay on one side all questions of threats, innuendoes and insinuations. They are a matter of individual taste and not pertinent to the purposes that we now have in view. What has the Supreme Legislative Council, whose place we have taken, and the Assembly been doing so long? Nothing that can be complained of and much that has extorted approval. When an error was committed in the Provinces, it was put right and put right on the double quick. We here have not yet erred. What reason is there to apprehend that, if this innocent measure of training, as we might call it, is conceded for a year, we shall imperil the interests of the Empire? Our plea is—and it is a strong plea—that, even if there are doubts and difficulties, even if there be any the remotest suspicion in the minds of the authorities that the privilege is likely at some distant day will be abused, give us the chance, give us a trial. That will strengthen the position of the Indian Government by letting in light and more light. If, subsequently, anything

is done by the Assembly which ought not to be done, then, when Parliament comes to deal with the matter, as it must soon, the Government will be able to plead that the measure of training has failed. There is a distinction undoubtedly between 'discussion' and 'voting'. I am not prepared to go as far as Mr. Samarth. Undoubtedly, there are doubts, but they are doubts which the present Viceroy, a trained, sympathetic and experienced lawyer, will find no difficulty in setting at rest: and the concession which the House asks for may well be made. For these reasons, Sir, and having regard to the practically unanimous opinion in this part of the House, both European and Indian, I do hope that Sir Malcolm Hailey may yet find it possible to reconsider his opinion.

Bhai Man Singh (East Punjab: Sikh): Sir, in this matter of votable and non-votable items, the Members of the Assembly are put in an anomalous position. On one side they are expected to vote for certain items and for the others they have no power to vote, but all the same they have to pass the Budget and supply money for many items of expenditure over which they have no control. They cannot curtail many of the items by their vote. It is really very difficult for those who are responsible to vote for taxation, to do so unless they know that the money which is going to be raised will be properly spent. This is one of the difficulties which forces every non-official Member in the House to press upon the Government to accept this Resolution and so allow us to go through all the heads of expenditure when the Budget is presented.

The Honourable the Finance Member has drawn the attention of the House to certain definite heads which are non-votable. One of them is the expenditure on the Indian Army. It is said that India is not fully dependent upon its own resources for its defence: it has no navy and not enough army for its own defence. I daresay that India is not just at present fully dependent upon herself for her defence; but with all due deference, and I hope I will be excused, I put it straight to the Government Members: whose fault is that? Has the Government really and sincerely tried to build and equip us for our own defence? What steps has the Government taken throughout its régime of 70 or 80 years—that is of course with reference to the Punjab—with regard to the rest of the country it is 170 years—what steps has it taken during these 170 years to develop our military resources? It is for this very reason that we are forced to ask that the military budget should now be placed under our vote, and that we should be given a voice in framing that policy, so that we may be able to train ourselves for our own defence. If the existing state of affairs is to go on for years to come, I doubt if India will be fit for *Swaraj* for another 50 years, so the same argument can be advanced against us after that period just as to-day it is brought forward after 170 years of

3 P.M.

British rule in India. Well, Sir, you will see the reasonableness of the demand. To enable ourselves for our own defence, we want to develop our own resources; we want to enable ourselves to make arms and ammunition in our own country; we want our own men to be trained as officers and for military services of all kinds. That is a request, rather than a demand, that we made last year as well, when we were discussing the Esher Committee Report. I, for one, cannot see why it should be said that the Military Budget is such a subject that it should necessarily be a forbidden fruit to us. Sir, we are as anxious as anybody to have a strong army to stand any invasion from outside or to quell any serious rebellion inside the country.

Mr. President: The original question was that :

'This Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between 'Votable' and 'Non-Votable' items in the Budget, and to submit the whole of the Budget to the vote of his Assembly.'

Since which an amendment has been moved :

'To insert the word 'coming' before the word 'Budget' in line 3 where that word occurs for the first time.'

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—51.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Agarwala, Lala G. L.
Ahmed, Mr. K.
Aiyer, Sir P. S. Sivaswamy.
Asjad-ul-lah, Maulvi Miyan.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Carter, Sir Frank.
Chaudhuri, Mr. J.
Cotelingam, Mr. J. P.
Gajjan Singh, Sardar Bahadur.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Ibrahim Ali Khan, Lieutenant Nawab M.
Ikramullah Khan, Raja M. M.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.
Joshi, Mr. N. M.
Keith, Mr. W. J.
Lindsay, Mr. Darcy.
Mahadeo Prasad, Munshi.
Manmohandas Ramji, Mr.

Man Singh, Bhai.
Maung Maung Sin.
McCarthy, Mr. F.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Singh, Baba B. P.
Singh, Raja K. P.
Sinha, Babu L. P.
Sinha, Beohar Raghobir.
Spence, Mr. R. A.
Srinivasa Rao, Mr. P. V.
Subrahmanyam, Mr. C. S.
Thackersey, Sir Vithaldas D.
Wajihuddin, Haji.
Yamin Khan, Mr. M.

NOES—27.

Akram Hussain, Prince A. M. M.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bryant, Mr. J. F.
Chatterjee, Mr. A. C.
Crookshank, Sir Sydney.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Gidney, Lieutenant-Colonel H. A. J.
Habibullah, Mr. Muhammad.
Hailey, the Honourable Sir Malcolm.
Hullah, Mr. J.
Innes, the Honourable Mr. C. A.

Kabraji, Mr. J. K. N.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.
Percival, Mr. P. E.
Rao, Mr. C. Krishnaswami
Renouf, Mr. W. C.
Sapru, the Honourable Dr. T. B.
Sarfaraz Hussain Khan, Mr.
Sharp, Mr. H.
Sim, Mr. G. G.
Vincent, the Honourable Sir William.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was adopted.

The Honourable Sir William Vincent (Home Member): Sir, before we continue the business any further, I should like to have a ruling as to the proper procedure during a division. During the last division, I saw a Member of this House, Mr. Muhammad Yamiu Khan, attempting to secure the support of an Honourable Member and force him into the Division Lobby after the division had

been called. After a division has once been called, I should like to know if Members should be left to vote as they wish or if it is open to any Member of the House either by force or by persuasion to induce another Member to proceed into the Lobby when that Member does not wish to do so.

Mr. Muhammad Yamin Khan : May I rise to a personal explanation, Sir? The Honourable Sir William Vincent is not correct in one way when he says that I was dragging him or that I was forcing him to go. I was simply asking a Member certainly.

The Honourable Sir William Vincent : And catching hold of his arm.

Mr. President : Interference of that kind is a serious offence. The question is one of important principle. The working of this Assembly is based upon the right of free speech and any invasion of that right calls for the severest rebuke from the Chair. I do not propose to take notice of the fact that the Honourable the Home Member has mentioned a particular Member by name, and, therefore, my remarks are addressed to the House and not to any individual Member.

The right of free decision in the Division Lobby is a very important element in the right of free speech, and the Chair may always be relied upon to uphold it.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban) : May I ask whether officials should be given freedom to vote as they like by the Government?

Mr. President : The Honourable Member is a Member of a Party, I understand, and he knows what Party discipline is.

Dr. H. S. Gour : May I suggest, Sir, that in future you may be pleased to appoint Tellers to be present at the Lobby following the Parliamentary practice?

Mr. President : That is a different though an important point, and the suggestion made by the Honourable Member will be taken into consideration. I may draw his attention to the fact, however, that Tellers could not prevent the improper exercise of force or persuasion within this Chamber, for their duties would lie outside the Chamber.

Mr. P. P. Ginwala : Sir, I wish to reply to some of the arguments put forward by the Honourable the Finance Member. We all know that the Governor General in Council, as a body, has, among its Members, one of the greatest lawyers that the law of England has produced. There is also a substantial element in that body which is well acquainted with the law, and yet the layest of the lay in that body is put forward to make a speech in which he is asked on their behalf to propound the law as to the interpretation of Statutes. Personally, he runs no great risk, but, if he were a lawyer, and if he had to make such speeches on frequent occasions, I doubt very much whether sometimes his practice would not suffer. He lays down maxims of interpretation which even the smallest book on the interpretation of Statutes will tell him are inapplicable. He goes into the history of a question in order to interpret a Statute and by which that question is governed, in that history itself, he gives illustrations which are obsolete. First of all he began by saying: 'What did the Congress ask for?' I ask him: 'What does the Congress ask for now?' Why does he refer to the Congress of those days

[Mr. P. P. Ginwala.]

when anything that was given by the Government would have been gladly accepted? Why does he not cite the Resolution that was passed by the Congress a few days ago? Further, he cites, as evidence, what Mr. Samarth said two or three years ago. Ask Mr. Samarth now what he wants. He has already told you what he wants. Why not give that instead of what Mr. Samarth asked for 3 or 4 years ago? Then he talks of some deputation and says that they said that they only wanted a trifling control over the Budget. Ask the members of any deputation now. Ask the members of the Burma deputation that saw the Honourable the Home Member not long ago on certain points. Ask them and ascertain what they have got to say about their wants now.

Then he takes up a most peculiar legal position. First of all he says that the Governor General has got no discretion and if he has got no discretion, he cannot be asked to exercise it. On the other hand, if he has got the discretion upon a proper interpretation of the Statute, he says that it is not his function as a Member of the Governor General in Council to advise him to exercise that discretion. Now, Sir, it may be an argument by which he may convince himself and his colleagues, but this House is not going to listen to an argument of this sort. If the Governor General in Council does not consider that it is his function to advise the Governor General, then I say that this House does not agree with that opinion at all. I do not use any stronger language than that. But if the Governor General in Council is not willing to advise the Governor General, then, as I have said in my opening remarks, there is a procedure by which the Governor General can be informed of the opinion of this House, that is, by an Address. If the Governor General wants it, this House can have a motion for an Address, praying that this was what the House wanted. I dare say, that if the House carries this Resolution, it will have no objection at all to adopting a motion for an Address.

Then the Honourable the Finance Member was on weaker ground still when he said that we were allowed to scrutinise the military Budget. If there was any scrutiny, it was like a scrutiny of some sacred document which we have no right to interpret or to comment on at all. I fully admit, as Sir Godfrey Fell has said, that last year we were supplied with memorandum on Army expenditure. We had also informal interviews. I did not refer to them because I thought they were confidential and informal. That was the reason why I did not refer to them. But what practical good did that memorandum serve? We read it, it is true. We were enlightened by it, it is true. But what action were we able to suggest to the Government on that memorandum? It was never brought for discussion on the floor of this House, and it was never subjected to the vote of the Legislative Assembly. All the information of any authentic description that I have got as to the military policy of the Government and its expenditure, is confined to my knowledge of the contents of that document, and nothing more. What we want is a periodical explanation of military policy and expenditure which is only possible during the Budget discussion.

Then he talked about the British Parliament having certain responsibilities, the responsibility for defending India. How will that responsibility be interfered with? It can only be interfered with on the assumption that the further powers that we are asking for will be abused, an assumption which, I say, the Finance Member has no right to make.

In conclusion, I submit that the Government has not made out even a plausible case for the rejection of this motion. It was merely a half-hearted opposition that was put forward through the Honourable the Finance Member, because it is part of his ordinary duty as a Member of the Council to oppose Resolutions which Government instructs him to oppose and which may be inconvenient for the Government if they are accepted by the House. I ask the House to adopt the Resolution moved by me with the amendment which has just been carried by the House.

The Honourable Sir Malcolm Hailey: I must assure the House that it is not part of my duty to answer inconvenient Resolutions, merely because they are inconvenient nor do I address the House at some length and with an apparent tone of conviction when I am not myself convinced of the truth of what I am saying. The rest of my reply will be short. When I know that I am right in substance, when I am convinced that I have truth on my side, I do not care for making small dialectical points. Mr. Ginwala referred to me as the 'layest of the lay' in the Governor General's Council. It no doubt causes some amusement to a lawyer to see a layman attempting to deal with his own subjects: he derives no doubt a good deal of humour from the situation. But it is at times just as amusing to the layman to hear a lawyer attempting to beguile the uninstructed. We were told by Mr. Ginwala that this statute must (like all statutes) be construed strictly and grammatically and we were referred by one of Mr. Ginwala's supporters, who, I think, is also not without some knowledge of law, to the interpretation which would follow if we rightly appreciated the position of the comma in the section. He quoted to us Maxwell on the Interpretation of Statutes. I am not sorry to be able to quote to him from the same high authority. You will find at page 63 of the 5th edition, that :

'Both marginal notes and punctuations, since 1850, appear on the statutes as printed by Parliament. Nevertheless, it has been said that they are not to be taken as part of the statute.'

And you will further find that it was laid down by Lord Esher in 1890, that :

'It is perfectly clear that in an Act of Parliament there are no such things as brackets and there are no such things as stops.'

So, Sir, the situation is not entirely without humour for the mere layman. Then Mr. Ginwala repudiated my allusions to what the Congress had asked for and the Moderates had asked for in 1919. He asked me to refer rather to what the Congress asked for now and what his friends from Burma were asking for now. It is, of course, something in both cases of a perfectly intransigent nature. If he means to associate himself with those very intransigent bodies, his association with them does not, to my mind, strengthen his case in the slightest. I did, of course, point out that this Assembly has already obtained more than its fondest friends were asking for in 1919; but I pointed to this merely as a proof that the British Government has not been blind to the nature of its aspirations, that Government is perfectly well prepared to recognise the strength of the claim for advance, and that consequently it is not necessary to bolster up the case either with threats or with innuendos or, if I may say so, with bribes. Lastly, Sir, I must still maintain this position, that it is not my intention nor that

[Sir Malcolm Hailey.]

of any of my Honourable colleagues to advise the Governor General in a matter in which his decision is by law personal and individual. That is a constitutional position which we have good authority for adopting; and whether it pleases Mr. Ginwala or whether it displeases him, we cannot assume to ourselves a power of control over the Governor General that we do not constitutionally possess.

Mr. President: The question is :

' That this Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between ' Votable ' and ' Non-Votable ' items in the *coming* Budget, and to submit the whole of the Budget to the vote of this Assembly.'

The motion was adopted.

RESOLUTION *RE*: EXPORT OF MANURES AND OIL SEEDS.

M. K. Beddi Garu (South Arcot *cum* Chingleput : Non-Muhammadan Rural) : I beg to lay the following Resolution before this Assembly for its consideration :

' That this Assembly recommends to the Governor General in Council :

- (a) that the export of all kinds of manures from India be prohibited as soon as possible, and
- (b) and that a duty of 10 per cent. *ad valorem* be levied on all kinds of oil seeds exported from India.

I think, Sir, I ought to state at the outset why it is that I am moving this Resolution here to-day, when it was one of the subjects on which the Board of Agriculture came to an almost unanimous decision in their sitting of 1919 and when their recommendations are under the consideration of the Government of India. My chief reason in adopting this course is to place before the Government the views of this popular Assembly and thus to strengthen its hands. This House, as a responsible body, responsible to the electorate that sent them here, is better fitted to discuss questions on Agriculture and how to improve it ; because I am sure most of us are landholders and represent the Agricultural community, either directly or indirectly. I am sure, Sir, there is no body here who can loudly boast of ' not having an inch of land nor paying a half-penny tax.'

If this House will allow me the indulgence to refer to the community to which I am proud to belong, a community which has, centuries back, changed its sword to its plough, I can tell you with a certain amount of authority that there is not a family, not an individual Reddi, who has not an inch of land to plough, to sow his seed and to bring his harvest home. We do not belong to that class of absentee landlords, nor do we come under that pedigree of rack-renting landholders. We do our own ploughing and sowing.

Sir, in placing these facts before you, I am only asking you to believe me when I say that our lands have depreciated in their fertility and that they do not yield a fourth of what the lands in other countries like Spain or Japan yield.

If the average out-turn of paddy per acre in Japan is $1\frac{1}{2}$ tons, in Spain $2\frac{3}{4}$ tons, the yield of our lands is only half a ton ; What is this low yield due to, if it is not due to the impoverishment of our soils, which has been taking place as the result of the policy of '*Laissez faire*' strictly practised on this country. As the result of '*illegitimate exports*' (by which I mean the export of commodities which lowers the productive capacity of the country, such as fish, oil seeds, oil cakes, bones and food grains), there has been a continuous exhaustion of the soil of our country. It is known to you, Sir, that we have long been the exporters of raw materials—the produce of our soils. We have been exporting more than we have been importing ; and what we owe to Great Britain by way of Home charges, and what is sent out of India by the European planters, merchants and barristers and doctors and others, and also the interest earned by European capital in India—all this large amount is adjusted *not* by sending gold from India, but by the excess of our exports, equivalent to that amount. This has been termed by a school of economists as the 'drain' from India. In other words, I call this not a 'drain,' but in a quite different way '*a forced exhaustion of the soils of India.*'

Scientists have proved that, unless what we take from the soil is replaced in the shape of manures, it will result in impoverishment of the resources of the soil ; and we see this to-day exhibited in India. Unless an urgent remedy is sought, the result cannot but be ruinous. To what extent soil exhaustion in India has already proceeded can be realized from the Reports of the Soil Surveys of the various Presidencies :

'Godavari Delta, which is generally considered to contain some of the most fertile lands in the Madras Presidency, shows a great deficiency in available phosphates and nearly half the Delta a deficiency in its Nitrogen content.'

So is the Krishna Delta. Mr. Clouston, in a paper read in one of the Science Congresses, stated :

'That the four chief soils of the Central Provinces had in most districts reached a maximum of impoverishment.'

In a similar manner Mr. Davis has emphasized that the Behar soils are deficient in Phosphoric Acid contents. In this connection, Mr. R. V. Novis of Madras said, in one of the Agricultural Conferences, that :

'If we remember that an increase of 5 per cent. only in the average yield would provide an extra 1,000,000 tons of rice a year in Madras alone, we can realise, to some extent, what the annual loss in the whole country in this crop and other crops ought to be.'

Sir, it has been conclusively proved in this country that, by using manures like fish guano, oil-cakes, bones, an increased yield of crops could be obtained, and, from the point of economy, it has also been proved to be profitable to the cultivator. If *this* is the fact, it only remains in the hands of the Government to place the manures within the reach of the poor cultivators, who, in the present state of their poverty and indebted condition, are not in a position to purchase them at the high prices ruling in the market. When we find that nearly £6,29,000 worth of bones, fish and other manures, £9,20,000 worth of oil cakes, and £17,116,000 worth of oil seeds, were exported in 1913-1914, we cannot but feel that the poor Indian cultivator is left helpless before the foreign competitor. When nearly £17,000,000 worth of oil seeds are taken away from the country, it only means that the country is so much the poorer for it, since the oil seed crop is a very exhausting one to the soil, so that, if the by-products are not returned to the latter, the result is a continual drain on its

[M. K. Reddi Garn.]

fertility. Again, Sir, the importance of our oil-seeds to the foreign countries is seen when we find that the European countries have imposed an import duty on oil, while allowing *free* entry to the whole seeds and cake. At present, the conditions in Europe are such, that it is really doubtful whether these duties would be maintained if the supply of whole seed were restricted by a heavy export duty; and I think we have at present a favourable opportunity to stop the export of manures and control oil seeds.

If a duty on oil seeds is not levied when we prohibit the export of oil-cakes, the result would be, that the foreign countries would try to purchase more of oil seeds even at a high price. Oils will no more be extracted in the country because of the low price which the oil-cakes will fetch when the export is prohibited. The available oil-cakes will be comparatively very small and the prices will rise enormously owing to local demands. So, unless a reasonable export duty is levied on the oil seeds which go out of our country, to prohibit the export of oil-cakes alone will place us in no better position, if not make our position worse. I am of opinion, Sir, that most of the foreign countries cannot do without our oil seeds. The duty levied on the seeds will not only give us an additional revenue, it will tend to stimulate our oil-pressing industry and will also check the large export of oil seeds and thus place enough manures at the hands of the poor cultivators. This is the only way to stop the exhaustion of the Indian soil any further. From the economic point of view, the loss of the soil fertility, which is a decrease in the capital of the country is really more important than the loss to a grower, due to a reduction in profits.

I repeat again that the soil fertility which I call the national wealth, is more important than the individual wealth of a consumer or a producer. We should remember that the loss to the producer is compensated for by the increase in the fertility and the productive capacity of the soil, as the result of an intensive system of cultivation due to the conserving of available manures within the country. What, after all, Sir, is the loss sustained by the producers of the oil seeds, by the levy of an export tax, when we remember that we produce much more of rice, wheat and cotton than oil seeds? A small increase in the output of these crops would make good the small loss sustained by the producers and exporters of these seeds. Sir, a certain amount of sacrifice is indispensable, when the large interests of the country are at heart.

Sir, the whole world is in need of more and more of food and more of raw produce. The cry has been universal from China to Peru: enhanced production and cheap food is the chorus everywhere. Enhanced production can only be brought about by increased fertility of the soil, by the reasonable-manurial treatment. Therefore, all the available manures must be conserved in the country by *total prohibition*, if not by a very heavy export duty.

In short, since a large proportion of the soils of the country are already suffering from starvation, or are approaching that state, and since the large supply of indigenous manurial products is being sent out of our country at an increasing rate, resulting in a prohibitive price to the poor cultivator then such a deficiency must only be met by the Government coming forward by lending a helping hand, accepting and giving effect to the Resolution now before this House.

In this connection let me read to you what the authors of the Indian Industrial Commission have said :

' We take this opportunity of stating, in the most emphatic manner, our opinion of the paramount importance of Agriculture to this country and of the necessity of *doing everything* possible to improve its methods and *increase* its out-put.'

Here is a promise given '*to do everything*' to '*increase its out-put*' and it now remains to you, Sir, to fulfil this promise.

Dr. Nand Lal (West Punjab: Non-Muhammadan): Sir, this Resolution, which has been moved so ably and has been supported by authorities and citations, speaks for itself. As you know, India is considered to be, and it is a fact, an agricultural country, and consequently, for this country manures are indispensably necessary. If manures are exported, it means that the exhaustion of the lands in this country will be accelerated. Therefore, it is necessary for all of us, because we feel that this Resolution is a very modest one, to support it. So far as the question of export duty is concerned, it has been very well discussed and the suggestion which is offered is very appropriate and reasonable. On both these grounds, I very strongly and sincerely support this Resolution and I hope it will have the unanimous sympathy of the whole House.

Mr. J. Hullah (Revenue Secretary): Sir, the proposal in the Resolution is an attractive one. The soils of India need more manuring. Some say they are being exhausted. Manures are being exported. Stop them from being taken away and you have the remedy. But I think we need a little more consideration before we accept a proposition which will interfere very seriously with one of the greatest trades of India, a trade which, before the war, was valued at 26 crores of rupees and is now, owing to the general rise in prices, far more valuable. In the first place, let me assure the Assembly that we are at any rate in no greater danger of losing our manurial resources than we were before. We have not got statistics of production for all our seeds, but we have for most—linseed, rapeseed, mustard, sesamum, cotton seed and ground-nut—and—whereas before the war we used to export from one-third to one fourth of our oil seeds, and I include in that, the equivalent of oil-cakes and oils, we have exported since the war only one-fifth.

Again, I have looked up the statistics for the last 20 years and I find that the cultivation of oil seeds is not in any way extending at the expense of foodgrains or food-crops. But it may be said, why not conserve the whole of your oil seeds? The fact is that, if we did, the oil-cakes made from them would not be used by the cultivator for manure. It is said that the cultivator cannot afford to buy the cake. Certain evidence that we have shows that, even at the present enhanced prices of oil seeds and cakes, it does pay to use cake as manure. To take a single instance that has been given to me 20 maunds of castor-cake applied to a crop of sugarcane, the production of gur being 80 maunds an acre. The price of the castor-cake has risen from Rs. 50 to Rs. 75; the value of the produce has risen from Rs. 420 to Rs 720. The prices of all agricultural produce have risen very greatly and the increased cost of manures is more than set-off by the rise in the value of the produce. In the instance I have just given, I am well aware that the other costs of cultivation have also increased, wages, the cost of cattle and so forth but still there is a very substantial margin that does make it worth while for the

[Mr. J. Hullah.]

cultivator to buy and use manures. Still I have not answered the argument that, if you restrict or prohibit exports and thus reduce the prices of cake-manure, you will at any rate diminish—if you do not altogether overcome—the reluctance of the cultivator to use the manures that India produces. Let us consider the results of an export tax. A light tax is of no use except for revenue purposes, because foreign countries would simply continue to outbid India. Then take a heavy tax; if the foreign purchaser bought as much as he did before, notwithstanding a heavy tax, how are you any better off than you were before, in the matter of your manurial resources? If, on the other hand, the tax falls upon the cultivator, then you may take it as absolutely certain that he will restrict his cultivation of oil seeds and the production of the very manurial resources that you wish to increase will be discouraged and decreased by your export duty. Total prohibition is even worse. You simply throw away an enormous income that India at present receives; you make the exchange move against you; you decrease your purchasing power: and, what is worst of all, you paralyse, if you do not completely ruin, your very important oil-pressing industry. Similarly in the case of fish manures, if you prohibit their export, you will stop at once the working of some three or four hundred factories which, I am told, have recently been established on the west coast of India for the manufacture of fish guano. As regards fish-manures, we are told that since the manure consists of only the residual part of the fish, which would come to the nets in any case, there is no risk of a decrease of production. This argument leaves out of consideration the fact that fish are mainly caught for human food, and if you do not allow the residual parts of the fish to be exported, your supplies of human food will be diminished, and the price of fish be increased. Still it is important that the cultivator should, if possible, use the resources that he is at present sending away, and to do that you must teach him to use them; you must increase his banking facilities and you must introduce some sort of easy agricultural credit. The present defective position in these respects can be remedied, but it does not seem wise to attempt a remedy by penalising a valuable export trade. If you throw back on the country a large amount of manure which you know for the present will not be used, you simply impoverish your cultivator by depriving him of a market; you decrease his purchasing power and you handicap your industries, which depend for their prosperity on the purchasing power of the masses: and the cultivator represents something like 70 per cent. of the population.

This, then, is the attitude that the Government adopts at present towards this Resolution; we feel that it would be dangerous to accept it. At the same time, it is not meant to be our final attitude. We know that the subject is one of great importance and it may be that we shall have to take some steps in the direction suggested; but the matter is being referred to the Board of Agriculture next month. It was considered by the Board two years ago, but not very thoroughly, and the Agricultural Adviser has again referred it to the Board. We prefer to wait until we see what the Board has to say. Still more important is the fact that there is at present a Tariff Commission sitting. It is part of their duty to look into the whole export and import policy of the Government, and they will doubtless consider carefully and report their suggestions regarding the policy which should be pursued in respect of the export of oil seeds and manures. The Government of India will consider

their recommendations and the Assembly, of course, will have an opportunity of doing so. I submit that it would be better to wait until we get the results of these further deliberations than to accept at once the policy advocated in this Resolution; for we think it would be safer not to rush into a policy which might seriously imperil, not only a great export trade, but also the industrial progress of India.

M. K. Reddi Garu: In view of the assurance given by the Honourable Member, I beg leave to withdraw my Resolution.

The Resolution was, by leave of the Assembly, withdrawn.

MESSAGE FROM THE COUNCIL OF STATE.

Mr. President: I have received the following Message from the Council of State:

'That the Resolution to the effect that the Bill to establish and incorporate a unitary teaching and residential University at Delhi be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of 14 Members, was considered by the Council of State at its meeting of the 26th January, 1922 and that the Resolution was concurred in by the Council of State. The following Members of that body were nominated to serve on the Joint Committee, namely:

The Honourable Raja Sir Harnam Singh.

The Honourable Mr. Mayhew.

The Honourable Dr. Ganganath Jha.

The Honourable Sir Zulfiqar Ali Khan.

The Honourable Mr. Kale.

The Honourable Mr. Lalubhai Samaldas, and

The Honourable Mian Sir Muhammad Shafi.'

The Assembly then adjourned till Eleven of the Clock on Saturday, the 28th January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

SATURDAY, 28th JANUARY, 1922

Vol. II—No. 24

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Saturday, 28th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

THE DELHI UNIVERSITY BILL.

Mr. H. Sharp (Education Secretary): Sir, I beg to move:

'That the following seven Members of the Legislative Assembly be nominated to serve on the Joint Committee to consider and report on the Bill to establish and incorporate a unitary teaching and residential University at Delhi, namely:

Mr. Khagendra Nath Mitra,
Mr. J. P. Cotelingam,
Dr. Sir Deva Prasad Sarvadhikary,
Maulvi Abul Kasem,
Dr. H. S. Gour,
Mr. S. C. Shahani, and myself.'

The motion was adopted.

THE INDIAN INCOME-TAX BILL.*

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadan Rural): Sir, I beg to move the amendment which stands in my name. The object of my amendment is that, whenever there is a loss in business or bad debts which have been put down in the accounts of the last year, they should be taken into consideration in calculating the profits of the next year. Sir, I have consulted the English law on the subject and I find therein that a tax is imposed upon the average income of the last three years. If the same principle were followed here, the results would be exactly what I beg to submit before you. My amendment runs as follows:

'To sub-clause (1) of clause 10, add the following: 'which have been actually received, after deducting losses and bad debts carried forward from the previous year's account.'

The amendment which I am bringing before this Honourable House needs no words for commending itself to your consideration. I submit that it is only just and fair that only the actual income should be taxed and not the supposed income. I know that I have already said that everybody has to be taxed, and it is not right and proper that somebody should escape at the expense of others. At the same time, I must say that, when money is required, it is not right and proper to put your hands into the pockets of the nearest man who seems to have money in his pocket. The real object of the law is to get money proportionately and relatively according to the income of each individual. In these circumstances, I submit that the amendment which I move is a just and proper one, and I commend it to the acceptance of this Honourable House.

Mr. G. G. Sim (Joint Secretary: Finance): Sir, one of the principal changes introduced in this Bill—and it is a change that has been demanded by all the committees that have sat in connection with the amendment of the Act and is elaborately provided for in numerous clauses of the Bill—is

* Continued from the discussions of the 25th January, 1922.

[Mr. G. G. Sim.]

that, where a man has got a business, his profits shall be assessed to income-tax so far as possible, according to the system of accounts which he employs for the purpose of his business. There are two main systems of keeping accounts. There is first the case of the man who works on a cash basis, who merely keeps a cash account, and asks to be assessed according to the amounts that he has actually collected and according to the expenditure that he has actually paid out. Then we have the case of people who work upon the mercantile accounting system and who are assessed upon book profits. Their accounts pay no regard to the period during which money is collected. As soon as a transaction is concluded, when, e.g., goods are sold, the amount due to them is entered on the credit side of their account irrespective of the date when the money is actually collected. Now, Sir, it has been demanded by the commercial community that they should be assessed according to the particular manner in which they keep their accounts. The first portion of Lala Girdharilal Agarwala's amendment proposes to abolish this reform. He proposes that everybody shall be assessed according to the profits which have been actually received. That is to say, he proposes that, where people keep their accounts according to the mercantile accounting system, they shall be compelled for income-tax purposes to recast the whole of their accounts on a cash basis. This is a proposal that the mercantile community would not tolerate for one moment.

Then, Sir, there is another part of the amendment in which Lala Girdharilal Agarwala refers to bad debts. Bad debts can only occur in the second case, i.e., where assessment is made upon book profits. As I have said, the man who keeps accounts on the book profit system enters the amount at which he has sold his goods on the credit side of his account as soon as a sale takes place whether he receives payment then or not. It may happen that he cannot collect that money, and in the year in which he finds that the money is irrecoverable it is written off as a 'bad debt.' It is therefore only in cases where this book profits system is the method adopted for maintaining the accounts of a business that bad debts can occur. They cannot obviously occur where you work upon the cash basis system,—based on the money actually collected. Therefore the second part of the amendment is inconsistent with the first.

The Honourable Member has also introduced a proposal for deducting losses carried forward from the previous year's accounts. This would introduce a very radical change in our whole system of taxation. At present we assess the profits of a particular period of 12 months. When this Assembly passes the Finance Bill requiring that income-tax shall be levied at a fixed rate or rates, it means that that rate or those rates shall be levied on the profits of a definite period. The profits of that period are considered by themselves. They are entirely isolated without any consideration of what went before or what comes after. This proposal means that you are to carry on from year to year any losses that may have occurred. This is a proposal, Sir, that was considered both by the Simla Committee and by the Joint Select Committee, and both rejected it. I see no reason for differing from the conclusion at which they have arrived. I oppose the amendment.

Mr. President: The question is that the following amendment be made:

'To sub-clause (1) of clause 10 add the following: 'which have been actually received, after deducting losses and bad debts carried forward from the previous year's account'

The motion was negatived.

Bhai Man Singh (East Punjab: Sikh): Sir, the amendment which I have to move is as follows:

'In clause 10, sub-clause (2) (iii) omit the words 'where the payment of interest thereon is not in anyway dependent on the earning of profits.'

Sub-clause (2) runs:

'Such profits or gains shall be computed after making the following allowances':

and sub-clause (iii) within that says:

'in respect of capital borrowed for the purposes of the business, where the payment of interest thereon is not in any way dependent on the earning of profits, the amount of the interest paid'.

The principle underlying this clause is that, when a businessman borrows money and has to pay interest on it, then out of the profits that accrue to him he has got to pay that interest, and therefore the real profit that he gets is only that amount which remains after his having paid this interest. I cannot understand why, if there is a condition in the following way, 'I will pay you (the money-lender) interest at such and such a rate if any profits accrue to me, or at a lower rate if no profits accrue, why in such a case that interest should not be deducted out of the profit. The point is that he has paid so much out of the profits to the creditor. In either case, he does pay it. The only defence that can be brought forward in favour of keeping these words, which I now wish to omit, is that some contracts between the money-lender and the businessman may amount to a partnership and it could be said that a man who makes the payment of interest dependent on accrual of profits is, really speaking, a partner, and, therefore, as a partner, we are to assess the whole amount just as we do in the case of any firm. But, the mere fact that interest is made dependent on the accrual of profits does not make the business a partnership. A man who has got nothing to do with the profit or the loss of the thing, a man whose receipt of interest is not necessarily rateable and dependent on the increase or decrease of profits cannot be called a partner. A man who does not take any responsibility for the loss and who simply lends his money as a mere creditor which he can legally take back from his debtor, can in no sense be called a partner. If he cannot be called a partner, I cannot understand why and on what principle we can say that the amount that has got to be paid to that creditor is not to be deducted out of the profits which the businessman gets. Take an example. Supposing there is a sort of condition between the debtor and the creditor that 'if profits go above 20 per cent. I will charge you 10 per cent. interest. If the profits fall below 20 per cent., well, I will charge you 5 per cent. interest.' The actual amount of interest to be paid by the debtor does not depend in this case on the actual amount of profits. There is only one condition which makes the interest dependent on profits in one respect only. Supposing the profits go up to 30 per cent. the debtor is not to pay any extra amount of interest for that. So, in no sense can we say there exists any real partnership between the debtor and the creditor and we are not in any way justified in not making an allowance for the amount of interest he has paid. If there is anything to show that the contract between the debtor and the creditor amounts really to a partnership, that is quite separately provided for. Our income-tax officer can say if a certain contract does or does not amount to a partnership. If it does amount to a partnership, he is free to assess it like that, but if it does not amount to a partnership, I cannot understand on what principle we can say that we shall not allow this interest. Supposing a

[Bhai Man Singh.]

man has got a friend or a relation who advances money to him on this very condition, 'All right, I am drawing 5 or 6 per cent. from my Bank. I would be perfectly satisfied with getting 5 per cent. from you if you do not get any profits. But, my dear Sir, if you get any bigger profit I should take the same amount which I would have taken from any other debtor of mine. Then I will charge you 12 per cent.' But there is no condition about a share in the profit or loss of the whole business. I cannot understand how we are entitled to say, 'No, in this case we shall not allow this interest to be deducted out of those profits.' Excuse me, Sir, when I say bluntly that, in spite of thinking over and over again on this point, I have not been able to understand the rationale of this provision. With these remarks I recommend this amendment to the acceptance of the House.

Mr. G. G. Sim: Sir, the reason why these particular words were inserted in the present Act and have been retained in the present Bill is simply in order to distinguish clearly between money that belongs to the owners of a business and money that is borrowed by them from outside. If these words were removed it would not be possible to tax a company at all. At present under the provisions of this clause a company is allowed to deduct from its profits the interest on any money that it borrows from outside at fixed rates of interest, such as money obtained on mortgage or by means of debentures; so far as the money employed in the business belongs to the shareholders or owners of the company, the company is taxed upon the profits accruing on that money. If these words were removed, it would be quite possible for a company to claim that the whole of its share capital was borrowed and that it is not liable to any tax. The same remarks apply to a firm. If a firm borrows money from outside, the interest on the money borrowed is allowed, but it would be quite easy, if these words were removed, for the partners in a firm to come forward and say that they have no capital and that they were working entirely on borrowed money borrowed from the individual partners. I am not aware that the working of this clause has given rise to any inconvenience or to any injustice in any case whatsoever, and the necessity for retaining these words is obvious. I oppose the amendment.

Mr. President: The question is that the following amendment be made:

'In clause 10, sub-clause (2) (iii), omit the words 'where the payment of interest thereon is not in any way dependent on the earning of profits'.

The motion was negatived.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadian Urban): The amendment that I have to move is:

'To sub-clause (2) (iii) of clause 10, add the following: 'Explanation:—Recurring subscriptions paid periodically by shareholders or subscribers in a Mutual Benefit Society, shall be deemed to be 'capital borrowed' within the meaning of this clause.'

The object of this clause, as Honourable Members will see, is to provide, in computing gains or profits, for the exclusion of *bona fide* interest paid on borrowed capital. It is a well-known rule of law that, in the case of share capital in companies, any interest paid or dividend paid on that share capital is not excluded for the purpose of income-tax. We have got in Madras a number of societies called Mutual Benefit Societies or Provident Funds in which poor people combine in order to put their savings.

The way in which they do it is this. Each man pays one rupee a month and at that rate pays for 76 or 84 months as the rules of the society may provide, and, at the end of that period, they get paid in a lump sum of Rs. 100 or 101 or 102, as the case may be.

It is a more or less co-operative concern and the money so subscribed is pooled together and lent to the members of the society, those who are in need of money. People are encouraged to save from their small earnings, and people in needy circumstances are able to borrow at a cheap rate of interest instead of going to the money lender in the market and paying large rates of interest. Now, under the rules as they are now worked, this is treated as if it was a share capital in a registered company and therefore the income-tax officers in Madras do not allow any deduction for the interest which is payable on these subscriptions by individual members. The rules provide for the calculation of interest on this one rupee subscription which he pays monthly at the rate of $6\frac{1}{2}$ per cent. or 7 per cent. Each year it accumulates in that way. The Rs. 76 or 84 paid by a man is repaid to him at the end of 76 months or 84 months in a lump sum of Rs. 100 or 101 or 102. This is set apart, year after year, as what is called guaranteed interest, in the accounts of the company, and each month some subscriber's term will expire. Suppose there are a thousand subscribers. Some of them will begin subscribing in the month of January, some in February, some in March, and so on. So every month some subscriptions will mature and therefore each month they have to provide some money in order to pay these subscribers—the interest paid on these subscribed amounts or what is called the guaranteed interest is provided for and the income-tax officers refuse to make any allowance for this interest which is paid, because they want to treat the one rupee, paid month after month, as share capital in a company and therefore they do not allow it. I think, having regard to the beneficent object which these societies have, you must not calculate as profits what is paid in the shape of interest on borrowed capital. They should also be treated really as money lent to the concern. It is money lent to each other and they merely put up their savings in that way as money lent for the purpose of transacting that most important business. I know that, in Madras, the rate of interest in the money market is kept down considerably by the operations of these various societies, which are scattered all over the Presidency, not only in the Presidency town but all over the Presidency, and to treat this as share capital does not sound at all reasonable. On the other hand, if you want to raise the income-tax on this amount also, you will drive these benefit societies to raise their rates of interest. They lend the money amongst the subscribers themselves and if they have to pay this income-tax, they will have perforce to raise their rate of interest which they levy from the subscribers and I do not think it can be the object of a good Government to prevent these societies doing useful work, and I, therefore commend this amendment to the acceptance of this House. It will enable these societies to carry on their transactions in a beneficent way. I know this has worked as a hardship in my own province. I do not know the case in other provinces, but I have described the nature of the transactions and I hope the Assembly will accept my amendment.

The Honourable Sir Malcolm Hailey (Finance Member): Would you allow me, with your permission, to ask purely for our information whether the term 'Mutual Benefit Society' is defined in any Act. Perhaps the Honourable Mover will kindly let us know that.

Rao Bahadur T. Rangachariar: If it is not defined we will define it now. I do not think I can call to memory any provision in any Act which has defined it, but I think the words are self-explanatory.

Mr. G. G. Sim: I have seen the rules of some of the associations, benefit societies and companies that have been referred to by the Honourable Member. Representatives of some of these appeared before a committee which sat in Madras last year and the members of that committee got so confused regarding the phraseology used in the rules that they gave up any attempt to discover exactly what the constitution of these societies was. Similarly, a set of rules was brought before the Joint Committee when it discussed the Bill. I think a great many of the difficulties experienced by these societies is due to the peculiar phraseology that they use. They are of different types and have different rules. In some cases, subscribers are called shareholders, debenture-holders and various other names, and some of the difficulties that they have experienced are largely due to their wrong phraseology. At the same time, as the Honourable Member has pointed out, there is a certain amount of hardship in connection with some of these societies, owing to the fact that the members of these societies in some cases are not personally liable to income-tax. But I do not think that he can ask provision to be specifically made for these peculiar societies, which have different sets of rules and which are under different constitutions, by a general provision in the Bill. In any case it would be impossible to insert this 'explanation.' As the Honourable the Finance Member has pointed out, there is no definition of what a Mutual Benefit Society is. It would be impossible in any case, I think, to insert in the Bill a provision that the money paid by share-holders shall be deemed to be capital borrowed. These two terms are mutually contradictory. Perhaps it will meet the views of the Honourable Member if I suggest that, when this Bill is passed, he should ask the Government of India to take into consideration the peculiar circumstances of these societies and to see whether any special provision is necessary for them under clause 60 of the Bill. Clause 60 of the Bill gives the Government of India power to reduce taxation or to make any concession they please in favour of any particular class of income. It is impossible to arrange for these societies in the way which he suggests. The wording of the explanation is too loose and would be capable of different interpretations. The full facts regarding these particular societies are not before the House and I do not think the House can be asked to legislate for them specially, but the Government of India are quite prepared to consider the case of these societies when the full facts are placed before them, to consider whether any special concession is required or whether any special arrangements are necessary in order to secure an equitable assessment of income-tax. I hope the Honourable Member will, therefore, see his way to withdraw this particular amendment.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): The concerns or the institutions on behalf of which my Honourable friend, Mr. Rangachariar, has moved his amendment are institutions well known in my province. Other provinces do not seem to have such concerns.

Now the history of these concerns is one well worth the attention of Government. When the Indian Companies Act, 1862, was passed, a large number of institutions, which were unregistered and which were known by the name of 'chit funds' and so on, institutions peculiar to the Madras Presidency, in order to regularize their position under the law and in order also to make their officers liable, registered themselves under the

Companies Act; and, when registering themselves under the Companies Act,—some of them so long as 40 years ago—they no doubt used words and phrases which were not really applicable to the business they were doing. They called their subscribers, 'shareholders;' they called the periodical payments 'calls.' But we know that a shareholder in a Joint Stock Company never gets back his money from the Company, unless it goes into liquidation and then only from the hands of the liquidator. In these concerns the shareholders, so called, are not really shareholders; they are subscribers paying a subscription month by month: one rupee is ordinarily the amount which each shareholder pays. He continues those payments for 45 months, or 27 or 80 or 90 months, and then, at the end of that period, whatever it may be, he receives his money back, *plus* an interest calculated at a certain rate—six per cent. generally. That is, he gets his money *plus* the interest back, and if there is any surplus in the fund after the expenses have been met, then he gets something more later on. But he is assured, in a way in which no company can assure its shareholders, of a payment of six per cent. It, therefore, happens that people of small means are almost always the members of such institutions. Two things attract them; the first is the facility with which they can get back their money at the end of these short periods. We all know, so far as Indians are concerned at least, that people are loath to put money into Joint Stock concerns, because they cannot get back their capital. Even Government securities are faced with the same difficulty. A great many people say that they will not put their money into it because they cannot get it back. But these institutions give facilities for getting back one's capital and therefore men of small means, labourers, artisans and clerks, and people in a small way generally, subscribe a rupee or two a month, or as much as they can afford, and at the end of a certain short period they get back their money. Secondly, in the meanwhile they have facilities for borrowing. They can borrow an amount to the extent of their outlay, whenever they require it. These concerns are therefore practically co-operative concerns without the intervention of Government.

In the Madras Presidency every district, every tehsil station, has got a concern like this. Their names vary in different places; in one place it may be called a Hindu Mutual Benefit Fund; in another place it will be known as a Hindu Permanent Fund. Of course they are all names which have no particular meaning. Some of them are high-sounding; but there is no good in taking up their nomenclature, criticising them and then saying that they come under the Companies Act: even though the subscribers are called 'shareholders' and the monthly instalments which they pay in are called 'calls.' Though they utilize the phraseology of Joint Stock Companies, they are in fact not Joint Stock Companies in the sense in which we understand them. The men who put their money into these concerns get back their money in a short time; no shareholder in a Joint Stock Company gets back his money directly from the Company. These institutions are very well known to everyone in Madras, officials and non-officials, and there will be absolutely no difficulty in differentiating them, though registered under the Companies Act, from Joint Stock Companies. Therefore the Honourable Mr. Sim's objection that they call themselves by certain names and those words and phrases bring them under the Companies Act, and that it will be a very difficult matter to discriminate between them and other concerns registered under the Companies Act, has no force. Any Madras official would be able to tell you that one of these institutions is not a Joint Stock Company in the sense in which we understand the term. These are concerns in which there is really no capital.

[Rao Bahadur C. S. Subrahmanayam.]

Money is put in by the subscribers and it is taken back after a short period. There is a further point; they are all small concerns; their working expenses are small and their earnings are small. If you tax them just like Joint Stock Companies of the highest grade, practically all their earnings will be taken away by the Income-tax officer. The result will be that these institutions will either have to close down or be driven to alter their articles of association and form themselves on an entirely different basis. It would be a great hardship. The amendment proposed explains itself, and I think there will be no hardship in accepting it, and it will give much needed relief. Almost all these concerns have addressed letters to the Secretary of the Legislative Council pointing out their difficulties, and printed copies of that letter, which have been sent to me, have been circulated, as far as possible, among the Members of this House. I must congratulate the gentleman who spoke for Government on his appreciation of the difficulties of these institutions. As he understands them, it cannot be very hard for him to find a solution for this difficult matter.

The Honourable Sir Malcolm Hailey: After Mr. Subrahmanayam's explanation, I do understand the case a little more clearly than, I confess, I did before; but I do not think he has correctly or fully represented the objection, which my friend, Mr. Sim, brought forward, to the inclusion of the proposed explanation in the Bill. Now, in the first place, it is quite clear that there is no statutory definition of a 'Mutual Benefit Society.' In the second place, it is clear that, in point of fact, these Societies are in numerous cases not even called 'Mutual Benefit Societies' at all. In a large number of cases they are called, to use the Honourable Member's expression, by various high-sounding names. That, in itself, would naturally cause difficulty in the interpretation of the 'Explanation.' Further, the term 'Mutual Benefit Society' is probably of very much wider application than the operations of these particular Societies; in fact, a member of a Club might be inclined to claim that a Club also was a Mutual Benefit Society and that the 'Explanation' should apply to it.

Now, Sir, the case we put forward was this, that, admitting that these Societies have some claim to protection, we yet desire to examine their case more fully. We desire also that these Societies should have a chance of putting themselves on a basis so clear, and arrange their terms with such precision, as to allow of their receiving the benefits of any exemption that we might grant. When that is done, we would consider their case under section 60 of the Act. I put it to the House that it is not advisable to include in the Act any term so indefinite as this and so difficult of interpretation. I have been twitted with not being a lawyer. I am not ashamed of not being a lawyer. I have other functions, but I know sufficiently of legal operations to say, and to say with confidence, that it is very inadvisable to put in an Act a term of general and undefined application. To do so very often leads to very much more trouble than the framers of an amendment calculate. I would further, say, Sir, that it is inadvisable for this Assembly to put on its Statute Book an explanation so worded that it would seem to have the curious effect of making money paid by a subscriber or shareholder actually 'capital borrowed;' obviously it cannot be 'capital borrowed.' Indeed, it reminds me of a good deal of the laudable efforts of certain officers, made in the interest of sport, to bring such animals as elephants and leopards within the operation of the Wild Birds Protection Act.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): May I suggest a solution, Sir, out of the difficulty pointed out by the Honourable the Finance Member, which I fully appreciate. Supposing you add the words 'as defined by rules made under this Act' after the words 'Mutual Benefit Society,' that will leave it open to the Finance Member to frame his definition in such a manner as to meet precisely those cases which he wants to meet and shut out cases which he does not want to meet.

The Honourable Sir Malcolm Halley: Sir, if I may say so, this addition is quite unnecessary, for we have a very wide power under section 60, and, if necessary, we are prepared to utilise that power. It is not at all necessary to lay down that we should frame rules to this particular effect under the Act.

Rao Bahadur T. Rangachariar: I am sorry the Honourable the Finance Member would not accept the proposal, even as amended by Sir Sivaswamy Aiyer. We know the Government of India have ample power. We know also how, in income-tax cases, they exercise their power. Unless we have some such explanation, it is at least likely that this power would be exercised. We know how income-tax officers are heartless. To bring up cases from remote districts, say Malabar, to the Government of India is really asking too much. I think the clause as amended by Sir Sivaswamy Aiyer meets all the objections raised. It is open to Government to define a Mutual Benefit Society, and I do not see why there should be any objection. I therefore press my amendment (as amended by Sir Sivaswamy Aiyer).

Mr. President: Am I to understand that the Honourable Member moved these words as an addition to Mr. Rangachariar's amendment?

Sir P. S. Sivaswamy Aiyer: The amendment is to add the words 'as defined by rules made under this Act' after the words 'Mutual Benefit Society.'

Mr. President: Amendment moved:

'To sub-clause (2) (iii) of clause 10, add the following: '*Explanation*:—Recurring subscriptions paid periodically by shareholders or subscribers in a Mutual Benefit Society, as defined by rules made under this Act, shall be deemed to be 'capital borrowed' within the meaning of this clause.'

The question is that that amendment be made.

The Assembly then divided as follows:

AYES—36.

Abdul Majid, Shaikh.
 Agarwala, Lala G. L.
 Ahmed, Mr. K.
 Aiyer, Sir P. S. Sivaswamy.
 Asjad-ul-Iah, Maulvi Miyan.
 Bagde, Mr. K. G.
 Bajpai, Mr. S. P.
 Barua, Mr. D. C.
 Bhargava, Pandit J. L.
 Chaudhuri, Mr. J.
 Fayyaz Khan, Mr. M.
 Gour, Dr. H. S.
 Habibullah, Mr. Muhammad.
 Jatkar, Mr. B. H. R.
 Jejeebhoy, Sir Jamsetjee.
 Mahadeo Prasad. Munshi.
 Man Singh, Bhai.
 Misra, Mr. P. L.

Mudaliar, Mr. S.
 Muhammad Hussain, Mr. T.
 Mukherjee, Mr. J. N.
 Nag, Mr. G. C.
 Nand Lal, Dr.
 Neogy, Mr. K. C.
 Pyari Lal, Mr.
 Rangachariar, Mr. T.
 Rao, Mr. C. Krishnaswami
 Reddi, Mr. M. K.
 Samarth, Mr. N. M.
 Sarvadhikary, Sir Deva Prasad.
 Sinha, Babu L. P.
 Sinha, Beohar Raghubir.
 Subrahmanayam, Mr. C. S.
 Thackersey, Sir Vithaldas D.
 Ujagar Singh, Baba Bedi.
 Wajihuddin, Haji.

NOES—29.

Bradley-Birt, Mr. F. B.
 Bray, Mr. Denys.
 Bryant, Mr. J. F.
 Carter, Sir Frank.
 Chatterjee, Mr. A. C.
 Crookshank, Sir Sydney.
 Dentith, Mr. A. W.
 Fell, Sir Godfrey.
 Gidney, Lieutenant-Colonel H. A. J.
 Gmawala, Mr. P. P.
 Hailey, the Honourable Sir Malcolm.
 Hullah, Mr. J.
 Innes, the Honourable Mr. C. A.
 Iswar Saran, Munshi.
 Keith, Mr. W. J.

Manmohandas Ramji, Mr.
 Maung Maung Sin.
 McCarthy, Mr. F.
 Mitter, Mr. K. N.
 Nabi Hadi, Mr. S. M.
 Percival, Mr. P. E.
 Renouf, Mr. W. C.
 Sarfaraz Hussain Khan, Mr.
 Sharp, Mr. H.
 Sim, Mr. G. G.
 Spence, Mr. R. A.
 Vincent, the Honourable Sir William.
 Waghorn, Colonel W. D.
 Way, Mr. T. A. H.

The motion was adopted.

Sir Vithaldas D. Thackersey (Bombay Millowners' Association; Indian Commerce): Sir, I beg to move:

'In sub-clause (2) (iv) of clause 10, after the words 'for the purposes of the business,' insert the following words:

'And in respect of insurance against loss of profits and fixed charges by such damage or destruction'.

Sir, clause 10 (2) (iv) provides for an allowance:

'In respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purpose of the business'.

I wish to propose that allowance should also be given in respect of insurance against loss of profits and fixed charges by such damage or destruction. I note that, at the top of page 5 of the Report of the Joint Committee, they say:

'We do not consider it advisable to insert any provision in the Bill allowing, as a business deduction, insurance against the loss of profit. Departmental instructions should, however, be issued that, where the owner of a business asks for any such allowance, it should be given on the assessee agreeing to pay income-tax on the amount recovered from the insurance company. Similar instructions should be issued regarding insurance against loss of rent under clause 9.'

I do not know whether this recommendation of the Joint Committee is accepted by Government and whether Government will give an undertaking that such instructions will be issued. The most satisfactory way, however, of dealing with such a question, where we all agree, is to include a provision in the Act, providing at the same time what the Joint Committee mentions, namely, the words

'on the assessee agreeing to pay income-tax on the amount recovered from the insurance company'.

I do not think that there can be any objection to drafting a clause to give effect to the idea of the Joint Committee, but, if I am assured that Government will issue the necessary instructions, I will not press this amendment.

Mr. G. G. Sim: Sir, I can assure the Honourable Member that departmental instructions will be issued in the exact words used by the Joint Select Committee.

I might explain that the reason why the Joint Committee decided not to put in a special provision in the Bill was that the commercial representatives explained that it would not always be convenient to take advantage of the concession and that certain businesses might prefer not to have the allowance and not to be taxed on any amount received from the insurance company. It was, therefore, decided to leave it entirely to the option of the owners of each particular business.

I hope, therefore, that the Honourable Member will withdraw the amendment.

Sir Vithaldas D. Thackersey: I beg to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

Sir Vithaldas D. Thackersey: Sir, I beg to move:

'After sub-clause (2) (iv) of clause 10, insert the following:

'(v) In respect of contributions made by a company, firm or corporation to a regularly constituted provident fund for the benefit of its employes and the interest allowed thereon'.

I think the House will agree with me that, when a company or corporation sets aside a special fund for the benefit of its employees by way of a provident fund, and that fund is properly constituted for the benefit of the employees, an allowance for such amount as may be set aside for this purpose should be made before income-tax is payable. I do not think there can be any difference of opinion about that, and I hope Government will accept this amendment.

Mr. G. G. Sim: Sir, the difficulty about accepting this particular amendment is that it is difficult to say what particular interpretation would be put upon the words 'regularly constituted provident fund.' It is entirely owing to the difficulties regarding private provident funds that the Government recently circulated a letter to commercial associations and to Local Governments asking for their suggestions regarding legislation for the purpose of putting these provident funds upon a legal basis. I have seen the rules of many of these funds and they differ in many respects. The whole of this question was thrashed out at considerable length before the Joint Committee and the Joint Committee have made the following recommendation:

'We do not consider it advisable to make any specific provision regarding the deductions to be allowed on account of the contributions of employers to private provident funds of companies and firms. We consider, however, that the practice should be that such contributions should be allowed in cases where the funds are irrevocable trusts and where the employers' contributions cannot under any circumstances be recovered by the employers'.

I can assure the Honourable Member that instructions will be issued to give effect to this recommendation. It is intended to follow this practice, that is to say, to allow such contributions where it is clear that the employer cannot himself recover the money from the provident fund, until legislation is introduced to give effect to the proposals made by the Honourable Member.

I hope, therefore, the Honourable Member will see his way to withdraw this amendment.

Sir Vithaldas D. Thackersey: I am satisfied that the necessary instructions will be issued, and I beg to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Lala Girdharilal Agarwala: Sir, the amendment which stands in my 12 Noon. name runs as follows :

' In sub-clause (2) of clause 10, insert the following : ' (vii) In respect of amounts transferred to a reserve for the purpose of internal insurance and sums paid towards insurance against loss of profit or loss of rent under clause 9 and contributions by employers towards provident funds for the benefit of the employees.'

Now, Sir, my amendment is to a great extent covered by the amendment already moved by my Honourable friend, Sir Vithaldas Thackersey, and, on the assurance which has been given by the Government, I think it would not be of any use to me to move this amendment. The special reason which I see is this, that a big deficit is coming on and perhaps we are not in a mood to cut down very much, so I think I will not press my amendment.

Haji Wajih-ud-Din (Cities of the United Provinces: Muhammadan Urban): Sir, I beg to move :

' After clause 10 (2) (vi), insert the following :

' (vii) In respect of Zakat or Dharmada not exceeding 2½ per cent. of business-property (house property of all kinds excluded) actually paid or transferred to such funds during the year.'

And re-number (vii), (viii) and (ix) as (viii), (ix), and (x), respectively.'

I want that an allowance should be made in respect of Zakat and Dharmada which every Muhammadan and Hindu is bound to spend according to his religion in respect of his working capital. The rate specified by the Divine Law for Zakat is 2½ per cent. and for Dharmada on Hindus, according to my knowledge, one-ninth per cent. There may be some defaults in this respect, but the majority have to spend this proportion, and therefore I ask that provision be made for the allowance asked for.

The Honourable Sir Malcolm Halley: Before we proceed to discuss this amendment, may I, with your permission, ask the Honourable Member what meaning he attaches to the words 'business property?'

Haji Wajih-ud-Din: Working capital of the business.

The Honourable Sir Malcolm Halley: Might I ask him to define it in some term used in the Act itself?

Haji Wajih-ud-Din: Working capital of the business will do, I suppose. These are the terms I suggest.

The Honourable Sir Malcolm Halley: Sir, I am afraid that neither of the terms which the Honourable Member has quoted to us is used in the Act, and it is therefore still very doubtful, in my mind, exactly what deduction the Honourable Member actually proposes to make—whether he proposes to make it from the profits, or the gains, or whether he actually proposes to make it from what he described as the working capital, is still very doubtful.

Haji Wajih-ud-Din: I want it taken from the capital, Sir.

The Honourable Sir Malcolm Halley: In that case, Sir, I submit that the amendment falls to the ground, as we do not tax capital at all. We tax, of course, profits and gains.

Haji Wajih-ud-Din: Yes, I want it deducted from the profits at the rate of $2\frac{1}{2}$ per cent.

The Honourable Sir Malcolm Hailey: I now understand that he wishes to deduct up to $2\frac{1}{2}$ per cent. from the profits.

Haji Wajih-ud-Din: Not from the profits but from the capital.

The Honourable Sir Malcolm Hailey: I now understand that the Honourable Member wishes to deduct $2\frac{1}{2}$ per cent. from the capital. May I point out again, that we do not tax capital. We tax profits. However, Sir, leaving alone the very mysterious nature of the proposition which the Honourable Member wishes to put forward, and which still leaves me in the utmost doubt as to its interpretation—a doubt which I am sure is shared by the House,—I would point out that what we set out to tax is the profits or income of a person, and we deduct from it such sums as are necessary to earn those profits or that income. If expenditure is incurred by him of a purely optional nature, it is clear that we cannot allow a deduction on that account so long as we adhere to the principle of deducting only those expenses which are necessary to earn his income. Now, Sir, it is no doubt highly laudable to agree to pay $2\frac{1}{2}$ per cent. as Zakat or Dharmada; I know that in Delhi and no doubt elsewhere, many traders make regular payments of this nature for purely charitable purposes. That I admit, but I would point out that it is purely optional expenditure which is not essential for the earning of their incomes. The Honourable Member would no doubt urge in reply that these payments are of a religious nature. That I again admit; but there are a large number of religious obligations which have to be undertaken by people which it would be quite impossible for us to except from taxation under a general provision of the Act. I therefore, Sir, oppose this amendment.

Dr. Nand Lal (West Punjab: Non-Muhammadan): Sir, if money spent on insurance is deductible, then the money spent on this charitable affair is also necessary to be deducted. The money which is spent on insurance is also optional, just as it is optional in regard to this item. The Honourable the Finance Member's argument that, since it is optional, it is not essential, and, therefore, this amendment should be rejected, is met, I think, by the answer I have given. On that ground this amendment may be accepted, though I differ, in one respect from the author of the amendment. The amendment as he has worded it, seems to be very vague. If he accepts the amendment in the form I am going to suggest, then I am quite prepared to support the main principle underlying his original amendment, and I shall give answers to any other arguments that may be advanced by the Honourable the Finance Member. The amendment, as I propose it, will stand as follows:

'In respect of Zakat or Dharmada not exceeding $2\frac{1}{2}$ per cent. of the total taxable income.'

Sir, in this country, called India, charity is considered to be one of the most essential duties of a man, and a man really feels very much delighted when he finds that a little portion of his income has been spent on charity. This very idea is morally very beneficial and makes him apply his mind and his efforts to his business. As a matter of fact, business, which really brings forth profit, is very much encouraged. Consequently, this charity or Zakat or Dharmada may be considered one of the essential expenses which will be incurred in producing profits. On these grounds, I very respectfully submit, that the amendment, which I have proposed, will be acceptable to the whole House, and I hope that there will be no dissentient voice.

Mr. President: Amendment moved:

'To delete the words from 'business property.....' down to the end of the brackets and to insert the words 'total taxable income' instead.'

The question is that that amendment be made.

The motion was negatived.

Haji Wajih-ud-Din: I claim a division, Sir.

Mr. President: Does the Honourable Member want a division on the amendment to his own amendment? The amendment I have just put to the House was the amendment as moved by the Honourable Member from the Punjab (Dr. Nand Lal).

The question is that the following amendment be made:

'After clause 10 (2) (vi), insert the following:

'(vii) In respect of Zakat or Dharmada not exceeding 2½ per cent. of business property (house property of all kinds excluded) actually paid or transferred to such funds during the year'.

And re-number (vii), (viii) and (ix) as (viii), (ix), and (x), respectively.'

The motion was negatived.

Rao Bahadur T. Rangachariar: Sir, on the principle accepted by the Joint Committee it is rather difficult to reconcile their retention of this proviso (b) in this section. The principle was this, that this is an annual tax payable on the income for the year, and that you shall not allow any deduction for loss in regard to any one year being carried over to another year. It appears to me to be a sound principle, having regard to the object of income-tax, which is tax on the annual income. It is, therefore, difficult to reconcile that principle with the retention of this proviso (b), which, Honourable Members will see, provides for this depreciation of machinery—I think it is—to be carried over from year to year for succeeding years, so that, if in one year there is not enough profit, then they are allowed to carry this over from year to year, it may be, for 10 or 20 years in that way. It appears to me to be contrary to the principle accepted, and that is why I propose the abolition of this proviso. I move, therefore,

'To omit proviso (b) to sub-clause (2) (vi) of clause 10 and re-number proviso (c) as (b).'

Mr. Manmohandas Ramji (Indian Merchants Chamber and Bureau: Indian Commerce): Sir, the object of this proviso is, in any year when there is not sufficient profit, to write off the depreciation that goes on on machinery from year to year, and, if the profits are not sufficient or there is a loss, then that amount is to be carried to the next year and so on, the object being that machinery is always going on depreciating from year to year, which depreciation means loss in the subsequent years; because when your machinery is new in the first year, it can produce more, and when it has depreciated from time to time—there is waste going on and it reduces the earning capacity of the thing; and therefore this depreciation is allowed so that, after a number of years, it can be replaced and the profits kept regularly going on. That being the object, it is in the interests of the Government also that the depreciation should be allowed for, so that the profits may not vary after the depreciation. The analogy that the Honourable Mover has drawn is that, when you do not allow losses to be carried forward, this thing also should not be allowed; but losses are a different

thing; and depreciation being a different thing altogether. I think it is right that it should be allowed.

Mr. President: The question is that the following amendment be made:

'Omit proviso (b) to sub-clause (2) (vi) of clause 10 and re-number proviso (c) as (b).'

The motion was negatived.

Clause 10, as amended, and clause 11 were added to the Bill.

Mr. President: The question is that clause 12 do stand part of the Bill.

Rao Bahadur T. Rangachariar: In regard to clause 12, Sir, I am sorry I did not give notice of an amendment to this clause. But I wish to mention a point for the consideration of Government, so that they might consider it in the rules to be framed. Under this Act, undivided Hindu families become liable as a unit of assesseees, and, from the proviso at the end of this clause, Honourable Members will know that no allowance is made for the personal expenses of the assessee, so that this will work as a great hardship on the undivided families where the aggregate income of the members will become liable to income-tax. In such a case it might be necessary to provide by rules for some allowances to be deducted for the personal expenses of the various members who constitute the family; and, if it is not so done, then I am afraid many a Hindu family who have got limited means of income will be put to hardship. You may limit the amount by rules for each member; you need not leave it to them to say 'we have spent so much'; but some such provision is needed. I do not know whether the Government will consider this point and provide for the needs of this class.

The Honourable Sir Malcolm Hailey: I am astonished, Sir, after what the Honourable Mr. Rangachariar said with regard to a previous amendment of his own, that he should ask Government to take into consideration any suggestion for mitigating the provisions of the Act. He was of opinion that the income-tax authorities were so hard that it was quite useless putting before them any case

Rao Bahadur T. Rangachariar: I did not mean the Honourable Member though.

The Honourable Sir Malcolm Hailey: It was I, however, who would have had to consider the case of the Mutual Benefit Funds, not a local income-tax officer. But in this case, I may say that he is fully justified in his previous apprehensions, for I can give him no assurance whatever that Government will be prepared to make, in regard to members of joint Hindu families, a concession in regard to personal expenditure, which they are not prepared to make in the case of any Member of this House who does not happen to belong to a joint Hindu family.

Clauses 12, 13, and 14 were added to the Bill.

Mr. President: The question is that clause 15, as amended by the Joint Committee, do stand part of the Bill.

Rao Bahadur T. Rangachariar: Sir, it is only to carry out the intention, as I think, of the framers of the Bill that I move this amendment. They are allowing for insurances for members of a joint family, but they make it 'adult male member,' thereby they make no provision for insuring the lives of infant members of a joint family, and I do not see

[Rao Bahadur T. Rangachariar.]

why, if you are going to allow for insurances of adult male members of a family, you should not allow for insuring the life of an infant member of the family. We marry early in this country, even before we attain majority, and I think it is necessary to make a provision like that, and I therefore propose the omission of the word 'adult' towards the end of clause (2) of this section. The section would then read ' an insurance on the life of any male member of the family . . . ' I am not very exorbitant in my demand. I might as well have proposed the omission of the words 'male adult,' so as to allow for insurances even on female members of the family, but I am modest in my request, because infant male members of the family have got an interest in the family property as much as the adult male members. They are as much members of the family and entitled to all the rights and privileges of the family. I, therefore, do not see any sense in excluding infant members from the benefit of this clause. I, therefore, propose the omission of the word 'adult' in clause 15 (2).

Mr. G. G. Sim: Sir, I can assure the Honourable Member that it was owing to no mistake in drafting that this word was inserted. It represents the deliberate intention of the Joint Committee. An Honourable Member referred, in the course of discussion on another amendment, to the provision made for the exemption of sums spent on insurance premia. This particular exemption has always been strictly limited. The exemption, in its present form, is intended to encourage thrift and to induce an assessee to make provision for his dependants. Under the Act and under the Bill, it has always been restricted to an insurance on the life of the assessee himself and to an insurance on the life of his wife. There are obvious reasons why allowances should not be made for insurances effected on the life of a child. It is quite a common practice in some countries. I do not know if that is a common practice here—to make insurances, for example, for the education of children; and a proposal was put forward, when the Act of 1918 was under discussion for the exemption of such insurance premia. It was opposed on the ground that it would enable assessees to put away considerable sums of money and to escape taxation in this manner.

Now, Sir, when the Joint Committee inserted sub-clause (2), they were under the impression that they were conferring upon the Hindu undivided family a concession more liberal than is given to the ordinary assessee. The ordinary assessee is, as I have said, allowed, under 15 (1), a deduction only in respect of a premium on an insurance on his own life or on the life of his wife, and, in the case of a Hindu joint family, it is proposed to allow an insurance on the life of every adult member of the family or the wife of any such member. That is a greater concession than is allowed to the ordinary assessee. I have stated the reasons why it is not proposed to extend the concession to insurance on the life of children. These are general objections, but there is certainly a further objection to the proposal put forward by the Honourable Member, that this concession, in favour of insurance on the life of children, should be given only in the case of children who are born in a Hindu undivided family. I oppose the amendment.

Dr. Nand Lal: Sir, it stands to reason that this amendment should be accepted unanimously. If a minor has got a business and the profit of that business is assessable to income-tax, there is no reason why the money which he spent on insurance should not be deducted. It means that, if a minor is

running some business and is deriving some profit from it, that profit is assessable to taxation, but the money, which is spent on insurance which will, to a certain extent, help the maintenance of his wife or will be of some benefit to other members of the family, should not be deducted from that amount which is assessable to income-tax. I may very respectfully submit that there does not seem to be any reason in this opposition. If the joint Hindu family is considered to be a unit, and the earnings of all members of the family go to the common hotch-pot and if that income is assessable, I think it is very necessary that the money which is spent for the benefit of the family should be deducted. For these reasons, I very respectfully submit that the amendment which commends itself, should receive the acceptance of the whole House.

Rao Bahadur T. Rangachariar: Sir, the objection taken on behalf of Government by Mr. Sim seems to me to merely draw the attention of the House away from the real issue. I did not ask for any deduction for the education of children, I did not ask for any deduction for insurance for marriages, I did not ask for any deduction for insurance as in other countries. Other countries do not possess Hindu undivided joint families and it is in this country that we have Hindu undivided joint families which are now sought to be made liable for the purpose of assessment, and you have to take facts as they are. It is a well-known fact that even infant members take part in a family business. Take a trading family, and you see boys of 14 and 15 go to the shop and do business. In the case of Nattukottai Chetties even boys of 9 and 10 are taken in business and they contribute to the joint earnings of the family and, therefore, it is but right that we should allow deduction for insurance on the lives of these infant members of the family.

Mr. R. A. Spence (Bombay: European): Sir, may I ask the Honourable Mover of this amendment whether he desires that the insurance paid by parents of infant children of Muhammadans and Anglo-Indians who work in their father's firms in this country should be exempted or whether he claims a special privilege for the Hindu undivided family which he will not allow to other races and other creeds?

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): Sir, before that question is answered, may I ask another question, whether Anglo-Indians and Muhammadans are also subject to the co-parcenary law?

Rao Bahadur T. Rangachariar: Sir, I am perfectly willing to support my Honourable friend if he brings forward such an amendment. But that is not the question now before the House. We are now concerned with a particular clause which deals with the Hindu joint undivided family. If my Honourable friend had been wise and had really interested himself in those people for whom he pleads and if he had brought forward an amendment, I would have heartily supported him.

The Honourable Sir Macolm Hailey: Sir, you will allow me to point out to the House that the Hindu joint family already occupies a very exceptional position under our taxation laws. When you come to super-tax they receive an exceptional deduction. We propose under this Bill to give them a further benefit, namely, that the profits derived from a Hindu joint family should not be taken into consideration in assessing a man's individual income. Now, Sir, the Honourable Mover, Mr. Rangachariar, is solicitous, as I know Members from Madras frequently are of the Hindu joint family, and desires to obtain yet another privilege which is denied

[Sir Malcolm Hailey.]

to other classes of people. That in itself is, I think, undesirable. It is, indeed, undesirable that we should extend privileges to any particular class in regard to taxation. But further from that, Sir, he has not made it at all clear for what purpose the life of a child is insured. It is not to be insured apparently for education; it is to be insured solely apparently for the benefit of the Hindu joint family in the event of that child expiring. Now, Sir, since the insurance will come to the family in that event, on what grounds is it proposed to make this exceptional exemption on behalf of the children of a Hindu joint family? On no reasonable grounds can such an exemption be argued.

Mr. President: Amendment moved:

'In clause 15 (2), omit the word 'adult'.'

The question is that that amendment be made.

The Assembly then divided as follows:

AYES—32.

Abdul Majid, Shaikh.
Agarwala, Lala G. L.
Ahmed, Mr. K.
Asjad-ul-lah, Maulvi Miyan.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Chaudhuri, Mr. J.
Faiyaz Khan, Mr. M.
Gour, Dr. H. S.
Jatkar, Mr. B. H. R.
Mahadeo Prasad, Munshi.
Manmohandas Ramji, Mr.
Man Singh, Bhai.
Misra, Mr. P. L.

Mudaliar, Mr. S.
Muhammad Hussain, Mr. T.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Nand Lal, Dr.
Rangachariar, Mr. T.
Rao, Mr. C. Krishnaswami.
Reddi, Mr. M. K.
Samarth, Mr. N. M.
Singh, Babu B. P.
Sinha, Babu L. P.
Sinha, Beohar Raghbir.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Thackersey, Sir Vithaldas D.
Ujagar Singh, Baba Bedi.

NOES—30.

Aiyer, Sir P. S. Sivaswamy.
Bradley-Birt, Mr. F. B.
Bryant, Mr. J. F.
Carter, Sir Frank.
Chatterjee, Mr. A. C.
Crookshank, Sir Sydney.
Dentith, Mr. A. W.
Fell, Sir Godfrey.
Ghulam Sarwar Khan, Chaudhuri.
Gidney, Lieutenant-Colonel H. A. J.
Ginwala, Mr. P. P.
Habibullah, Mr. Muhammad.
Hailey, the Honourable Sir Malcolm.
Hullah, Mr. J.
Innes, the Honourable Mr. C. A.

Keith, Mr. W. J.
Maung Maung Sin.
McCarthy, Mr. F.
Mitter, Mr. K. N.
Nabi Hadi, Mr. S. M.
Percival, Mr. P. E.
Renouf, Mr. W. C.
Sharp, Mr. H.
Sim, Mr. G. G.
Spence, Mr. R. A.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Wajihuddin, Haji.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was adopted.

Mr. President: I should like to ask the Honourable Khan Bahadur Sarfaraz Hussain Khan whether he voted in this division.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division: Muhammadan): No, Sir, I did not.

Clause 15, as amended, was added to the Bill.

Sir P. S. Sivaswamy Aiyer: Sir, the amendment which runs in my name is as follows:

'In clause 16, insert the following as sub-clause (3):

'In determining the total income of an assessee liable to taxation, the amount of interest on any debt paid by him during the year shall, notwithstanding anything contained in sections 7 to 14, be deducted from the total income arrived at under clauses 1 and 2 of this section.'

Sir, my amendment raises an important question of principle and is intended to remove an injustice which exists under the present Act and which is attempted to be perpetuated in the new Bill. The question raised is this. If an assessee owes a debt and has to pay interest on it, is he or is he not entitled to deduct the interest paid by him on the debt from the income which he earns? My amendment does not offend against any of the fundamental principles of the income-tax law. One principle is that you are not entitled to deduct any capital destroyed but I am only asking that interest on debt paid shall be allowed. As a matter of fact, where a man owes a mortgage debt, there is a provision in clause 9 whereby the interest paid by him on the mortgage debt is allowed to be deducted. If a man carries on business and he borrows money for the purpose of that business, then the interest paid by him on the debt contracted by him for the purpose of his business is allowed to be deducted under clause 10. But take the case of a man who does not carry on business and who does not own house property or building property, but who has got some means, either in the shape of a salary or in the shape of income on Government promissory notes or something of the kind, and who is unfortunately obliged to borrow for some necessary purpose. It may be on account of the illness of some member of his family or it may be on account of the marriage of his daughter or for some such purpose as that. I am not suggesting that the amount of the debt which he borrows should be deducted from the income which he earns. All that I ask is that the interest which he pays on the debt shall be deducted out of the income which he earns. I will put a few cases to the House which will illustrate the injustice of the operation of the existing Act.

First of all, take the case of a man who has got Government promissory notes to the extent of Rs. 60,000. His income upon these promissory notes at $3\frac{1}{2}$ per cent is Rs. 2,150. Suppose he has been obliged to borrow a debt of Rs. 5,000 on account of illness of some members of his family or on account of the marriage of his daughter and he has to pay interest on this debt of Rs. 5,000 at 7 per cent, by no means an extravagant rate, it would come to Rs. 350. If you deduct this Rs. 350 from the Rs. 2,150, the net income really at his disposal is Rs. 1,800 which would exempt him from all liability to income-tax. But as a matter of fact, he is taxed upon the whole of Rs. 2,150 and no allowance is made for the interest which he pays upon the debt. In this very case, because a man is prudent enough not to sell the Government promissory notes, and keeps the corpus of the property alive for the benefit of Government so that it may continue to yield income that is liable to tax, he is penalised. Supposing, instead of borrowing Rs. 5,000 he sells Rs. 10,000 worth of Government promissory notes in order to get this Rs. 5,000, the amount of Government promissory notes in his hands would be only Rs. 50,000 which will yield him a sum of Rs. 1,750 which is not liable to tax at all. Thus if he sold his Government promissory notes and destroyed his capital, he would not be liable to tax, but if instead of selling his Government promissory notes, he raises a loan and pays interest upon that loan, the Act makes no provision

[Sir P. S. Sivaswamy Aiyer.]

for deducting the interest that he pays upon that loan. That clearly is a case of injustice, of hardship. There is no reason why a man who is liable to a mortgage debt should be entitled to deduct the amount of interest; there is no reason why a person who carries on business and borrows for that purpose should be allowed to deduct the interest on the sum borrowed, but not this unfortunate man who is not lucky enough to possess house property or carry on business. Take another case. Take the case of a clerk who gets a monthly income of Rs. 200. His annual income will be Rs. 2,400. Supposing he is obliged to borrow a debt of Rs. 5,000 and at a rate of 9 per cent, the interest that he will have to pay would be Rs. 450. The net income of the clerk would be Rs. 1,950 which will not be liable to tax at all. But what the Act does is that he is liable to pay tax on the whole income of Rs. 2,400 and it makes no allowance for the deduction of the interest which he has to pay on this debt. Then, again, take another case which will illustrate the hardship in a perhaps clearer form. Suppose a man inherits property from his father in the shape of buildings. Suppose his annual income from the property is Rs. 25,000. Suppose also his father has left debts upon which the annual interest is Rs. 24,000. The result of that will be that his net income is Rs. 1,000. But what the Government will do will be that they will charge him income-tax upon the whole of the Rs. 25,000 and make no allowance for the interest of Rs. 24,000 which he has to pay. The income-tax upon Rs. 25,000 will be Rs. 1,562. The result, then, is that, though the man gets only a net income of Rs. 1,000, he will be obliged to pay Rs. 1,562 to the Government, and he will be obliged to get money somehow for the purpose of paying the tax. He will be taxed more than his net income, and he will be obliged to pay Government more than he receives at all in the shape of net income. These are cases which will bring home to your minds the hardship and the injustice of the existing provision. It is neither just, nor consistent nor defensible. There is no logic about it, and there is no principle which can be invoked to justify this provision. The only argument that can be advanced is that it has existed in the existing Act. But that, I say, is not an argument for perpetuating an injustice. Now, let us look at the provisions of the English Act upon this point. The provisions of the English Act are very much better than the provisions of the present Act. Take section 36 of the English Income-tax Act of 1918. It runs as follows :

(1) Where interest payable in the United Kingdom on an advance from a bank carrying on a *bona fide* banking business in the United Kingdom is paid to the bank without deduction of tax out of profits or gains brought into charge to tax, the person by whom the interest is paid shall be entitled, on proof of the facts to the satisfaction of the special commissioners, to repayment of tax on the amount of the interest.

(2) A like repayment shall on the like proof be made in the case of interest (not being yearly interest) payable in the United Kingdom on an advance from a person who in the opinion of the Commissioners of Inland Revenue is *bona fide* carrying on business as a member of a stock exchange in the United Kingdom, or from any person who in the opinion of the said Commissioners is *bona fide* carrying on the business of a discount house in the United Kingdom :

Provided that no repayment shall be made unless the Commissioners of Inland Revenue are satisfied that the interest has been or will be brought into account in the statement delivered or to be delivered for the purposes of income tax by the person making the advance.

According to the English Act, then, if a person borrows from a bank, carrying on a *bona fide* banking business, he is not liable to income-tax upon the amount borrowed and he is entitled to a refund or repayment

of the income-tax. Our Act goes one better and charges person in respect of interest which they actually pay on debts borrowed by them. It is difficult to see on what principle this distinction can be made between a person who owes a mortgage debt and a person who borrows a debt on his personal security, and there is no reason why a person who borrows money for the purpose of carrying on a business should be allowed deduction of interest, but the person who is obliged to borrow money for a far more necessary purpose is not allowed to deduct interest. It may be said that, if you allow deduction of interest paid on debts borrowed on personal security and otherwise, there may be a danger of some evasion and it may be that bogus claims for deduction will be put forward. But I see no danger of that. If one man claims deduction of interest paid, you can easily run in the other man to whom interest has been paid and make him liable for the interest that he has received. I do not think that there is any difficulty whatever in finding out whether interest has, as a matter of fact, been really paid or not. It seems to me that there is really no justification for this clause. I admit that one principle of the administration of income-tax is that you ought not to make any allowance for personal expenditure. But I am not claiming any allowance for personal expenditure at all. If my proposal was to deduct a sum of Rs. 5,000 spent upon medical bills or upon marriage expenses or things of that sort, it would be obvious to that criticism. My amendment does not propose to deduct sums spent by way of personal expenditure. It only proposes that an allowance should be made for interest paid on debts. It does not offend, as I say, against any of the canons of income-tax administration. It does not ask for an allowance for capital destroyed. It asks only for the application of a principle, which has been recognised in other cases, to cases which are probably of a far more frequent occurrence and which stand far more in need of relief than these other cases. I hope the House will accept it.

Rao Bahadur T. Rangachariar: I cannot understand the amendment proposed by the Honourable Mover and how his amendment provides against reduction being claimed by an extravagant person like myself who borrows and spends upon my own comfort. We know many a person without much money who goes to Sowcarpet in Madras and borrows at a heavy rate of interest, such as 30 per cent. or 50 per cent. or 100 per cent., and also at a discount, and spends it on himself. If in determining the total income, interest payable by a man on any debt borrowed by him during the year and paid by him during the year is to be deducted, I do not see how my Honourable friend can claim that his amendment did not provide for such cases. Firstly, he borrows for his own personal expenditure. We know many a man in every part of the country who professes to be a trader, who has got a company and who keeps 5 or 6 motor cars which he cannot afford. He borrows money, for such a purpose, on what is called credit payment or the hire purchase system. I know many a man who cannot afford to do this and yet does these things. How are we to find on what object he has spent the money? In fact, the English Act provides this safeguard that the money should be borrowed from a bank or from a discount house, whereas here my Honourable friend would allow borrowing anywhere, any rate of interest and no limit and no rules. I think the income-tax will cease to be a source of income of the Government of India, if this is going to be adopted.

Rao Bahadur C. S. Subrahmanayam: I am sorry I cannot see eye to eye with my Honourable friend, Sir P. S. Sivaswamy Aiyer. Of course,

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income-tax, like other fiscal laws, is illogical. There is no morality about them. They are only intended to grab as much money as we can from those who can afford to pay or those from whom it is not inequitable to take money. These are the two main considerations. I put a concrete case. Here is a man with a capital of Rs. 10,000, which is his own cash. He borrows, say, two lakhs and carries on business on a large scale. He runs a big office and keeps motor cars and other things also. If it comes to a question of settling his income, are we to take the words 'total income,' which is now the subject of discussion, or are we to deduct from the profits of his business the interest he pays to the bankers and others and then come down to a figure which will practically exempt it from taxation? Is such a man deserving of any consideration in a taxation proposal? That is the first point. The next point is, what would be the loss of income if such a concession were given? That is an important point which the Assembly has to take into consideration.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): Sir, I also believe that the amendment, if passed, will create a great deal of confusion. For instance, with regard to what my Honourable friend suggested with regard to income derived from Government promissory notes, I consider it to be utterly impracticable. It is the practice for the Public Debt Office to deduct the income-tax when the interest is due and drawn. If people who own Government promissory notes can put forward claims for deductions for interests on monies borrowed from other sources and claim a set-off, that would be creating immense confusion. Over and above that, other cases of complication are also likely to arise. Take the case of the professions, the Government servants or persons in private employ. If they draw a particular income or salary and if they go on borrowing from different people and if they want to set off interests paid or payable to their creditors in respect of private debts against their income or salary, I think, the assessment of income-tax on salaries or income so derived will give rise to serious complications and loss of revenue. Therefore I am very sorry I cannot support the view or the amendment proposed by Sir Sivaswamy Aiyer.

Mr. G. G. Sim: Most of the arguments that were put forward by the Honourable Mover have been answered by the speakers who have preceded me, and I, therefore, do not propose to take up much time. I will refer only to one or two points. The proposal put forward by the Honourable Member would introduce a radical alteration in the whole system of taxation of incomes. The word 'income', as used for income-tax purposes, is always understood to mean the surplus of receipts over the current expenditure required for the purpose of earning those receipts, and no account is ever taken how that income is utilised. It may be utilised to meet current personal expenses; or some of it may be set aside to meet future expenses, or some of it may be used to pay back private debts or to pay interest on private debts. These are matters with which the income-tax officials have never had anything whatever to do. So far as I am aware, there is no Act anywhere in the world where income-tax is worked in the peculiar manner proposed in the amendment. It would, I think, introduce a state of affairs that would create the greatest inequalities. It would mean that, where a person incurs private debts, i.e., where a person anticipates his future year's income and spends it before he has earned it, he would have a considerable advantage over the more economical person who spends his income as he gets it or who sets aside a portion of his income

for future expenditure. There is one other point. The Honourable Member has referred to a particular provision of the English Act. The English Act makes no provision whatsoever for payment of interest on private debts being set against profits. The particular section that the Honourable Member refers to is a provision for the repayment of tax in respect of interest paid to banks out of taxed profits. It corresponds exactly to the recommendation made by the Joint Select Committee under clause 8 of the Bill. The Committee recommend that executive instructions should be issued that, where an assessee with an income from securities has obtained a loan from a bank for purchasing those securities, he may, on obtaining a banker's certificate as to the amount of interest on his loans, set off the interest that he pays against the interest that he earns from the securities. That is a perfectly reasonable proposal. A man borrows money for the purpose of purchasing and selling securities or for the purpose of investing in securities. If he invests in securities, obviously he ought to be allowed to deduct from the interest that he gets on those securities the interest that he has paid for the money that he borrowed for this particular purpose, but that is a totally different matter from allowing a person to deduct the interest on a private debt from his income. It would produce the gravest inequalities. It would be perfectly unworkable. I do not think that Honourable Members could contemplate orders being issued to income-tax authorities to find out, for example, before the introduction of the next Budget, what the private debts of tax-payers all over India will be on the 31st March. The proposal, Sir, is economically unsound and unworkable in practice.

Mr. President: Amendment moved :

' In clause 16, insert the following as sub-clause (5) :

' In determining the total income of an assessee liable to taxation, the amount of interest on any debt paid by him during the year shall, notwithstanding anything contained in sections 7 to 14, be deducted from the total income arrived at under clauses 1 and 2 of this section.'

The question is that that amendment be made.

The motion was negatived.

Clause 16 was added to the Bill.

Clauses 17, 18, 19, 20 and 21 were added to the Bill.

Sir P. S. Sivaswamy Aiyer: Sir, I move the following amendment :

' In clause 22, omit sub-clause (4).'

The object of my amendment is this. Under the existing Act, the notice to produce documentary evidence is given after the return
 1 P.M. has been made and the matter has received the consideration of the income-tax officer. I want the existing procedure to be preserved. I, therefore, suggest that sub-clause (4) of clause 22 be omitted, and my next amendment proposes that it should be re-inserted in clause 23, so that if an income-tax officer has reason to believe that a return made is incorrect or incomplete, he should then call upon the assessee to produce documentary evidence. It seems to me unnecessary for him to call for documents before this.

Mr. G. G. Sim: I think the Honourable Member has overlooked the portion of the report of the Simla Committee which gives an explanation

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of why this change was made in the procedure. As the Honourable Member has stated, the present Act specifies that no accounts may be called for in cases where an assessee has not made a return. The Simla Committee insisted that an Income-tax officer, in cases where a man cannot or may not make a return, should call for his accounts. The only alternative left is that the Income-tax officer should make a wild guess at what the assessee's income is and it was after full consideration that they decided that, in cases where an assessee cannot make a return, an Income-tax officer should have power to send for his accounts and make his estimate for him, so that the assessment may be as near as possible to the actual facts.

Mr. President: Amendment moved:

'In clause 22, omit sub-clause (4).'

The question is that that amendment be made.

The motion was negatived.

Clause 22 was added to the Bill.

Rao Bahadur T. Rangachariar: Sir, I move:

'That in clause 23 (3), after the word 'require' the words 'on specified points' be inserted.'

Clause 23 (3) runs:

'On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, the Income-tax officer after hearing such evidence as such person may produce and such other evidence as the Income-tax officer may require.'

Now, I want to include that, if he calls upon a party to produce evidence, he must specify the points on which he wants evidence, and that is the object of this amendment. I hope it will be acceptable to the Government and to this Honourable House.

Mr. G. G. Sim: Sir, I think the Honourable Member misapprehends the particular object of these words. The reference in this clause is to the evidence which the Income-tax officer may require from any other person than the assessee. The notice that he gives to the assessee himself is laid down in sub-clause (2). Under sub-clause (2), after the Income-tax officer has examined the accounts, he can call upon the assessee to produce any evidence he pleases on which he relies in support of his return. Under sub-clause (3), the Income-tax officer has to hear any evidence which the assessee may produce; but he also has power to, himself, require independent evidence to be produced. I hope, therefore, that the Honourable Member will see his way to withdrawing his amendment.

Rao Bahadur T. Rangachariar: Even so, although the Income tax officer may require not only the assessee but any other person to produce evidence, he should specify the points on which he is required to produce evidence, so that the person who is called upon should know what evidence he is required to give. That is the object of this amendment. I do not see any objection to this amendment being made.

Mr. G. G. Sim: That, I believe, is the usual course. I do not think it is necessary to insert those words. The Honourable Member brought forward his amendment under a misapprehension and I hope I have removed that misapprehension. If an Income-tax officer does call upon an

outsider to give evidence, he must give him information as to what the evidence is about.

Mr. President: Amendment moved:

'That in clause 23 (3), after the word 'require' the words 'on specified points' be inserted.'

The question is that that amendment be made.

The Honourable Sir Malcolm Hailey: Sir, rather than that the time of the House should be occupied in going to a division on this unimportant point, Government had perhaps better accept this amendment.

Mr. President: The question is that the amendment be made.

The motion was adopted.

Haji Wajih-ud-Din: Sir, I move:

'That in clause 23, sub-clause (4), after the word 'judgment' the following words be added:

'Provided that the mere non-production of accounts especially in the cases of petty shop-keepers, village-traders and those carrying on ordinary cottage industries who used to keep no regular accounts shall not be a sufficient reason for making new or an enhanced assessment.'

Sir, I may be allowed to explain that it is a well-known fact that persons of small means and carrying out ordinary callings and professions, such as tailors, carpenters, blacksmiths, etc., and other petty shop-keepers in small lanes, and village traders who earn on a small scale and never keep accounts of their daily earnings, have their incomes very frequently miscalculated by the Income-tax officers and their non-production of accounts is generally considered sufficient ground for taxing them or enhancing their taxes if they are already assessed. By this miscalculation of justice, I have seen many poor people unable to carry on their ordinary means of livelihood and becoming victims of such unjustifiable deeds. I, therefore, move the addition of these words.

Mr. G. G. Sim: Sir, I am afraid I do not quite understand what the particular legal effect of this proviso is supposed to be. Under the Bill, when a man produces no accounts, the Income-tax Officer must make the assessment to the best of his judgment. I do not see what else he can do, and if there are any irregularities in regard to assessment of small traders, if they are unequally assessed, if the matter is brought to the notice of the higher authorities, they would set right the inequality. But I am unable to understand how the object, the Honourable Member has in view, can be given effect to by this proviso. I must oppose the amendment which I do not understand.

Mr. President: Amendment moved:

'That in clause 23, sub-clause (4), after the word 'judgment' the following words be added:

'Provided that the mere non-production of accounts especially in the cases of petty shop-keepers, village-traders and those carrying on ordinary cottage industries who used to keep no regular accounts shall not be a sufficient reason for making new or an enhanced assessment.'

The question is that that amendment be made.

The motion was negatived.

Clause 23, as amended, was added to the Bill.

Mr. G. G. Sim: I beg to move:

'That in clause 24 (1), after the word 'loss', where it occurs for the first time, the words 'of profits or gains' be inserted.'

I may explain that all the amendments standing in my name are merely formal drafting amendments and introduce no change of substance. This particular amendment is for the purpose of making it clear that the word 'loss' means only a loss of profits and does not include a loss of capital.

The motion was adopted.

Bhai Man Singh: Sir, I was just going to oppose this amendment. If I am in order, I would like to speak on the amendment. I, of course, got up before the question was put. I have got my own misunderstanding about the amendment.

Mr. President: If the Honourable Member wishes to speak, he is entitled to do so. But it appeared from Mr. Sim's observations that there could not be any possibility of argument about it.

Bhai Man Singh: I see the effect of the amendment would be that only loss of profits or gains can be deducted. Supposing a businessman orders certain goods from somewhere and they are either lost or spoiled in transit, would that be taken as loss in profits or gains? At many places, Income-tax Officers have included such losses in loss of capital and they have allowed no deductions for that. Of course, there is no reason why this change should be made when we have already got the word 'loss' in the clause. If a businessman has lost Rs. 50,000 worth of goods at a certain place and he gains Rs. 10,000 as profits, there is no reason why we should tax him.

Mr. G. G. Sim: I do not understand the Honourable Member's difficulty. In such cases, as referred to by the Honourable Member, losses of that kind would be treated as business losses and allowed, unless covered by insurance. There is no difficulty about it. All that the clause means is that a loss of profits under one head may be set against profits under another.

Mr. President: The question is that that amendment be made.

The motion was adopted.

Mr. G. G. Sim: I beg to move:

'That in clause 24 (2)

- (a) for the words 'his own personal' the word 'any' be substituted, and
- (b) for the words 'if any' the words 'in respect of which the tax is payable by him' be substituted.'

Mr. President: The question is that the amendment be made.

The motion was adopted.

Clauses 24, as amended, 25, 26 and 27 were added to the Bill.

Haji Wajih-ud-Din: I move:

'That in clause 28 (1), the following be added:

'Provided that no such penalty shall be levied on assessments made under sub-section (f) of section 23.'

The amendment is suggested as a public safeguard. There are a number of assessees in each and every district of India who do not keep any

regular accounts and, as a matter of fact, they are neither so advanced nor even educated, and so they cannot keep such accounts. Under clause 23, sub-clause (4), an Income-tax Officer can assess tax on the income of such persons to the best of his judgment if they do not submit their returns, but I see, in certain cases, undue pressure is brought over these poor and tongueless people under threat of penalty and fine before they are assessed or even after they are assessed on account of some unfounded rumours brought to the notice of the Income-tax Officer by their rivals or competitors. I therefore request the Assembly to add these words.

Mr. G. G. Sim: I do not understand how this particular section will be useful in the circumstances referred to by the Honourable Member. This section can only be employed where it is found definitely that a person has a certain income and that he concealed the particulars of his income or deliberately failed to furnish particulars of that income. It is only when the definite facts are actually ascertained that this section can ever be used at all. The only result of the amendment proposed by the Honourable Member would be that persons who have concealed their income would escape the penalty. I oppose the amendment.

Mr. President: Amendment moved:

'To clause 28 (1), add the following:

'Provided that no such penalty shall be levied on assessments made under sub-section (4) of section 23.'

The question is that that amendment be made.

The motion was negatived.

Clause 28 was added to the Bill.

Mr. G. G. Sim: I beg to move:

"That in clause 29, between the word 'under' and the word and figures 'section 28' the words and figures 'sub-section (2) of section 25 or' be inserted."

This is to cover an obvious omission.

Mr. President: The question is that that amendment be made.

The motion was adopted.

Clause 29, as amended, was added to the Bill.

Sir P. S. Sivaswamy Aiyer: I beg to move:

'In clause 30 (1), before the words 'may appeal' insert the words 'or to any order enhancing the assessment under section 35.'

Section 35 provides for enhancement of assessment in certain cases. There is no provision for an appeal against an order enhancing the assessment and it is for the purpose of supplying that omission that I propose the insertion of the words 'or to any order enhancing the assessment under section 35.'

Mr. P. P. Ginwala (Burma:Non-European): I am unable to follow the argument of my Honourable friend from Madras who has moved the amendment. If he will look at clause 35, he will find that that clause is confined to the rectification of mistakes apparent on the face of the record. The Collector may, for instance, have fixed, by mistake, Rs. 5, though the assessee was assessable to Rs. 50. Such mistakes could be rectified by looking at the report. The clause does not refer to any appeals at all on the merits. If it is a question of appeal on the merits, I can understand a man having the right of appeal. When the mistake can be seen by a

[Mr. P. P. Ginwala.]

giance at the records, and the assessment corrected, I do not see why the assessee should have a right of appeal.

Mr. G. G. Sim: I agree with the last speaker and with the Joint Committee. To insert any provision about an appeal in such cases would be carrying the provisions regarding appeals to an absurdity. The Joint Committee made numerous additions to the number of cases in which an appeal may lie. They considered this particular clause, and as Mr. Ginwala has pointed out, since all that this section refers to is the correction of mistakes considered, it would be absurd to provide for a formal appeal. There is no point in providing for an appeal. It is a perfectly simple matter. If any Income-tax Officer does not correct a mistake, if it is pointed out to him, the party concerned has only to report him to the head of the department who will bring him to reason. I oppose the amendment.

Mr. President: Amendment moved:

'In clause 30 (1), before the words 'may appeal' insert the words:
'or to any order enhancing the assessment under section 35.'

The question is that that amendment be made.

The motion was negatived.

Clause 30 was added to the Bill.

Haji Wajih-ud-Din: Sir, I move the following amendment:

'In clause 31 (1), after the word 'place' insert the words 'within the district where the assessee resides or carries on trade.'

This amendment is moved for the sake of public convenience. There have been numerous instances in which the appellate authorities fixed the place of hearing in a district other than the district in which the appellant resides, and the inconvenience thus caused to him is apparent. It is very troublesome and at the same time highly expensive to take evidence and other matters relating to appeals to distant places, and then to shift from place to place if the hearings are adjourned and the appellate authority moves further. Therefore, it is necessary that the appeals should be heard within the district where the appellant resides or carries on trade.

Mr. G. G. Sim: Sir, while I have considerable sympathy with the object which the Honourable Member has in view in bringing forward this amendment, I should like to place before the House a few difficulties which would result from accepting the amendment in its present form. The amendment would make it obligatory that an appeal should, in every case, be heard in the district in which the assessee resides. This, in many cases, might not suit the convenience of the assessee himself. We have had numerous cases in which an assessee has asked that an appeal should be taken at a place other than the district in which he resides, in order that he might get the advantage of some particular aid, either from accountants or from members of the Bar. Also, while the Government is at present trying, so far as possible, to increase the staff in order that assessee may have their appeals heard at the places best suited to their convenience, which are not necessarily the places where they reside, the staff at present is not sufficient to enable this amendment to be given effect to, even if it were desirable to insert it. But, I can assure the Honourable Member that every effort will be made, by increasing the staff of officials, to have the appeals heard where most convenient to the assessee. I would only point out that that place need not necessarily be the place where the assessee resides at all; he may prefer some other place.

Mr. President: Amendment moved:

'In clause 31 (1), after the word 'place' insert the words 'within the district where the assessee resides or carries on trade'.

The question is that that amendment be made.

The motion was negatived.

Rao Bahadur T. Rangachariar: Sir, I beg to move that:

'In the proviso at the end of clause 31, omit all the words after the word 'assessment' and make consequential amendments in clause 32.'

In dealing with the appeal of a man who comes forward complaining that he has been over-assessed, the appellate authority has the right to enhance the assessment. I want to deprive the appellate authority of that power to enhance the assessment. Here, a man comes forward with a grievance, but not only does he not get rid of that grievance, but he also gets an additional grievance by appealing to the appellate authority. In criminal cases, Honourable Members belonging to the profession of the law may remember that, when a man appeals against a conviction and sentence, the appellate court has no power to enhance the sentence. It is only the High Court, and the High Court alone, which can enhance the sentences on convicted persons. (*Lala Girdharilal Agarwala*: 'On revision only.') And they very seldom do it. Here, this is a sort of threat to the appellant who comes forward as much as to say: 'Take care, I also have the right to enhance the assessment imposed on you.' I do not think that the appellate authority should have that power. The Commissioner has got revisional powers under section 33, but, whatever it is, when a man comes up with an appeal, the appellate authority should not have this power. I think it is objectionable in principle, and I, therefore, move the amendment.

Mr. G. G. Sim: Sir, I do not agree in the least with the view the Honourable Member takes of the functions of an appellate authority in income-tax matters. Surely the only object of the original assessment proceedings and of these appeals that we are now providing for is to secure that a man is assessed at the proper rate and on the proper income and, if in the course of an appeal it is discovered that a man has not been assessed at the proper rate or on the proper income, why should he escape simply because he has not furnished a proper return beforehand? The only alteration in this clause which has been made by the Joint Select Committee is that, while under the present Act an enhancement may be made by an appellate authority without giving the appellant, if the appellant chooses to run away, an opportunity to be heard, they have now provided that in every case an appellant must be heard and have further provided for an appeal to the Commissioner against any order passed by the appellate authority.

I oppose the amendment

Mr. P. P. Ginwala: Sir, I oppose this amendment moved by my Honourable friend, Mr. Rangachariar, because it is based on a misapprehension. There is no difference at all between the provisions of the Income-tax Act and the provisions of the Criminal Procedure Code. It is true, of course, as has been pointed out that, if a person appeals under the Criminal Procedure Code, the sentence is not liable to be enhanced on appeal, but there is a provision by which the Court, in its revisional jurisdiction, can

[Mr. P. P. Ginwala.]

take separate proceedings and ask the appellant to show cause why the sentence should not be enhanced, and the sentence may be enhanced. Under this Bill also, if you refer to clause 33, you will find that the Commissioner has got revisional powers which he can exercise on his motion or upon reference by the Assistant Commissioner who has heard the appeal. Thus it is clear that, by the machinery set in motion under section 33 of the Income-tax Act, exactly the same results will follow as under the Code of Criminal Procedure. Under these circumstances, when an appeal is being heard, there is no objection at all to the Assistant Commissioner having the power to enhance the assessment if he is so satisfied, after giving the necessary notice to the assessee or to the appellant, especially as an order of enhancement is appealable under clause 32. On these grounds, I ask that the amendment be not passed by the House.

Rao Bahadur C. S. Subrahmanayam: Sir, the only argument that has been used in support of the opposition to this measure is, why should not the power of enhancing assessments rest with the Assistant Commissioner? That is all that is said, that is the only argument that we have heard. The point is that a man is assessed. He feels he has been over-assessed and has a grievance. He goes on appeal and we have this power in the appellate authority that it can, on examination, enhance the tax about which he is complaining. Well, that will prevent many persons from having this matter properly discussed by higher authority. Well, is it too much to say that the appellate authority, when he gets a large number of appeals, will want to teach a lesson to these importunate people who trouble the authorities with such appeals. At any rate, that is the common idea among officials, that people come to them with unnecessary and frivolous appeals and petitions. That is what is the common belief among a certain class of people. No doubt, some of these appellate authorities will take it into their heads now and then to give a bit of their minds to these people by enhancing the tax. If you allow this power to be vested in a number of officers, the working will not be uniform, the exercise of the power will not be equitable, and, therefore, there are these troubles, especially in rural areas and with regard to people who are not quite up to the mark in dealing with these income-tax officers. And, therefore, that power might be well omitted. If a man has really escaped taxation, it would be easy for a reference to be made to the Commissioner. That would act as a check against frequent or more or less irresponsible enhancements. After all, in cases, where a man has escaped taxation and the appellate authority believes that he ought to have paid on a higher scale, it is always open to rectify the mistake next year. But the arming of these officers with this power of enhancement, I think, would work great mischief and make the Act still more unpopular. I cannot agree with my friend, Mr. Ginwala, who simply says: 'Well, there is still power vested in the Commissioner for enhancement on a reference being made to him.' I say, there is a great deal of difference between an officer referring for orders to a higher authority and himself enforcing those powers. Therefore I think that this amendment ought to receive the approbation of the House.

Mr. J. K. N. Kabraji (Bombay: Nominated Official): Sir, I think this amendment should not be passed, but if it is passed, I would point out that it would be quite inconsistent with sub-clause (3) (a) and should, therefore, be ruled out.

Dr. H. S. Gour: Sir, all the arguments used by Mr. Sim, in connection with the retention of this clause, are arguments equally applicable to the enhancement of a sentence. In the interests of justice, and to afford a salutary lesson to the accused, it was formerly the rule that the Appellate Court had the power of enhancement of sentences; but the opinion of all the High Courts was unanimously in favour of such enhancements and the provision, arming the Appellate authority with the power of enhancing sentences, was deleted from the Code of Criminal Procedure. The same argument applies equally to the enhancement of an assessment by the appellate authority. As has been pointed out by Mr. Subrahmanayam, it will act as a deterrent against appeals and the result will be that it will also in some cases be used as a threat against appellants. If a man has been under-assessed, it is open to the Taxing officers or to the Revenue authorities who are in charge of this Department to appeal against that taxation, but, I submit, that it would be anomalous to arm the appellate authority with the power of enhancing assessments when the record comes before him on the motion of the payee. I, therefore, submit that this amendment moved by my Honourable friend, Mr. Rangachariar, should receive the acceptance of this House.

The Honourable Sir Malcolm Hailey: Sir, it is a queer analogy, to my mind, to draw between the assessment of income-tax and the passing of a criminal sentence. I imagine that we are all good citizens here, that we do not really desire to escape paying our income-tax; though indeed I must admit that there are occasions, when, if we can form a select band of our friends in the Assembly, we are even capable of asking the House to protect the particular interests of our particular class. But I take it that, in theory, we are all good citizens, and, much as we dislike paying income-tax, we know it is our duty to do so. All we ask is that our income-tax should be fairly assessed, that the law should be applied with equity, and that we should be asked to pay neither too much nor too little within the terms of that law. Dr. Gour speaks of the honest tax-payer as a man who comes before the Court to hear his sentence, and he objects to there being any subsequent process by which that sentence should be enhanced during the course of appeal. Now I protest against that view altogether. We are trying to do our very best to do away with any idea that an income-tax assessment is an arbitrary charge of a tyrannical power. We are doing our best to secure an establishment which will give us a fair and correct assessment, and it seems to me clear that the object we have in view should also be shared by the assessee, namely, that his assessment should be correct, and that, so long as it is correct, he should, however, it is arrived at, agree as a good citizen to pay it.

But, Sir, of course I know it is a standing joke in this House that I am no lawyer. It affords amusement to the House and amusement to me—almost as much as when some of my lawyer friends talk about finance. Sir, perhaps there are occasions on which I am rather glad that I am not a lawyer, for, indeed, it seems to me that if I, as a simple layman, were proposing an amendment, I should not put forward an amendment, the effect of which would be that the Assistant Commissioner shall not enhance an assessment, while according to another provision which has been left untouched, he shall have power to enhance an assessment.

Rao Bahadur T. Rangachariar: Sir, I plead guilty to the charge of negligence in having overlooked this provision in clause (a), and I am thankful to my friend, Mr. Kabraji, for pointing it out. But knowing as we do how this Bill was being hurriedly brought up—I had to send in my

[Rao Bahadur T. Rangachariar.]

amendments a day or two after I got a copy of the Bill—I must be forgiven for this oversight. I quite agree that, as a lawyer, I am not competent to deal with finance, but may I also point out that the Honourable the Finance Member is quite a layman like myself, although he belongs to the Indian Civil Service; and I know there is a tradition in this country that the Civil Servant is competent to do any and every sort of work, from Engineering, Medicine and Education to Forests, Irrigation and even Railways. But if a Civilian can claim a knowledge of all these things, I suppose a lawyer also might claim at least some degree of acquaintance with them, because he has to deal, in the course of his practice, with all these various things. He may even claim some knowledge in dealing with finance. But leaving that on one side, I still think, Sir, that this power of enhancement, vested in an Appellate authority, is vicious in principle. I quite agree that all people should submit to just assessment. And this assessment is made, as we all know, from the previous sections, after an elaborate inquiry calling upon all sorts of people to produce accounts, and to produce various documents; and the assessment is made to the best of the judgment of the person who assesses the assessee. And what does it matter if in a few cases the assessment is under-assessed? In how many cases is it not over-assessed? Is an appeal always a remedy for over-assessment? Do you and I not know how hard it is to induce an Appellate authority in income-tax cases to reduce assessment? If there are a few cases of unjust under-assessment, there are at least 100 cases of over-assessment to one of under-assessment. Human judgment is always imperfect. Do we always come to right conclusions? Therefore, I object to this power resting in an Appellate authority; it is vicious in principle; it will act as a deterrent to people to go on appeal, and the Appellate authority should not be clothed with this power. I am surprised that my friend, Mr. Ginwala, should think that there is nothing in this amendment. I therefore, Sir, propose this amendment. With your permission, Sir, I shall also omit the word 'enhance' in clause (a).

The Honourable Sir Malcolm Hailey: Sir, I must certainly object to a further amendment of a substantive clause being brought forward at this stage. If the Honourable Member has been so unfortunate as to omit notice of this fact, I do not think that he should be allowed now to bring the matter forward.

Mr. President: Amendment moved:

'In the proviso at the end of clause 31, omit all the words after the word 'assessment' and make consequential amendments in clause 32.'

The question is that that amendment be made.

The Assembly then divided as follows:

AYES—27.

Abdul Majid, Shaikh.
Ahmed, Mr. K.
Asjad-ul-lah, Maulvi Miyan.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Gour, Dr. H. S.
Jatkar, Mr. B. H. R.
Jejeebhoy, Sir Jamsetjee.
Mahadeo Prasad, Munshi.
Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.

Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Singh, Babu B. P.
Sinha, Babu L. P.
Sinha, Beohar Raghbir.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Ujagar Singh, Baba Bedi.

NOES—36.

Aiyer, Sir P. S. Sivaswamy.
 Akram Hussain, Prince A. M. M.
 Bradley-Birt, Mr. F. B.
 Bray, Mr. Denys.
 Bryant, Mr. J. F.
 Carter, Sir Frank.
 Chatterjee, Mr. A. C.
 Chaudhuri, Mr. J.
 Cotelingam, Mr. J. P.
 Crookshank, Sir Sydney.
 Dentith, Mr. A. W.
 Fell, Sir Godfrey.
 Ghulam Sarwar Khan, Chaudhuri.
 Ginwala, Mr. P. P.
 Hailey, the Honourable Sir Malcolm.
 Hullah, Mr. J.
 Innes, the Honourable Mr. C. A.
 Joshi, Mr. N. M.

Kabraji, Mr. J. K. N.
 Keith, Mr. W. J.
 Manmohandas Ramji, Mr.
 Maung Maung Sin.
 McCarthy, Mr. F.
 Mitter, Mr. K. N.
 Muhammad Hussain, Mr. T.
 Percival, Mr. P. E.
 Rao, Mr. C. Krishnaswami.
 Renouf, Mr. W. C.
 Sarfaraz Hussain Khan, Mr.
 Sharp, Mr. H.
 Sim, Mr. G. G.
 Spence, Mr. R. A.
 Thackersey, Sir Vithaldas D.
 Waghorn, Colonel W. D.
 Way, Mr. T. A. H.
 Zahiruddin Ahmed, Mr.

The motion was negatived.

The Assembly then adjourned till Twenty-five Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty-five Minutes to Three of the Clock. Mr. President was in the Chair.

Rao Bahadur T. Rangachariar: Sir, I am afraid that there is a mistake. Members understood that the Assembly was to re-assemble at 5 minutes to 3 and not at 25 minutes to 3.

Mr. President: It does not matter. We shall go on.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): There is no quorum, Sir.

Rao Bahadur T. Rangachariar: Sir, I beg to move the amendment which stands in my name:

'To clause 31, add at the end the following:

'In all cases where the appellant so desires in his appeal memorandum, the Assistant Commissioner shall have two or more non-official Commissioners as may be prescribed to hear the appeal with him and advise him as assessors, but their opinion shall not be binding on him.'

This is a very modest proposal which I am making. In dealing with appeals, the Assistant Commissioner has got to deal with involved questions, and I think he will find it of very great use to him to have the assistance of a non-official Board. It has been tried, as Honourable Members are aware, in cases which arose out of the Excess Profits tax, and, I believe, the assistance of two or three non-officials in such cases has been of use both to the appellant and to the assessors. I know that was so in Madras, and, I believe, it was also the case in other provinces. I see this matter was considered in the Joint Committee, and I only desire that there should be two or more non-official Commissioners to hear and dispose of the appeals. I have also provided that their opinion shall not be binding on the appellant. Therefore, there is really no risk taken in providing this machinery. Of course, the non-official Commissioner will have to be chosen under rules to be framed by the Government. I dare say, a panel will have to be formed and rules will have to be framed, and from that panel the non-official Commissioners will have to be selected to assist

[Rao Bahadur T. Rangachariar.]

the Assistant Commissioner in the disposal of appeals. I do not say that it should be so in every case. I have provided that it is only in cases where the appellant so desires that the Assistant Commissioner should be given the assistance of two or more non-official Commissioners, so that it is not likely that, in every case, there will be a non-official Board, and it is only where the appellant thinks that his case would require hearing by a non-official Board, that this would come in. I think, on the whole, this will be a satisfactory improvement in the Act.

Mr. Manmohandas Ramji: Sir, if I may express the wish of the commercial community of Bombay, there is a consensus of opinion that these committees are not desirable. Of course, in many cases they are desirable, but, in this particular case, they are not, because nobody is expected to bring out all their secrets and books before a private committee sitting along with an official of the Government and disclose their working. There was serious objection to the appointment of non-official Commissioners. Of course, I know that some of my friends from Bengal insist on it, but Bombay has taken up a particular stand and they do not desire that such committees should be appointed.

Mr. B. A. Spence: Sir, I beg to support what has fallen from my Honourable friend from Bombay.

Rao Bahadur T. Rangachariar: Sir, may I answer the objection taken? The objection taken is that no man is willing to show his books. Now I have provided against it by saying that it is only where the appellant desires . . .

The Honourable Sir Malcolm Hailey: May I rise to a point of order, Sir? I merely wish to take a ruling from you on the question as to whether the proposer of an amendment has or has not a right of reply?

Mr. President: Normally the proposer of an amendment under the rules has no right of reply. I have allowed Honourable Members to offer something more than a personal explanation while rising to their feet for the second time, but I may inform the House that I shall observe the spirit of the rules by restricting that right to the shortest possible limit.

Sir Vithaldas D. Thackersey: Sir, I should like to speak on Mr. Rangachariar's amendment. I was under the impression that the Government Member was to speak.

It is quite true, Mr. President, that the proposal in this case is restricted to the appointment of assessors in cases where the appellant wants it. But is there any guarantee that, as the hearing proceeds, the appeal Court may not ask for the books of others in order to prove certain facts or to have other evidence in the case and that the books of those who are not strictly interested in the appeal may not have to be brought and shown? I am not quite sure of the effect of this, but I quite agree with what has fallen from my two Honourable friends, Mr. Manmohandas Ramji and Mr. Spence, that, so far as Bombay is concerned, we are absolutely opposed to the appointment of any kind of assessors for looking into our books. We do not think they will help us. Many difficulties will arise. It is not perhaps politic or wise to mention them publicly in this House, but Members of this House may take it from me that the commercial community, in whose interests these assessors are suggested, are absolutely against the proposal and will never have them if they could possibly help it.

Mr. President: The question is that the following amendment be made:

' To clause 31, add at the end the following :

' In all cases where the appellant so desires in his appeal memorandum, the Assistant Commissioner shall have two or more non-official Commissioners as may be prescribed to hear the appeal with him and advise him as assessors, but their opinion shall not be binding on him.'

The motion was negatived.

Clause 31 was added to the Bill.

Rao Bahadur T. Rangachariar: Sir, I only want to make it clear by the following amendment that in disposing of the matters referred to in these cases, the Commissioner should do so after hearing the appellant. I dare say he will do it, but, as they are executive officers, they generally dispose of appeals not always after hearing. And it is better to provide in the section itself that he should do so after hearing the appellant.

' In clause 32 (3), after the word 'may' insert the words 'after hearing the appellant.'

Mr. G. G. Sim: Sir, I have no objection to the proposal of the Honourable Member if he will agree to a slight amendment of his amendment. I propose, Sir, that:

' After the word 'may' the words 'after giving the appellant an opportunity of being heard' should be inserted.'

Rao Bahadur T. Rangachariar: I have no objection, Sir.

Mr. President: The question is:

' That the following amendment be substituted for the original amendment:

' In clause 32 (3), after the word 'may' insert the words 'after giving the appellant an opportunity of being heard.'

The motion was adopted.

Mr. President: The question is that the substituted amendment be made.

The motion was adopted.

Clause 32, as amended, and clauses 33 and 34 were added to the Bill.

Rao Bahadur T. Rangachariar: Sir, my next amendment is:

' In clause 35 (3), after the word 'Act' in the last line, insert the words 'including the right to appeal'.

Sir, the last part of clause 35 (3) says:

' The Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29, and the provisions of this Act shall apply accordingly.'

The provisions of this Act may be merely for recovery and such other things, and I want to make it clear that they include the right to appeal. I want, therefore, those words to be inserted.

Mr. G. G. Sim: I should like your ruling on a point of order, Sir. This particular amendment which the Honourable Member is putting forward is, in substance, exactly the same as that put forward by Sir Sivaswamy Aiyer in his proposal to amend clause 30. He suggested that

[Mr. G. G. Sim.]

in clause 30 (1), before the words ' may appeal ' the words ' or to any order enhancing the assessment under section 35 ' should be inserted. That proposal was rejected by the House. The Honourable Member's amendment simply repeats the same thing in another form.

Rao Bahadur T. Rangachariar: May I mention, Sir, that on Sir Sivawamy Aiyer's amendment Mr. Sim took the technical objection that it was not the proper place to make the amendment and that he could not understand why the amendment was made in that place. Therefore, I do not think that that objection will apply now.

Mr. G. G. Sim: No such objection was raised by me. To the best of my recollection, I argued that an appeal was unnecessary as this clause provides only for the rectification of clerical mistakes by the Income-tax Officer. I took no technical objection.

Mr. President: Is the Honourable Member satisfied that the two points are substantially the same?

Rao Bahadur T. Rangachariar: I leave it to the Chair.

Mr. President: It is a matter of interpretation of law, and the Chair is not entitled to express any opinion on it. On the Honourable Member's (Mr. Sim's) assurance that objection was taken, not as a point of law but as a point of fact, I must hold that the two points are substantially covered.

Clauses 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44 were added to the Bill.

Mr. G. G. Sim: Sir, I beg to move:

' That in clause 45, for the words ' The amount of income-tax ' the words ' Any amount ' be substituted.'

This is merely a drafting amendment. In some of the sections mentioned, the amounts refer not to income-tax but to penalties.

The motion was adopted.

Mr. G. G. Sim: I beg to move:

' That in clause 45, after the word and figures ' section 31 ' the words and figures ' or section 32 ' be inserted.'

Clause 32 is a new clause inserted by the Joint Committee and the necessity of inserting the words and figures ' or section 32 ' in this clause was overlooked.

The motion was adopted.

Rao Bahadur T. Rangachariar: Sir, I move:

' In clause 45, substitute the word ' shall ' for the words ' may in his discretion '.

The end of the clause is:

' and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30, the Income-tax officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.'

I do not think it will be right to leave a discretion. When the appeal is pending, why should the man be treated as a defaulter when his appeal is not disposed of. Being treated as a defaulter entails a number of consequences. When you think it is necessary, in certain cases, to allow a

discretion to the Income-tax officer not to treat him as a defaulter, it will lead to personal favouritism in many cases; at any rate, people will consider that certain persons are favoured by the Income-tax Officer, and rightly or wrongly it will lead to such impression gaining ground. What is the object in treating some persons as defaulters and some persons not as defaulters? Therefore, I propose that the word 'shall' be inserted in place of the words 'may in his discretion.'

Mr. G. G. Sim: I hope that the House will not accept this amendment. These words are contained in the present Act and this general provision has always been in every Income-tax Act. I have heard no complaints about the discretion exercised by the Income-tax Officers in this matter. What does happen in an income-tax appeal? A man may be assessed to Rs. 50,000 income-tax and he may object to a small item amounting to Rs. 50. The Income-tax Officer, in the exercise of his discretion, usually asks him to pay up the amount that is not disputed and pay up the balance afterwards. In any case, Sir, I would strongly object to any proposal whatsoever to relax the provisions of this Bill in respect of the collection of the tax. We have provided for an enormous number of new appeals under the Bill in addition to what we have under the present Act, and this has been done on the understanding that these new provisions would in no way interfere with the collection of the tax. The collection of this tax is not at present in a happy condition. Take, for example, the case of Madras. There was a debate in the month of November last in the Madras Legislative Council upon a Resolution put forward to relax some of the provisions regarding the collection of this tax. The Honourable the Finance Member of the Madras Government, Sir Charles Todhunter, in his reply to that Resolution, gave the following figures. He said:

'In the current year, out of a demand of 35 lakhs, the total collection up to August last was little over 6 lakhs. Out of the arrears demand (that is the arrears of the previous year), of 42 lakhs, the total collections were only 18 lakhs.'

During the last three years the percentage of collections in Madras were 72, 69 and 56, while other provinces were able to show figures of 96 and 98 per cent. It is therefore obvious that something has got to be done in Madras to make income-tax assesseees comply with the provisions of the law. I am sure, Sir, that, if the House imposes an income-tax, it intends it to be collected. Delay in the collection of this tax in one particular province simply means that a heavier burden is placed upon the more virtuous tax-payers in other provinces and I hope, therefore, that the House will not give any encouragement to the delay in paying this tax, which is so prevalent in Madras.

Mr. President: Amendment moved:

'In clause 45, substitute the word 'shall' for the words 'may in his discretion'.

The question is that that amendment be made.

The motion was negatived.

Clauses 45, as amended, 46, 47 and 48 were added to the Bill.

Rao Bahadur T. Rangachariar: I beg to move the following amendment:

'Re-number sub-clause (1) of clause 49 as sub-clause (1) (a) and after that sub-clause, as re-numbered, insert the following:

'(b) If any such person proves to the satisfaction of the Income-tax Officer that he has paid income-tax for that year in respect of the same part of his income in any Indian State or elsewhere in the British Empire, he shall be entitled to a refund of the sum so paid, which, however, shall not exceed one-half of the Indian rate of tax.'

[Rao Bahadur T. Rangachariar.]

My point in bringing this amendment is to provide for some relief in the case of persons who have to pay as it were double income-tax. Indian States have now taken to levying income-tax. For instance, in Madras, the Mysore State has recently begun levying income-tax and there is a proposal both in Travancore and Cochin to levy income-tax. I do not know whether the petty State of Pudukottah will also try to levy it. Most of us who are in business or in the professions have to pay tax in States and over again in British India. Some sort of relief is needed. Having regard to the provision made in the English Act, the previous portion of this section has provided a machinery for giving relief to persons who have to pay here and also in the United Kingdom, but, of course, I note, from the Joint Committee's Report, that Government propose to undertake some negotiations with these States in order to provide for some sort of relief being given. I do not know how long that will take. We have

8 P.M. also people who carry on trade in the Straits Settlements. Some of the income earned there is received here, and they will be liable to pay income-tax here, having also paid there. In such cases also this amendment provides for relief to the extent of one-half, that is to say, he will not be liable to more than one-half the Indian rate. If he proves to the satisfaction of the Income-tax Officer that this is the case, he will be entitled to a refund of the tax to the extent of one-half. He will still continue liable to the British Indian tax, but the object of this amendment is that in such cases the British Indian authorities should not levy more than one-half of the ordinary rate for the reason that he will have already paid in another place upon the same income. I submit, Sir, that this is an equitable and just arrangement. Income should not be taxed over and over again. The principle underlying this proposition is recognized in the section itself, but it is recognized to a limited extent only for persons resident in the United Kingdom and not in other places. Take Bombay, for instance. Bombay is surrounded by Native States and the same difficulty is bound to arise, because I am sure that every Native State will shortly go in for taxing income as a source of revenue. It is true that they are not doing so now, but, in the onward march of events, the necessity for taxing will be felt everywhere, and the States will not be able to carry on without taxing incomes. Therefore, Sir, I suggest that this amendment is very necessary.

Sir Vithaldas D. Thackersey: Sir, I beg to support the amendment moved by my Honourable friend, Mr. Rangachariar. It is quite true that the Joint Committee indicates that some arrangement may be made with the Native States to have a reciprocal arrangement; but, apart from that, it will be to the convenience and monetary advantage of all concerned that this amendment should be accepted by Government. In most cases what happens is this. Native States are on the borders of British territory, and many industries are started in Native States for the sake of the convenience of raw materials, and other considerations, and the Companies are registered in British India. Now, if this amendment is not accepted, the effect will be that when the industries are in Native States, British residents will not register the Companies in British India, but they will register these companies in the States in which they have been started, and the result will be that we shall lose the half income-tax which we would otherwise get by the arrangement proposed. Now, suppose a mill or a factory or other industry is started in a Native State. There is not the slightest objection on the part of the Company to register in that State and save all the income-tax.

But at present the practice is that most of these big Companies, or practically all the big Companies, are registered in British India. I am talking of the Bombay Presidency. The factories are in the Native States. If they have to pay double income-tax, there is no inducement for the Companies to register themselves in British India. If this amendment is accepted, you will be able to collect larger revenue as income-tax than if you insist upon your whole income-tax. The tax in Native States is very low, and, apart from any reciprocal arrangement with Native States, this proposal will be to the advantage of the British Government.

Mr. G. G. Sim: Sir, I think that Mr. Rangachariar is under a misapprehension as to what is the exact effect of this particular section. I gather from his speech that he is under the impression that his amendment provides for exactly the same arrangement with Native States and Dominions as the arrangements with the United Kingdom provided for in this clause. As a matter of fact, the proposal which he has made is one which is exactly the opposite of the arrangement made with the United Kingdom. The question of double income-tax was the subject of negotiation with the authorities in the United Kingdom for about 4 or 5 years and the whole discussion turned upon the question of which country had the first right to tax an income which was taxed in more than one country. We have succeeded, after lengthy negotiations, in getting into the advantageous position that any person who is taxed twice upon the same income, once in the United Kingdom and once in India, has to apply to the authorities of the United Kingdom in the first instance for relief. Both parties, the Government of India and the Government of the United Kingdom, have agreed that the relief to be given by any one country shall not exceed half the rate in that country. The advantage that we have got is that the person who is assessed twice over has to go in the first instance to England. When he goes to England, he can claim up to half the English rate and can claim from India only the balance of the relief. It so happens that our rates at present are less than half the English rates and consequently no burden falls at the outset upon Indian revenues by this arrangement. The Honourable Member proposes that we should immediately insert a provision in this Bill that where income is taxed twice, once in an Indian State or in any part of the Empire and once in India, India should invariably give relief up to half our rates. That means that the Government of India is being asked, by inserting a provision of this nature in the Bill, to admit that wherever income is taxed twice, once by the Government of India and once by some other power, that other power has the first claim to any income-tax upon that income. I do not think that that can be the Honourable Member's intention. This matter can only suitably be arranged for by negotiation with the foreign power. There must be mutual concessions and unless we get the other party to agree to a mutually advantageous arrangement, no particular advantage will be gained. Why should the other country give any concession whatsoever if we insert a provision that, in a case where a man is assessed in two countries on the same income, we shall immediately give a rebate up to half our rate. There is a further point, Sir, that, as it stands, the amendment provides that if income-tax has been paid anywhere in the British Empire on the same income, the person who has paid the double tax shall be entitled to a refund up to half the Indian rate. But such a person may have been taxed three times over. He may have been taxed in the Dominions, in England and in India. If he has paid once in the dominions, it is proposed that, even if he has got part of the money back from the United Kingdom, we should

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refund half the Indian rate. This would lead to extraordinary complications. The Government are quite prepared to accept the recommendation of the Joint Committee that immediate steps should be taken to enter into negotiations with the Straits Settlements and with the Indian States in order to come to some satisfactory arrangement for the alleviation of double income-tax and I hope that that will suffice to meet the object of the Honourable Member.

Sir Vithaldas D. Thackersey: May I know whether it will be possible to carry out the reciprocal arrangement proposed by the Honourable Member?

Mr. G. G. Sim: Certainly. We have already come to an arrangement with the Mysore State. Government has full power, under clause 60, to make any alteration in the incidence of the tax regarding any particular class of income.

Rao Bahadur T. Rangachariar: With that assurance, I do not press my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clause 49 was added to the Bill.

Clauses 50, 51, 52, 53 and 54 were added to the Bill.

Mr. G. G. Sim: Sir, I beg to move:

‘That at the end of clause 55, the following words be added:

‘Provided that where the profits and gains of an unregistered firm have been assessed to super-tax, super-tax shall not be payable by an individual having a share in the firm in respect of the amount of such profits and gains which is proportionate to his share.’

This is merely a drafting amendment, Sir. The Joint Committee had proposed to place registered and unregistered firms on exactly the same footing as they are under the present Act; but, as the Bill is drafted, the income of an unregistered firm would be taxable twice over, once in the hands of the firm and once in the hands of individual members. This was not intended and it is to cure this mistake that this amendment is put forward.

The motion was adopted.

Sir Vithaldas D. Thackersey: Sir, I wish to ask for permission to add the word ‘further’ to my amendment, which will then read as follows:

‘That at the end of clause 55, the following words be added, namely:

‘Provided *further* that where the profits and gains of a company have been assessed to super-tax, the super-tax shall not be payable by another company holding shares in the first company in respect of the amount of dividends received by the holding company.’

I ask for permission to add the word ‘further.’ My reason for moving this amendment is to give justice in hard cases. I may point out to the House that, owing to businesses extending, private companies are registered for doing large businesses and it often happens that a private limited company is the managing agent of a factory company or any other company, and also that this private company holds shares in another limited company. What now happens is this. The first company pays the super-tax. When the dividends and profits are distributed to another holding company, that company also pays super-tax. Then, when the dividends are distributed by the holding company to the individual shareholders, then a third super-tax is paid on the same income. Of course, in the third case it varies

according to the income, large or small, from one anna to four annas, according to the amount of profit. I do not propose that the individuals should escape any of the taxation. Mr. Sim has already proposed an amendment that, when a firm pays super-tax, the individual partners have not to pay super-tax again on the same income. Or, in the case of ordinary shareholders, when the company pays one anna, the ordinary shareholders pay up to 4 annas according to their income. In this particular case, the first company pays one anna, the second company pays one anna and the ordinary shareholder pays up to 4 annas. I admit that, if my proposal is accepted, there will be a small loss of revenue, but I put this on the basis of justice—whether it is right that the same income should be taxed thrice. There is the analogy in section 14 (2) (a). The section runs thus:

‘The tax shall not be payable by an assessee in respect of :

(a) any sum which he receives by way of dividend as a shareholder in a company where the profits or gains of the company have been assessed to income-tax.’

On the same basis, where one company has paid super-tax, another company holding its shares ought not to pay it. A sum is ultimately distributed to individuals, the individual must pay—I do not propose any reduction in their case.

Mr. G. G. Sim: Sir, the object, the Honourable Member has in view, I understand, is to secure that the flat rate of super-tax paid by a company should not be paid twice in respect of any profits. Now I would ask the House, in considering this proposal, to bear in mind the past history of this tax. Up to 2 years ago, we had a super-tax on the undistributed profits of companies. The profits of companies differ from the profits of individuals or the profits of firms in that a certain proportion of them is not liable to super-tax in the hands of the individual, *viz.*, the portion not distributed to shareholders. Our original tax was a tax on that portion of the profits which was left in the hands of a company and it was assessed at graded rates. It went up to four annas in the rupee. It was at the request of the commercial community itself, which objected to this particular form of taxation, that this tax, which was a graduated tax, rising to four annas in the rupee on the undistributed profits, was replaced by a flat rate of one anna on the whole of the profits. Their contention was that the particular form in which we took the tax from them induced companies to distribute more of their profits than they could with safety do. Now I should like to ask the Honourable Member whether, in the case of any of those holding companies, which he has quoted, they are at present paying more in the way of super-tax than they would have done under the old system. Under the old system, there was no double taxation. It was a tax on the undistributed profits and there was no question of taxing the same profits twice over. Then the commercial community asked us to replace this by a tax of a totally different nature, and as soon as that tax was introduced, we are told that it is unjust in so far as it involves double taxation. But are any of those companies at the present time paying any more than they would have done under the old system? The old system was perfectly equitable. It was an attempt to get at these undistributed profits.

In the second place, Sir, I should like to point out that this tax is now practically a tax on companies' profits as such, and that it is perfectly immaterial where those profits come from. The tax has been defended on the

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ground that like the English Corporation Tax, it is a tax on companies' profits levied in view of the advantages which are secured to them by law in the form of their corporate finance and their limited liability; and that the amount of benefit that they get can be most suitably measured by the amount of their profits assessed to income-tax. From this point of view, it is immaterial whether these profits are got by working a factory or by investing in another company. There is one danger, Sir, about this particular amendment of Sir Vithaldas Thackersey which the House should bear in mind. If a company distributes its capital amongst a lot of other companies and constitutes itself a holding company, it thereby becomes entitled to a reduction of Rs. 50,000 from the profits of each company. I do not think that the Honourable Member can mean that this proviso should be carried in such a manner that, while the profits which the present company gets from the other companies are not to be taxed, still the holding company has to get a reduction of Rs. 50,000 in respect of each of the companies amongst which it has distributed its capital. The whole question, Sir, was very fully debated in the Joint Committee and the Joint Committee considered that there was no case for any change in the law at present, but that, if there was any increase in the present rate, the whole question of the method of assessing corporation profits would have to be reconsidered. At present, as a matter of fact, we do not charge a company on the whole of its profits. We do not tax it on the portion of the profits that is distributed on account of fixed interest charges. The English Corporation Tax, as Honourable Members are aware, is charged on the whole of the profits of a company, irrespective of whether those profits are distributed to debenture-holders or to shareholders, or as mortgage interest or in any other way. The tax charged here is on a portion only of the profits, and the Joint Committee considered that, as the rate of one anna in the rupee is a low one, it was quite unnecessary to reconsider the basis of assessment. If, however, the rate is changed, the whole question of the method of assessing corporation profits will have to be reconsidered. I see no reason at present, therefore, for accepting the Honourable Member's proposal as it would certainly involve this risk of a considerable amount of tax being lost owing to the distribution of capital of one company amongst a considerable number of companies, a holding company amongst a number of subordinate companies, with each of them getting reduction of Rs. 50,000. I therefore, Sir, oppose the amendment.

Sir Vithaldas D. Thackersey: Sir, I do not wish to press this amendment at the present stage to-day, as we have been promised that the point will be considered if any change in the rate takes place. I do admit that there will be a certain amount of revenue lost; at the same time I must correct the Honourable Member when he said that this flat rate of one anna was some concession from the 1918 rate when the full super-tax was charged on the companies. I need only point out that that charge was a preposterous one and, had it not been for that tax, the companies' position would have been much stronger. Owing to the wrong policy of that year's taxation, most of the profit was distributed and Government realised a much smaller amount in super-tax, than it would otherwise have done.

The amendment was, by leave of the Assembly, withdrawn.

Clause 55, as amended, and clauses 56, 57, 58, 59, 60, 61 and 62 were added to the Bill.

Rao Bahadur T. Rangachariar: Sir, this is a small amendment which I wish to make, namely:

'In clause 63 (1), insert the word 'registered' before the word 'post'.'

That clause reads that:

'A notice of requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908.'

In order to safeguard the receipt of a notice when it is sent by post, I suggest the insertion of the word 'registered.' It is not going to cost the Government anything, because what you pay on the one hand you will get back in the shape of postal revenue, and, therefore, it is not an expense. On the other hand, it will be a great advantage to the party concerned. It will ensure the receipt of a notice, for oftentimes penalties are incurred if the party does not comply with the notice so served, and it is but right that it should be sent by registered post.

The Honourable Sir Malcolm Hailey: May I ask the Honourable gentleman before he sits down if he has brought the General Clauses Act with him?

Rao Bahadur T. Rangachariar: May I ask the Honourable Member to remind me of the clause?

The Honourable Sir Malcolm Hailey: Well, if one so unlettered in these matters may recall the point to the attention of an expert, section 27 of the General Clauses Act does provide as follows:

'Where any Act of the Governor General in Council or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression 'serve' or either the expression 'give' or 'send' or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting by registered post.....'

Rao Bahadur T. Rangachariar: Thank you, Sir. I withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clause 63, 64 and 65 were added to the Bill.

Rao Bahadur T. Rangachariar: I beg to move, Sir:

'To substitute the word 'receipt' in clause 66 (2), for the word 'passing'.'

An order may be passed in the absence of a party and he may not get sufficient time. I would provide that the period should count from the date of the receipt of the order, and not after the passing of the order. That is the object of this amendment.

Mr. G. G. Sim: Sir, the order that is passed under section 31 is an order on an appeal, and I see no reason why the period should not count from the date of that order. But the particular point is this. The Honourable Member proposes that the period prescribed should be one month from the receipt of a copy of the order. There is no provision anywhere in the Act that the appellant should be given a copy of the order. He can get a copy of the order if he asks for it. If this amendment is carried, after an appeal order has been passed, a man may go away for five years and then come and apply for a copy of the order and demand a reference a month after he gets his copy. I think that is an impossible proposal.

Rao Bahadur T. Rangachariar: I don't see any impossibility about it. It will make it obligatory upon the officer who passes the order to send the

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order to the party. That is all. If the officer who passes the order sleeps over it, then, of course, he will have time. I expect the officers to do their duty when they pass an order. I also expect them to send a copy of the order to him. Therefore, it is really not an impossible thing at all, unless the officer neglects his duty. If the order is passed in the presence of the party, then I can understand it. But there is nothing binding upon the Appellate officer to pass the order in the presence of the party. Therefore, I think it necessary that this amendment should be made.

The Honourable Sir Malcolm Hailey: Sir, we are only applying the same principle here as is applied in other cases. There are a great many cases where the date of appeal and the like runs from the date of the passing of the order and we see no reason why that same procedure should not apply in the case of the Income-tax Act. If the Honourable Member feels so strongly on the subject, he will no doubt sooner or later put forward a Resolution calling for a radical amendment of a very considerable number of sections in the Schedule of the Indian Limitation Act as applied to the orders of Civil Courts. Sir, we may be trusted, as any other authority, to give due notice to people when orders will be passed, and it is only reasonable that the period should run from the date of the passing of such order.

Mr. President: Amendment moved:

'In clause 66 (2), substitute the word 'receipt' for the word 'passing'.'

The question is that that amendment be made.

The motion was negatived.

Rao Bahadur T. Rangachariar: The next amendment that stands in my name is:

'In clause 66 (2), after the figures '31' in line 2, insert the word and figures 'and 32'.'

Honourable Members will notice that clause 32 says:

'Any assessee objecting to an order passed by an Assistant Commissioner under section 28 or to an order enhancing his assessment under sub-section (3) of section 31 may appeal to the Commissioner within thirty days of the making of such order.'

I want to provide that, within one month of the passing of the order, under section 31 or under section 32 (i.e., in both cases), the party should have a right to ask for a reference on a point of law. That is the object of my amendment.

Mr. G. G. Sim: Sir, I have no objection to the amendment provided the Honourable Member will substitute the word 'or' for the word 'and' in his amendment.

Rao Bahadur T. Rangachariar: I have no objection.

Mr. President: The question is that the following amendment be made:

'In clause 66 (2), after the figures '31' in line 2, insert the word and figures 'or 32'.'

The motion was adopted.

Rao Bahadur T. Rangachariar: I move:

'In clause 66 (2), insert the words 'or such lesser sum as may be prescribed' after the words 'hundred rupees'.'

This is as regards the amount of deposit to be made by a person after the passing of an order under section 31. The Act

provides that in every case the application should be accomplished by a fee of hundred rupees. In some cases the assessment may be very small and it may involve a point of law, and it would be somewhat prohibitory indeed to insist upon a man to pay Rs. 100 for stating a case. I, therefore, propose that as much lesser sum as possible may be prescribed by Government. I am not suggesting that any particular sum should be levied in any particular case. I quite accept the principle that you have to pay, and Rs. 100 may remain. But there are cases and cases in which this figure would work hardship, and I, therefore, propose to leave it to the Government to prescribe by rules the sum according to the circumstances of each case. I notice that in the Joint Committee a proposal was made that only Rs. 20 shall be levied, but that perhaps is not a sufficient sum. Therefore, what I say is, let it not be a rigid rule that a man should pay Rs. 100 in every case but let us leave it to Government to prescribe any such smaller sum as they consider desirable according to the circumstances of each case.

Mr. G. G. Sim: Sir, I do not think there is any harm in accepting this amendment. I am not quite certain what the use of it is, but I do not propose to object to it.

Mr. President: The question is that the following amendment be made:

'In clause 66 (2), insert the words 'or such lesser sum as may be prescribed' after the words 'hundred rupees.'

The motion was adopted.

Clauses 66, as amended, and 67 were added to the Bill.

Sir Vithaldas D. Thackersey: I beg to move:

'In clause 68, for the second proviso substitute the following:

'Provided further that section 19 of the Indian Income-tax Act, 1918, be so applied as if the legislation of 1918 in that connection had never been introduced and credit being given for sums paid in advance.'

The system of taxation of income-tax before the Indian Income-tax Act, 1918, was passed was that the income-tax was levied on the income of the previous year just as it is proposed now under this Bill. In 1918, the system was changed and adjustment of income-tax was introduced, so that in 1918-1919, the tax was paid on the income received in 1918-1919. The Bombay assesses did not require this change. At the same time, at the request of some parties the change was made, and I believe the demand was made from Calcutta. Now, the Government are going back to the view that the old system was right and therefore adjustment is abolished under the new Bill and income-tax is proposed to be levied on the income of the previous year. The effect of this change, in short, is this. We missed the year 1917 on which we would have paid income-tax, and now we are asked to pay tax for two successive years on the income of 1921-22. Is it fair to those whose income was progressive that their lean year should be omitted and a fat year should be taxed twice? I do not know where the justice of this section comes in? It may be argued by the Honourable Member in charge of the Bill that we want revenue and, therefore, let us have it by hook or by crook, by any method that we may think of, and I believe, when this suggestion was made from certain quarters, the Honourable Member jumped at the idea with great pleasure, because he is going to get income-tax for two years on the income of

[Sir Vitthalidas D. Thackersey.]
1921-22 year. It is not fair to those who have progressive incomes that they should be asked to pay so much more income-tax for no fault of theirs. I believe that the justice of this amendment cannot be denied, and, therefore, I hope that the Government will accept it.

Mr. Manmohandas Ramji: I want to bring it to the notice of Members that, in the case of some companies, the change is going to operate adversely, while there may be an advantage to some from this change. Which party should we give the preference to? (*Sir Vitthalidas D Thackersey:* 'Be fair.') So, if we want to be fair, there could be nothing fairer than the proposal. (*The Honourable Sir Malcolm Hailey:* 'Which proposal?') I mean the original proposal.

Mr. G. G. Sim: Sir, this question of the procedure to be adopted in the year of changing back to the old system has been discussed for the last two years. The Joint Committee recommended that we should adopt the method proposed in the Bill, that is to say, that we should continue the adjustment for one year more. Sir Vitthalidas Thackersey has referred to some unfortunate persons whose incomes are going up and who, under this proposal, will have to pay more tax than they would have paid if the change in 1918 had never been made. He has referred to the fact that the change was introduced at the instance of Calcutta in 1918. I may remind the Honourable Member that when the proposal to go back to the old system was made, it was made at the instance of assesses who universally complained of the inequity of the present system. We consulted numerous authorities and associations as to the best method of making this change and there was a practically unanimous opinion that the change should take place in the way which has been proposed in this Bill. As an example, Sir, I shall quote to the House the views of the Mill Owners' Association of Bombay. In a communication, dated the 8th February, 1921, they said:

'The change proposed has the advantage of simplifying the procedure and the Committee express their approval of the same on condition however that before the change is introduced, an adjustment for a given year is made as the Committee are of opinion that the profits earned by companies are already on the decline.'

At that time, they anticipated that their profits would decline. We are now informed that their profits are rising, and their natural indignation at finding that the profits on which they are to be taxed have gone up instead of down, has been given suitable expression to by the Honourable Member. I do not think that the Honourable Member can seriously mean this proposal. As has been pointed out by Mr. Manmohandas Ramji, the proposal affects different people in different ways. Even in the case of Bombay, the result of continuing the adjustment system next year will, according to the latest information, result in Government having to make a net pay of 40 lakhs, that is to say, after collecting extra sums from the persons whose incomes are still going up, we shall have to refund, in addition to that, a sum of 40 lakhs to people whose incomes have gone down. I have no doubt as to the view the House will take of this amendment.

Mr. President: Amendment moved:

'In clause 68, for the second proviso substitute the following:

'Provided further that section 19 of the Indian Income-tax Act, 1918, be so applied as if the legislation of 1918 in that connection had never been introduced and credit being given for sums paid in advance.'

The question is that that amendment be made.

The motion was negatived.

Clause 68, the Schedule and the Preamble were added to the Bill.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Before Sir Malcolm Hailey moves the motion standing in his name, I object under clause (2) of Standing Order 49 to his motion. It runs thus:

'If any amendment of the Bill is made, any Member may object to any motion being made on the same day, that the Bill be passed, and such objection shall prevail unless the President, in the exercise of his power to suspend this Standing Order, allows the motion to be made.'

We have already accepted several amendments to the Bill and some of them were at the instance of Government. It shows that the time at the disposal of Government was not sufficient for a careful examination of the Bill, and I do not think it will do any harm to the Finance Department to examine the Bill, as now amended, a little carefully and then bring forward this motion at a later stage.

Mr. President: If the Honourable Member has taken objection on the ground that further delay will give opportunity to amend the measure, I must remind him that fresh amendments cannot be moved on the motion that the Bill be passed, which is the only stage now remaining. I am prepared to hear him substantiate his objection, and also to hear the Government on the subject. The reasons he has given do not appear to me to be relevant to the issue.

Mr. K. C. Neogy: So far as non-official Members are concerned, I think that they ought to be in a position to re-examine the Bill, as now amended, and see if there is any inconsistency anywhere and whether the Bill requires further amendment, or re-commitment to the Select Committee.

The Honourable Sir Malcolm Hailey: Does the Honourable Member mean, Sir, that non-official Members, after further examining this Bill, will be then in a position to bring forward further amendments?

Mr. K. C. Neogy: Yes, so far as the amendment proposed by Mr. Rangachariar of clause (a) of sub-clause (3) of section 31 is concerned, a considerable section of this House would like to have the matter discussed again. And, as regards the technical objection taken by the Honourable the Finance Member with reference to Mr. Rangachariar's failure to move for the omission of the word 'reduce' in clause (a) of sub-clause (3) of that section, I think that the difficulty raised by the Honourable the Finance Member might be obviated by notice being given for the omission of that word, and the House would then be in a position to reconsider section 31.

Mr. President: The Honourable Member does not appear to have taken notice of the fact that the House in each case has passed the motion that these clauses do stand part of the Bill. The Title, the Preamble, the sixty-eight clauses and the Schedule are now all part of the Bill, and the next motion to be taken by the House is that this Bill be passed. No doubt, amendments might be made in another place which might call for reconsideration by this House; but that we will deal with when it arises.

Discretion reposes in the Chair as to whether Standing Order 49 should be suspended, and I must be guided by the reasons brought forward by Honourable Members for and against it. I am not much impressed by

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the reasons given by the Honourable Member, but I am prepared to hear any other reasons if he has any to advance.

Rao Bahadur T. Rangachariar: There is one matter on which I feel doubtful. I have not seen the draft of the amendment which was passed the other day at the instance of the Member from the Punjab. We did not have a copy of it and I do not know whether the phraseology may not require alteration. But, as suggested, the Bill will come back after consideration by the other House, and that matter might be then examined.

The Honourable Sir Malcolm Hailey: Sir, I do not feel that the House has to-day, or at its previous sitting, made any amendments of real substance. They are all amendments of detail and of procedure. I need not say that the Bill will be further scrutinised from the point of view of drafting, and if any small consequential amendments in drafting be required, it is perfectly competent for Government to put these forward elsewhere. And, in that point of view, Sir, I would suggest that the House, which has a good deal of work before it in the future, should not trouble to hold another sitting on this Bill merely in order to consider drafting or consequential amendments.

I beg to move, Sir, that the Bill, as amended, be passed. In doing so, I only desire to ask the House to join with me in expressing its obligations in regard to the great labour bestowed on this Bill by the Joint Committee of both Houses. They held long sittings. The Bill is a complicated one and required full consideration in detail. I think that the House has every reason to feel that it has profited by the result of these labours which were conducted under the able chairmanship of Sir Alexander Murray. (Hear, hear.)

Mr. President: The question is:

'That the Bill to consolidate and amend the law relating to income-tax and super-tax, as drafted by the Joint Committee and as here amended, be passed.'

Rao Bahadur T. Rangachariar: Sir, I wish to associate myself with the remarks made by the Honourable the Finance Member in the congratulations we have to offer to the Joint Committee for the great labour they have bestowed in considering this Bill and placing it before us. I wish also to add, Sir, a word of commendation of the great work which Mr. Sim has bestowed on this Bill. (Hear, hear.) There are certain matters in this Bill, which require the careful attention of the Government and I am sure, in the rules which they are going to pass, they will evince a sympathetic interest towards the tax-payer, while, at the same time, keeping a grip on the revenue. Sir, I am not at all satisfied about the provision which is made for deducting at the source income-tax in respect of Government securities, and section 18 provides that, in deducting the income-tax due on the interest payable on Government securities, we may levy it at the maximum rate. Many persons in this country, who are widows and orphans, have got only certain securities, which perhaps do not yield even a taxable amount in the shape of interest, and I know it works a great hardship, in those cases, to deduct the income-tax at the source, and that at the maximum rate, as if those persons were receiving such an income as would be liable to the maximum rate. I did not want to bring any amendment to that section, because I trust that the Government are going to take steps to ameliorate the condition of these security holders. Already, Sir, they suffer a good

deal on account of the depreciation in value. I should like to know, Sir, what has been done with reference to the report which the Committee made in respect of these holders of the 3½ per cent. securities. Their capital has been greatly reduced in value and to levy income-tax on them at the maximum rate will be a greater hardship. I heartily join in supporting the motion for passing this Bill.

Mr. President: The question is:

'That the Bill to consolidate and amend the law relating to income-tax and super-tax, as drafted by the Joint Committee and as here amended, be passed.'

The motion was adopted.

AMENDMENT OF STANDING ORDERS.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly: Non-Muhamadan Rural): Sir, I beg to move for leave to amend the Standing Orders of the Legislative Assembly in the manner indicated in the various amendments under this head. I owe an apology to the House for not having brought up my suggestions earlier, so that they might have been referred to the Select Committee at the time at which the Honourable Sir William Vincent's amendments were so referred. With your permission, I propose to make a few explanatory remarks with regard to these amendments, and do so once for all, instead of dealing with each amendment separately. That course will, I am sure, save time and be welcomed by the House. Standing Order No. 23 relates to leave to make a motion to adjourn the House for the purpose of drawing its attention to some matter of importance. The procedure under the existing Standing Order is in my opinion unnecessarily cumbrous and open to other objections. First of all, when the Member who applies for leave gets up and announces his intention, the duty is cast upon some other Member of the House to take an objection to such leave being granted. Now, this duty of getting up and raising an objection is a somewhat invidious duty and, for that very reason, it is often not performed when it might be very usefully performed. If objection is taken, then the President asks those who are in favour of the leave being granted to rise in their places and if 25 people rise, then the leave to make the motion is granted. Very often it is found that, after the motion has been made and discussed, there is not a single person to support the Mover of the motion. That, I think, is a procedure which involves a needless waste of time. Why should we not have a straightforward and simple decision at once by the whole House on the question whether leave should be granted or not? It may be said that here too a person who has to object to leave being granted has to do a somewhat invidious duty; but the invidiousness is shared by the whole House and the weight of it is felt less.

My first proposal, therefore, is that the question should be determined by voices or, if necessary, by a division. Then, I propose, as an alternative, to omit the words 'if objection is taken.' I will not, at this stage, go into further details with regard to these various suggestions because it is only necessary for me to make out a *prima facie* case for the consideration of these suggestions and for referring them to the Select Committee.

With regard to Standing Order 30, I make certain suggestions for the purpose of making it clear in what cases notice is necessary and in what cases notice is not necessary. At present there is no Standing Order which sums up the cases in which notice is not necessary or states the cases in

[Sir P. S. Sivaswamy Aiyer.]

which notice is necessary. I think it would be a useful thing if we could have, summed up in one Standing Order, the cases in which previous notice is unnecessary. I may state that, in my amendment of this Standing Order and of a number of others which follow, I have based my suggestions on the Parliamentary rules of practice as they are to be found in Ilbert's 'Manual of Procedure of the House of Commons.' I do not think it is necessary to make any further explanatory remarks about this Standing Order, No. 30.

Then Standing Order No. 30 (b) says:

'If a Member desires to vary the terms of a motion of which he has given notice, he may do so by giving notice of the amendment to the Secretary in the manner prescribed for the original notice. But if the amended notice materially departs from the terms of the notice originally given, he will lose any precedence given to that notice. The amended notice must be given at the latest during a sitting of the House preceding a day appointed for the motion.'

This is practically taken from Ilbert's Rules.

Standing Order No. 30 (c) gives the right of postponing a motion to a later day to a Member who has given notice of a motion.

Standing Order No. 30 (d): This raises a question of practice with regard to which some explanation may be necessary. It relates to the question whether any seconding is necessary in respect of any motion. It has been the practice in the House of Commons to require a seconder in support of every motion. It has been the practice in most Assemblies, and, in fact, it is a practice which has been almost universally adopted. It may be said that it is not necessary to require a seconder, because you may take it for granted that there will be somebody or other speaking in support of the motion. Now, my reasons for suggesting that the Parliamentary practice should be maintained are these, that, if you insist upon this rule requiring a seconder, it may so happen that there are some propositions which do not find a seconder and which are therefore lost. So much, therefore, is gained in the matter of time. If a motion is so absurd that it cannot find a seconder, it will be lost without any more ado.

Then, there is another advantage. Very often, a man who proposes a motion may not be able to set forth all his reasons in favour of the motion, and, before he can finish the full statement of his case, he may be reminded by the President that his time is up. But if, on the other hand, you require a seconder, the seconder may be able to complete what has been left unsaid by the proposer, whereas, if you do not require any seconder, it is very uncertain upon whom the President's eye may fall and whether a person who intends to support the motion will be called upon to speak. It seems to me that, in this respect, it will be desirable to follow the Parliamentary practice which has been adopted in numerous other Legislative Assemblies and other bodies.

Then, with regard to Standing Order 30 (e), it is merely a proposal to vest distinctly in the President the power to split up a proposition into two or three and to put them separately to the vote.

Standing Order No. 30 (f):

'At any time after a question on a motion has been proposed from the Chair and before the voices both of the Ayes and of the Noes, have been collected, the motion may, with the leave of the House, but not otherwise, be withdrawn by the Member who proposed it.'

It is more for the sake of completing the Standing Orders upon the subject and making an express statement of the practice that this suggestion has been made, and it is also based upon the Parliamentary rule.

Standing Order No. 30 (g):

'A motion of which due notice has been given may, in the absence and at the request of the Member by whom notice was given, be made by another Member, but if not so made or if a Member announces his intention of withdrawing a motion standing in his name, the motion may be made by another Member and if not so made, the motion shall drop.'

This, I think, is a very important provision. At present, if a Member, who has given notice of a motion does not happen to be present at the time, his motion drops; but the motion may be an important one, other Members may be interested in it and they might not have given notice of a similar motion for the simple reason that notice was given by another Member who secured priority in the ballot. It is therefore desirable that a motion, of which due notice has been given, should be made by another Member at the request of the Member by whom notice was given, but, if not so made, or if a Member announces his intention of withdrawing a motion standing in his name, the motion may be made by another Member and, if not so made, it may be dropped. Supposing a Member who wants to make a motion does not make, and another Member wishes to make it, it is desirable that he should be allowed to do so.

Then Standing Order No. 30 (h) merely relates to the form in which a motion should be made.

Standing Order No. 32 (i) is a consequential amendment to the one which requires a seconder.

Standing Order No. 33:

'After sub-clause (4), insert the following as sub-clause (5):

'If an amendment is moved to a proposed amendment, the last mentioned amendment is dealt with as if it were the original question until all amendments of it have been disposed of.'

This is merely a convenient statement of a rule which is, as a matter of fact, followed at present.

'Sub-clause (6):

'Not more than one amendment shall be proposed for consideration at the same time.'

'Sub-clause (7):

'If an amendment referred to is not intelligible without a subsequent amendment or schedule, notice of the subsequent amendment or schedule ought to be given before the first amendment is moved so as to make the series of amendments intelligible as a whole.'

This again is based upon the Parliamentary rule and it is self-explanatory.

'Sub-clause (8):

'The President has the power to select from concurrent amendments and to determine the place in which an amendment ought to be moved.'

That again is a power the President ought to have and it is desirable to provide for it clearly.

'Sub-clause (9):

'An amendment moved may be withdrawn on the request of the Member moving it before the President has collected the voices.'

[Sir P. S. Sivaswamy Aiyer.]

There is nothing in the rules at present about the withdrawal of amendments, and that is why the suggestion is made.

Standing Order No. 37 :

'In cases where motion for leave to introduce a Bill is required by the Rules any Member desiring to introduce a Bill should move for leave to do so. No amendment of the motion is permissible. The granting of leave to introduce the Bill shall not be deemed to commit the Assembly to any approval of the principle of the Bill.'

It is desirable to make it clear that the Assembly is not committed to the principle of a Bill by merely granting leave to introduce it.

Standing Order No. 37 (a) :

'Where leave to introduce a Bill has been granted or no leave is necessary under the rules, a Member in charge of a Bill may introduce the Bill after giving 7 clear days' notice to the Secretary, provided that no Bill shall be introduced until 15 clear days' notice from the date of its publication or from the date on which copies of the Bill have been made available for the use of Members.'

One complaint which I have had to make and which, I dare say, many other Members will be in a position to make, is the shortness of time that is often given to us in respect of Bills, and the object of this Standing Order is to secure sufficient time to Members to study and consider the Bills which are intended to be brought forward.

In Standing Order No. 38(i), I would suggest that the proviso should be omitted. That is a consequential amendment following upon what I have just referred to.

Then, as regards Standing Order No. 39(ii), I suggest—and this I regard as an important amendment—that at the end of sub-clause (b), the following should be inserted as sub-clause (c) :

'It shall not be necessary for a Member moving a reference to a Select Committee to name the Members of the Committee in his motion, but when the Assembly has agreed to refer the Bill to a Select Committee, a separate motion may be brought forward for the appointment of the Select Committee by the Assembly.'

Upon this matter it has been ruled by our President that, at the time when a motion is made for the appointment of a Select Committee, the names of the Members should all be given. That has not been the practice in all our Legislative Assemblies; I know that in Madras, in the Legislative Council, under the old rules it was not necessary; the practice was first of all to make the motion to refer a subject to a Select Committee, and, after that motion is passed, to make a separate motion for the appointment of the Members of the Select Committee. But a contrary procedure has been adopted here according to the ruling of the Chair; and I think it will be far more convenient to Members first of all to move for reference to a Select Committee, and only if that motion is successful, it should be necessary to make the other motion that such and such persons should be appointed to constitute the Select Committee.

Then, again, with regard to Standing Order No. 40, I propose :

'At the end of sub-clause (5), insert the following as sub-clause (6) :

'Unless specially instructed by the Assembly to that effect it shall not be competent to a Select Committee to introduce a new clause in a Bill or to introduce any amendments which are not relevant to the subject-matter of the different clauses.'

This raises, again, an important question which has been raised in one of the amendments suggested by Mr. McCarthy; and it is this, if a

Bill is brought forward, is it or is it not competent to the Select Committee to go into matters not germane to the actual clauses of the Bill, but germane merely to the title and preamble of the Bill? Supposing, for instance, you bring in a Bill, say to amend the Code of Criminal Procedure or some other Act, and there are certain sections which are proposed to be amended in the draft Bill, and suppose certain chapters of the Criminal Procedure Code are left out entirely in the Bill, is it open to you to propose other clauses, new clauses having nothing whatever to do with the draft Bill, but relevant to the Bill only in so far as it is covered by the title? That is the important question at issue in regard to this matter. The President stated, at the time, that Mr. McCarthy's motion was brought, that the object of that motion was to bring up the question for consideration. That is also the object of my suggestion. It proposes an alternative rule to that suggestion which was made by Mr. McCarthy.

Then I suggest that in Standing Order No. 41:

'Between sub-clauses (1) and (2) insert the following:

'No business shall be transacted at any sitting of the Select Committee unless a majority of the Members of the Committee is present.'

Then I suggest that in Standing Order 46 (1), 'three clear days' should be substituted for 'two clear days', because it is really necessary to have a little more time for consideration of these matters.

Then, in Standing Order No. 61, I propose to insert the following as clause (c):

'Or he may postpone the decision to a later date subject to the rules for the precedence of Resolutions.'

Standing Order 61 provides that a Member, in whose name a Resolution stands on the list of business, shall, when called on, do certain things; he has got certain courses open to him, he can either withdraw the Resolution or move the Resolution; he has no option given to him to postpone the motion to a later date. This is meant to give him that option.

I then propose to omit sub-clause (2) of the same Standing Order.

I then propose, in Standing Order No. 62, to substitute the following for the whole Standing Order:

'The Mover of a Resolution, when moving the same, and the Member of the Government to whose Department the Resolution relates may not ordinarily speak for more than 30 minutes nor may any other Member speaking on the Resolution ordinarily speak for more than 15 minutes, but the President may, in his discretion, extend the limits of time allowed.'

As the Standing Order stands at present, the President has very little discretion to extend the time in the case of a Mover or Seconder of a Resolution. Standing Order No. 62 provides:

'No speech on a Resolution, except with the permission of the President, shall exceed fifteen minutes in duration: Provided that the Mover of a Resolution, when moving the same, and the Member of the Government to whose Department the Resolution relates, when speaking for the first time, may speak for thirty minutes.'

Now, as a matter of fact, we have found in practice that this limit of thirty minutes cannot be rigidly adhered to; what length of time should be allowed to the Mover of a Resolution or to the Member of the Government must necessarily depend upon the importance of the subject and the ground which it has to cover, and it is impossible to lay down any rigid limit of time. The best course to adopt, therefore, is to vest in the President power to enlarge the time in the case of the Mover and the

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Member for Government to beyond thirty minutes, and in the case of other Members to beyond fifteen minutes. At present, as the Standing Order stands, the President has no discretion whatever to extend the time limit beyond thirty minutes. It is, therefore, desirable to make a provision clearly vesting the power in the President to extend the time limit. There need be no fear that the discretion vested in the President will not be used in the best interests of the House.

Then I come to Standing Order No. 64; that is:

'After the word 'moved' to insert the words 'and seconded.'

This is really consequential.

Then I come to Standing Orders Nos. 67 and 69, both of which I believe are consequential.

Then I have put in another amendment, namely:

'The Assembly may at any time, on motion made, suspend the operation of any of the Standing Orders with regard to any particular matter before the Assembly during a particular sitting.'

That, I think, is a very useful power to be conferred upon the Assembly. It may so happen that it is not possible to comply with all the Standing Orders. It is a power which has been conferred upon Legislative Councils in other provinces, and I think it is a very useful power to vest in this Assembly also. With these words, I beg to move for leave to amend the Legislative Assembly Standing Orders.

Mr. President: The question is that leave be given to amend the Legislative Assembly Standing Orders in the following manner:

Standing Order No. 23.

Omit all the sentences except the first and insert the following in their stead:

'The question shall be forthwith determined by voices or if necessary by a division. If the Assembly is in favour of leave being granted, the President shall intimate that leave is granted and that the motion will be taken at 4 P.M. If the Assembly is not in favour of leave being granted, the President shall inform the Member accordingly.'

If the above amendment is not accepted, omit the words 'if objection is taken' in the second sentence of the Standing Order.

After Standing Order No. 30 and before Standing Order No. 31, insert the following:

Standing Order No. 30.

- (a) 'Save as otherwise provided in these orders every motion proposed in the Assembly requires notice except in the following cases:
- (i) A motion for the adjournment of the House or of the debate.
 - (ii) A motion for a purely verbal amendment of a proposition before the Assembly.
 - (iii) A motion for an amendment rendered necessary by or consequential upon an amendment which has been already carried.
 - (iv) A motion for an amendment that a Bill be referred or recommitted to a Select Committee or circulated or re-circulated for the purpose of obtaining an opinion thereon.
 - (v) Cases where notice is dispensed with by the general concurrence of the House.
- (b) 'If a Member desires to vary the terms of a motion of which he has given notice, he may do so by giving notice of the amendment to the Secretary in the manner prescribed for the original notice. But if the amended

notice materially departs from the terms of the notice originally given, he will lose any precedence given to that notice. The amended notice must be given at the latest during a sitting of the House preceding a day appointed for the motion.'

Standing Order No. 30.

- (c) 'A Member may postpone to a later day a motion of which he has given notice; but cannot fix it for an earlier day.'

Standing Order No. 30.

- (d) (i) 'Every motion unless it is of a merely formal character must be seconded by another Member before it is put from the Chair.'
 (ii) 'Any Member may second a motion by saying 'I second the motion' and may speak on the question during a subsequent period of the debate.'

Standing Order No. 30.

- (e) 'When a motion has been made and, where necessary, seconded, the President shall state the question for the consideration of the House. If a motion embodies two or more separate propositions, they may be proposed by the President as separate propositions.'

Standing Order No. 30.

- (f) 'At any time after a question on a motion has been proposed from the Chair and before the voices, both of the Ayes and of the Noes, have been collected, the motion may, with the leave of the House but not otherwise, be withdrawn by the Member who proposed it.'

Standing Order No. 30.

- (g) 'A motion of which due notice has been given may, in the absence and at the request of the Member by whom notice was given, be made by another Member, but if not so made or if a Member announces his intention of withdrawing a motion standing in his name, the motion may be made by another Member and if not so made the motion shall drop.'

Standing Order No. 30.

- (h) 'A question when proposed from the Chair may be amended:
 (a) by leaving out certain words in order to insert other words, or
 (b) by leaving out certain words, or
 (c) by inserting or adding other words.'

Standing Order No. 32.

- (i) After the words 'has spoken' in the first line, insert the words 'and the motion has been seconded'.

Standing Order No. 33.

After sub-clause (4) insert the following as sub-clause (5) :

'If an amendment is moved to a proposed amendment, the last mentioned amendment is dealt with as if it were the original question until all amendments of it have been disposed of.'

Sub-clause (6).

'Not more than one amendment shall be proposed for consideration at the same time'

Sub-clause (7).

'If an amendment referred to is not intelligible without a subsequent amendment or schedule, notice of the subsequent amendment or schedule ought to be given before the first amendment is moved so as to make the series of amendments intelligible as a whole.'

[Mr. President.]

Sub-clause (8).

'The President has the power to select from concurrent amendments and to determine the place in which an amendment ought to be moved.'

Sub-clause (9).

'An amendment moved may be withdrawn on the request of the Member moving it before the President has collected the voices.'

Standing Order No. 37.

Substitute the following for this Order :

'In cases where motion for leave to introduce a Bill is required by the rules, any Member desiring to introduce a Bill should move for leave to do so. No amendment of the motion is permissible. The granting of leave to introduce the Bill shall not be deemed to commit the Assembly to any approval of the principle of the Bill.'

Standing Order No. 37 (a).

'Where leave to introduce a Bill has been granted or no leave is necessary under the rules, a Member in charge of a Bill may introduce the Bill after giving 7 clear days' notice to the Secretary provided that no Bill shall be introduced until 15 clear days' notice from the date of its publication or from the date on which copies of the Bill have been made available for the use of Members.'

Standing Order No. 38 (i).

Omit the proviso.

Standing Order No. 39 (ii).

At the end of sub-clause (b), insert the following as sub-clause (c) :

'It shall not be necessary for a Member moving a reference to a Select Committee to name the Members of the Committee in his motion, but when the Assembly has agreed to refer the Bill to a Select Committee, a separate motion may be brought forward for the appointment of the Select Committee by the Assembly.'

Standing Order No. 40.

At the end of sub-clause (5), insert the following as sub-clause (6) :

'Unless specially instructed by the Assembly to that effect it shall not be competent to a Select Committee to introduce a new clause in a Bill or to introduce any amendments which are not relevant to the subject matter of the different clauses.'

Standing Order No. 41.

Between sub-clause (i) and (2) insert the following :

'No business shall be transacted at any sitting of the Select Committee unless a majority of the Members of the Committee is present.'

Standing Order No. 46 (1).

Substitute 'three clear days' for 'two clear days.'

Standing Order No. 61.

Insert the following as clause (c) :

'Or he may postpone the decision to a later date subject to the rules for the precedence of Resolutions.'

Sub-clause (2).

Omit.

Standing Order No. 62.

Substitute the following for the whole Standing Order :

'The Mover of a Resolution when moving the same and the Member of the Government to whose Department the Resolution relates may not ordinarily speak for more than 30 minutes nor may any other Member speaking on the Resolution ordinarily speak for more than 15 minutes, but the President may in his discretion extend the limits of time allowed.'

Standing Order No. 64.

After the word 'moved' insert the words 'and seconded.'

Standing Order No. 67.

Omit.

Standing Order No. 69.

Omit.

The Assembly may at any time on motion made suspend the operation of any of the Standing Orders with regard to any particular matter before the Assembly during a particular sitting.'

The motion was adopted.

Sir P. S. Sivaswamy Aiyer: Sir, I beg to move that the proposed amendments be referred to a Select Committee.

Mr. President: Does the Honourable Member mean the Select Committee which has already been appointed to consider the Standing Orders of this Assembly?

Sir P. S. Sivaswamy Aiyer: I have no objection.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban): As the matter is now going to be referred to the Select Committee and as it has been ruled that in such a case the principle of the matter about to be so referred should be taken as accepted by the Assembly, I should like to have a ruling as to whether, so far as the present motion is concerned, the Select Committee will be precluded from considering questions of principle involved in this matter.

Mr. President: I gave a definite ruling on the last occasion that, when the proposed amendments of the Standing Orders are sent to the Select Committee by order of the Assembly, the Assembly is not committed to the principle involved in each amendment.

The motion was adopted.

THE POLICE (INCITEMENT TO DISAFFECTION) BILL.

The Honourable Sir William Vincent (Home Member): Sir, I move for leave to introduce:

'A Bill to provide a penalty for spreading disaffection among the police and for kindred offences.'

Sir, as this is only the first reading of the Bill,—I am only applying for leave to introduce it—I shall not detain the Assembly for any length of time. Further opportunity will be afforded to the Assembly of discussing the principles of the Bill at a later date, and I wish to treat this motion more or less, if I may, as a formal one. The position shortly is this. In 1920, when the non-co-operation movement was inaugurated, the programme of that movement included in its later stage attempts to get at the Army and the police. We addressed Local Governments, pointing out that the

[Sir William Vincent.]

laws as regards attempts to seduce soldiers from their duty was fairly complete, but that, as regards the police, it was apparently deficient, and we inquired whether it was thought that any amendment of the law was necessary. We had, of course, considered section 29 of the Police Act at the time. Nearly all Local Governments indicated that legislation was or would be necessary though organised attempts on the police were not then very prevalent. The mere publication of the intention of the non-co-operation movement to attack the police indicated a dangerous desire to create a spirit of disaffection among the police. Since then, attempts to create disaffection have become much more common and systematic, and leaflets have been issued, directly instigating the police to abstain from their duty. Our police are, as every one knows at present, subjected to constant harassment in the way of boycott and intimidation, but that is another matter. This Bill deals with attempts on their loyalty, which have, I regret to say, to a small extent affected their morale. I do not, however, want to depreciate the great service that the police has done or to give colour to any idea that the police as a whole are not loyal, because, that would be a most unjust accusation. They have performed the most trying duties—very difficult and dangerous duties—with great steadfastness and loyalty. I do not think that Members of this Assembly are aware of all they have suffered. They are always made aware if the police do anything wrong. In point of fact, many of them have been murdered and many have suffered grievous hurt for the performance of their duties. I do not want to enter into a discussion of that question now. I hope I will have an opportunity of doing so on a future occasion. Having received the opinions of Local Governments, and having regard to the incitements now constantly made on the police, we re-examined the position and as a result we now propose to introduce this Bill, modelled almost *verbatim* on an English Act dealing with the same point. It is not an old English Act, but an Act passed in the year 1919. As I say, I hope that I shall have a further opportunity of discussing in greater detail, with the Members of this Assembly, the principles of this Bill, but I hope that what I have said now will be sufficient at any rate to justify the Assembly in giving me leave to introduce the Bill.

Mr. President: The question is that leave be given to introduce a Bill to provide a penalty for spreading disaffection among the police and for kindred offences.

The motion was adopted.

The Honourable Sir William Vincent: Sir, I introduce the Bill.

THE CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir William Vincent: (Home Member): Sir, I now move for leave to introduce:

'A Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings.'

I think the House must be really tired of this Bill which has been before it three times already. In Simla, I contemplated making a motion for further considering the Bill as then introduced and subsequently postponed that in order to submit the principles of the measure to examination by a very influential Committee consisting of the Law Member, Mr. Lloyd, Munshi

Iswar Saran, Rai Bahadur Pandit Jawaharlal Bhargava, Mr. Samarth, Mr. Kamat, Mr. Price, Mr. Krishnaswamy Rao, Mr. Hammond, Mr. Mitter, Mr. Moncrieff Smith and myself.

Well, Sir, the Members of that Committee did consider that Bill at great length. I thought Dr. Gour was a Member of the Committee, but I do not see his name down. We made certain proposals to the Government, which were accepted and the present Bill gives effect to these proposals, the details of which will be considered at a later date. I do not think I need for a third time explain the objects of the measure. They are already explained in the Statement of Objects and Reasons.

The motion was adopted.

The Honourable Sir William Vincent: I introduce the Bill.

THE INDIAN EMIGRATION BILL.

Mr. J. Hullah (Revenue Secretary): I move, Sir:

'That the Report of the Select Committee on the Bill to amend the law relating to emigration be taken into consideration.'

The Select Committee has made no important change of substance and has not attempted or suggested any change of principle. I have only to draw attention to their remarks in dealing with clause 24, that is to say, the rule-making clause. They say:

'At the same time we think we are not exceeding our functions in placing on record our opinion that on the passing of this Bill a Standing Committee should be constituted which would be consulted by the Governor General in Council before the issue of any rule under this clause.'

I have to announce that the Government of India accept this recommendation to constitute a permanent Standing Committee for Emigration; in fact, it is in accordance with their own intentions from the time when it was first decided to amend our emigration law. The Committee, of course, will deal not only with the drafting of rules under the Bill, but will be used to assist us in all important questions of emigration policy.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): I do not know if you intend to proceed with this Bill altogether to-day, after the long labour we had to-day. It is a very important Bill and I do not know if you consider it advisable that we should go on with it to-day.

Mr. President: I am prepared to hear opinions on that subject, but a variety of circumstances has brought it about that we shall probably lose two days next week, and it seems to me to be desirable that we should make such progress with this Bill as we can to-day. I am entirely in the hands of the House.

Munshi Iswar Saran (Cities of the United Provinces: Non-Muhammadan Urban): I agree with my Honourable friend, Mr. Rangachariar, that, having regard to the nature of this Bill, it is necessary that it should not be taken up at this late hour and at the fag end of the day when it is 25 minutes past 4, and I therefore join with him in the request that this Bill may not be taken up to-day.

The Honourable Mr. B. N. Sarma (Revenue and Agriculture Member): The Government has no objection to its being taken up on the next official day. We are entirely in the hands of the House.

Mr. President: I have no objection to rising now. The condition of the programme is, however, such that we cannot afford to lose any time, so that if any grievance arises hereafter in view of late sittings or other inconvenience to which the House may be put, the House is my witness that Members themselves are responsible for it. I understand that the Government has no objection to this Bill being postponed to the next day, to which official business is allotted.

Before the House adjourns I have to inform the House that I have received an important communication, signed by a large number of Members of the House that, as February the 2nd is the occasion of an important Hindu festival, it would be inconvenient, not to use a stronger word, for many Members to be present on that occasion, and, therefore, I find it desirable to cancel the meeting on Thursday, the 2nd, which is a day usually allotted, as Members are aware, to the transaction of non-official business. An attempt will be made to regain the day thus lost, but I cannot exactly say how that will be done at this moment.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 31st January, 1922.

LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 31st JANUARY, 1922
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LEGISLATIVE ASSEMBLY.

Tuesday, 31st January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

RAILWAY CONCESSIONS TO POSTAL DEPARTMENTS AND VICE VERSA.

123. * **Rai G. C. Nag Bahadur**: Will the Government kindly state whether the Postal Department is granted any railway concessions; and, if so, what those concessions are, what is the total amount paid by that Department during the last year for which figures may be available, and whether the Postal Department grants any concessions to the railways by way of reciprocity?

Colonel Sir S. D'A. Crookshank: Payments made to Railways are governed by their contracts with Government. There are no concessions. The other questions do not, therefore, arise.

TRANSFER OF ACCOUNTANT GENERAL, RAILWAYS, AND STAFF TO STATE RAILWAYS CADRE.

124. * **Rai G. C. Nag Bahadur**: With reference to the concluding sentence of the answer given on 22nd September, 1921, to Question No. 577, will the Honourable Finance Member kindly state whether the Accountant General, Railways, and his staff have been transferred from the cadre of the Finance Department to that of the Superior Establishment of State Railways, whether in anticipation of the recommendations of the Indian Railway Committee in that behalf or otherwise; and, if so, from what date, and whether permanently or temporarily?

The Honourable Sir Malcolm Hailey: The Accountant General, Railways, and his staff have not been transferred from the cadre of the Finance Department.

MEMORIAL FROM THE STAFF OF THE RAILWAY DEPARTMENT.

125. * **Rai G. C. Nag Bahadur**: With reference to the answer given on 22nd September, 1921, to my Question No. 578, will Government kindly say if a reply has been given to the memorial from the staff of the Railway Department, and, if so, will they kindly place on the table a copy of the memorial and of the reply thereto?

Colonel W. D. Waghorn: A reply has been sent to the Memorialists on the lines of the answer referred to. The Government of India do not propose to place the memorial and the answer thereto on the table.

ROLLING STOCK FOR PRIVATE RAILWAYS.

126. * **Rai G. C. Nag Bahadur** : Will the Government kindly lay on the table a statement shewing railways of private ownership for which rolling stock is supplied by the working agency, their gauge, mileage and the basis on which charges are levied for the use of such rolling stock and total charges attributable on that basis to such worked lines and the working lines respectively, say, for the year 1919-20 ?

Colonel W. D. Waghorn : A statement showing the private-owned lines worked by other Railway Administrations is being sent to the Honourable Member. The information regarding the mileage, gauge and the basis on which charges are levied for the use of rolling-stock is available in the Railway Board's publication entitled the 'History of Indian Railways, Constructed and in Progress', the latest copy of which, corrected up to 31st March, 1920, is available in the library of the Legislative Assembly.

INDIAN MEDICAL MEN TO STUDY SUN-LIGHT TREATMENT OF TUBERCULOSIS AT COPENHAGEN.

127. * **Rai G. C. Nag Bahadur** : (a) Has attention of the Government been drawn to the Sun-light treatment of tuberculosis and its great success in the hands of Dr. Rollier at Leysin in the Swiss Alps and at the famous medical Light Institute of Copenhagen ?

(b) Having regard to the fact that the scourge of consumption is so dreadful in India, especially among its female population, will the Government consider the desirability of deputing some capable Indian Medical men for a post-graduate course to the Light Institute at Copenhagen ?

Mr. H. Sharp : (a) The Government of India have seen accounts of the Sun-light treatment of tuberculosis as carried out by Dr. Rollier. Dr. Rollier's treatment is applicable to the surgical forms of tuberculosis which, though commonly met with in the north and west of India, are relatively unimportant as compared with pulmonary tuberculosis.

(b) A replica of the Light Institute at Copenhagen was opened by Queen Alexandra at the London Hospital in 1908, since which date instructional classes in Light treatment of tubercular and other diseases have been held which have been attended by many Indian Medical men and officers of the Indian Medical Service.

THROUGH SERVICE BETWEEN HYDERABAD AND AHMEDABAD.

128. * **Mr. W. M. Hussanally** : (a) With reference to Answer No. 279, dated 19th September, 1921, will the Government please state if the through service between Hyderabad and Ahmedabad has been established ?

(b) If not, will Government please expedite ?

Colonel W. D. Waghorn : (a) The through service between Hyderabad and Ahmedabad has not been established yet, owing to suitable coaches not being available on the Railways concerned. Steps are being taken to build the necessary stock.

(b) As a temporary measure, it is proposed to run a through bogie 1st and 2nd class composite carriage between Hyderabad and Ahmedabad from April next.

CIVILIANS WHO RETIRED ON INTRODUCTION OF REFORMS.

129. * **Mr. Syed Nabi Hadi** : Will the Government be pleased to give the names of those Civilians who retired from Indian Civil Service owing to the introduction of the new Reforms together with the name of the Province to which they were attached ?

The Honourable Sir William Vincent : Government are not prepared to furnish the information asked for.

OVERSEAS RAILWAY ALLOWANCE TO OFFICERS RECRUITED IN INDIA.

130. * **Mr. Sambanda Mudaliar** : (1) Will Government be pleased to state whether paragraph 2 of the Railway Board's Circular No. 1506-E.—19, dated 3rd February, 1921, published in the Gazette of India, Part I, of 12th February, 1921, allowing overseas allowance to all officers recruited in India who were in service on 3rd February, 1921, irrespective of race is applicable in the case of officers employed in State Railways managed by Companies ?

(2) Whether Anglo-Indian officers (Eurasians) employed in Bombay, Baroda and Central India Railway are allowed to draw the overseas allowance in pursuance of the said circular ?

(3) Whether the Indian officers employed in Bombay, Baroda and Central India Railway are given this concession of overseas allowance ? If not, why not ?

Colonel W. D. Waghorn : (1) The orders in question are not necessarily applicable to officers in the employ of Railway Companies. It is entirely optional with Companies whether they adopt the rules in part or in full or not at all.

(2) and (3). It is understood that certain Anglo-Indian officers, already in the service, were admitted to Overseas Allowance and that this concession was not extended to Indian officers, the reason being that it had not previously been the practice to differentiate between Anglo-Indian and European officers in the matter of pay. It is believed that, with effect from 1st October, 1920, Overseas Allowance has been confined for all future entrants, to officers of Overseas domicile.

Mr. Sambanda Mudaliar : Has the Government taken into consideration the dissatisfaction that obtains among the employees in regard to this matter, and will the Government be pleased to set it right by giving the necessary instructions ?

Colonel W. D. Waghorn : I have explained to the Honourable Member that this is a matter in which the Companies are free to make their own regulations.

RESOLUTION RE SUKKUR BARRAGE.

131. * **Mr. S. C. Shahani** : Will the Government be pleased to state what steps, if any, have been taken to give effect to the Resolution of the Assembly in September last about the Sukkur Barrage ?

The Honourable Sir Malcolm Hailey: I would refer the Honourable Member to my speech in the Simla Session on his Resolution. He then accepted the interpretation I put on it which was that the Government of India would do nothing to hamper the scheme, but, as far as lay in their power, would do everything to assist its early completion; I made it quite clear that the money could not be provided from the resources of the Central Government. The Government of Bombay are still considering the financial position and the possibility of going on with the project without the aid from central finances which they desire and which unfortunately we cannot give.

EXPENDITURE UNDER RESIDENTIAL HEAD IN NEW DELHI.

132. * **Mr. W. M. Hussanally:** What has been the total cost of:

- (a) the construction of all buildings rented to Government servants in New Delhi, including drainage, electricity, telephones and water, etc.;
- (b) all land under such buildings;
- (c) all furniture and other appliances supplied;
- (d) gross rental realized annually;
- (e) the annual cost of maintenance, supervision and management of the estate?
- (f) the cost of arboriculture and horticulture;
- (g) any other charges;
- (h) what is the nett percentage of profits on the investments, if any?

Colonel Sir S. D'A. Crookshank: (a) to (h). The collection of the information called for will involve an unreasonable amount of labour and time which, it is thought, the Honourable Member will realize, would be incommensurate with the result to be obtained.

UNSTARRED QUESTIONS AND ANSWERS.

DISCONTENT IN THE KARACHI PREVENTIVE SERVICE.

216. **Mr. Alli Buksh Muhammad Hussain:** Are Government prepared to consider the whole question of pay, prospects, house rent and clothing of officers of the Karachi Preventive Service, in consequence of the general discontent now prevailing among them?

The Honourable Mr. C. A. Innes: No. The pay and prospects of the superior preventive staff at Karachi were revised as recently as August, 1920, and orders sanctioning the revision of the pay and prospects of the subordinate staff are under issue.

STATEMENT OF COMMITTEES DURING THE LAST FIVE YEARS.

217. **Mr. B. H. Jatkar:** Will the Government kindly lay on the table a statement showing the Committees appointed by Government during the last 5 years, the dates of receipt of their reports by Government, the dates of their transmission by the Secretary of State or Government of India, respectively, to the Government of India or the Secretary of State, and the dates of their publication?

The Honourable Sir William Vincent: Government do not consider that the matter is of such general public interest that they would be justified in undertaking the labour involved in the collection of the material for the preparation of the statements asked for.

PROMOTIONS FROM SUBORDINATE ESTABLISHMENT TO HIGH OFFICES IN THE
GOVERNMENT OF INDIA SECRETARIAT.

218. **Mr. B. H. Jatkar:** Will the Government kindly lay on the table a statement showing the names of persons who were during the last 30 years promoted, whether temporarily or substantively, from the office establishment of each of the different Secretariats of the Government of India to positions higher than that of Registrars, and the highest appointments they rose to?

The Honourable Sir William Vincent: The collection of the information would entail great labour, which Government are not prepared to undertake.

OPENING OF HYDERABAD AND TANDO MD. KHAN LINE.

219. **Mr. W. M. Hussanally:** (a) Is it a fact that the work of re-laying rails between Hyderabad and Tando Md. Khan on the Hyderabad Badin Railway has been finished?

(b) If so, will Government order the line to be opened to goods and passenger traffic?

Colonel W. D. Waghorn: (a) The answer is in the affirmative.

(b) The section of the line in question cannot be opened for passenger traffic until it has been inspected and passed by the Senior Government Inspector of Railways; moreover, if this section were opened to passenger traffic relaying of the line beyond Tando Md. Khan would be greatly hindered. This section has, however, been opened for outwards goods booking from 9th January, 1922.

ANNUAL COST OF MAINTENANCE AND INCOME OF NEW DELHI.

* 220. **Mr. W. M. Hussanally:** With reference to answer to (b) and (c) of Question No. 251, dated 19th September, is it that the annual cost of maintenance of New Delhi is 5.1 lakhs, whereas the annual income is only 3 lakhs?

Colonel Sir S. D'A. Crookshank: The reply is in the negative. As the project is still under construction, there is at present no definite annual maintenance and income in the sense apparently meant by the Honourable Member, nor is it possible to frame an estimate of maintenance and income, at this stage.

ANNUAL INCOME AND EXPENDITURE OF THE IMPERIAL DELHI MUNICIPAL
COMMITTEE.

221. **Mr. W. M. Hussanally:** (a) What is the annual income and expenditure of the Imperial Delhi Municipal Committee?

(b) What are its sources of revenue?

(c) What are the heads of expenditure?

Mr. H. Sharp: (a) The figures for the last completed year, *viz.*, 1919-20, are :

	Rs.
Income	3,851
Expenditure	3,893

(b) The sources of revenue were :

	Rs.
Water tax	102
Fines	2,227
Grant-in-aid	1,500
Miscellaneous	22
Total	3,851

(c) The heads of expenditure were :

	Rs.
Water tax	102
Education	1,801
Cattle pounds	302
Conservancy	230
Vaccination	533
Miscellaneous	425
Total	3,893

GOVERNMENT OF INDIA TO ASSIST IN FINANCING THE SUKKUR BARRAGE PROJECT.

222. **Mr. W. M. Hussanally:** (a) Has Government received representation from the Bombay Legislative Council *re* assisting the Bombay Government in financing the Sukkur Barrage project ?

(b) If so, do Government propose to grant their prayer ?

(c) Will Government please expedite the commencement of the construction of Barrage ?

The Honourable Sir Malcolm Hailey: The Government of India have seen a copy of the Resolution passed by the Bombay Legislative Council in October last. As I pointed out in my speech on Mr. Shahani's Resolution on the subject at the Simla Session of this House, irrigation is, under the Reforms scheme, a provincial subject, and the Central Government can accept no financial liability for this project. At the same time, I made it clear that, so far as the Government of India are concerned, they would certainly do nothing to hamper the execution of the scheme, but, on the contrary, so far as lies in the power of the various Departments, they would do everything to assist its early execution.

PROMOTION OF KEY INDUSTRIES (IRON AND PAPER) IN INDIA.

223. **Mr. J. N. Mukherjee:** (a) Will the Government be pleased to state what industries in this country are regarded by them as key industries and what practical steps, if any, have been taken by them during the year 1921 for the preservation or promotion of such industries ?

(b) Have the Government taken any steps for such purposes specially with regard to iron and the manufacture of paper in this country ?

Mr. A. C. Chatterjee: (a) The Honourable Member is referred to the Chapter in the Report of the Indian Industries Commission on the industrial deficiencies of India. The development of industries is now mainly a provincial and a transferred subject and information regarding the progress made in meeting these deficiencies will be found in the Administration Reports of the provincial departments of Industries and in the periodical publications of the Industries Department of the Government of India. Attention is also invited to the communiqué recently issued regarding the manufacture of locomotives in India.

(b) No special steps were taken during the year 1921 by the Central Government in connection with the promotion of the iron industry, but the Honourable Member is no doubt aware that large standing orders for steel rails and steel plates have been placed with the largest Iron and Steel Company in India. He is doubtless also aware that important steps in the direction of the development of the manufacture of iron and steel by private enterprise may be expected in the near future. As regards paper, the Honourable Member is referred to the answers given to Beohar Raghubir Sinha on 21st September, 1921, and to Mr. P. L. Misra on the 28th September, 1921.

PROMOTION OF THE PAPER MANUFACTURE INDUSTRY IN INDIA.

224. **Mr. J. N. Mukherjee:** (a) Will the Government be pleased to state whether having regard to the evidence recently adduced before the Fiscal Commission, they propose to take immediate steps with a view to save the paper manufacture industry in this country from gradual extinction with which it is threatened by reason of foreign competition and other impediments in its way, and generally to keep the industry in a permanently workable condition in this country?

(b) If so, what action do the Government intend to take in the near future in order to promote the industry (paper manufacture), and, if possible, without waiting for the final report of the Fiscal Commission on the matter?

The Honourable Mr. C. A. Innes: The Government of India do not consider that they would be justified in anticipating the findings of the Fiscal Commission on the merits of evidence now under its consideration.

REDUCTION OF THE MADRAS GOVERNOR'S EXECUTIVE COUNCIL TO THREE.

225. **Rai Bahadur P. V. Srinivasa Rao:** Will the Government be pleased to state what action it has taken on the Resolution of the Madras Legislative Council recommending the reduction of the number of the Governor's Executive Council from four to three?

The Honourable Sir William Vincent: The Resolution is under the consideration of the Government of India.

ADDITIONAL EXPENDITURE DUE TO ENHANCED PAY AND PENSION.

226. **Lala Girdharilal Agarwala:** What is the total additional annual expenditure due to enhancement of pay and pension of Government servants and how much of it goes to Indians?

The Honourable Sir Malcolm Hailey : I assume that the Honourable Member refers to increases given under the general revision which commenced in 1919. It is not possible to give exact figures without a considerable expenditure of time and labour, but, according to such information as is available, the total enhancement of the pay and pension of Government servants in the Civil Departments whether paid from central or provincial revenues is approximately Rs. 90 lakhs for imperial services, 60 lakhs for provincial services and considerably over 9 crores for the subordinate establishments. I cannot say how much of the increase given to imperial services has gone to Indians, but they must have received practically the whole of the increase in the provincial and subordinate services.

MILITARY OFFICERS AND LOANS FROM CONTRACTORS.

227. **Lala Girdharil Agarwala :** Are Military officers who have anything to do with contractors in their official capacity, allowed to have private dealing and to borrow money from contractors or any members of their family or firm whether in their own name or in the name of their wife or children ?

Sir Godfrey Fell : The answer is in the negative.

REVISION OF LAND ASSESSMENT.

228. **Baba Ujagar Singh Bedi :** (a) Will the Government be pleased to state whether the land assessment policy is directed by the Central Government, or by the Provincial Governments ?

(b) Will the Government be pleased to state the policy in either case and show whether this policy is the same in different provinces or not ?

(c) Will the Government be pleased to ask the Provincial Governments to consider the question of land assessment with a view to remove the defects in it ?

Mr. J. Hullah : (a) Land Revenue policy is directed by the Provincial Governments, but the Central Government has power of control. The Honourable Member is referred, in particular, to Rule 2 (e) of the Reservation of Bills Rules.

(b) The policy is explained in the Government of India's Resolution of the 16th January, 1902. Since this Resolution was issued, there has been no material change of policy.

(c) The Government of India do not understand to what defects the Honourable Member refers, but since Land Revenue Administration is primarily the concern of the Provincial Governments, they do not propose to initiate any modifications of policy.

REDUCTION OF ARMY OFFICERS IN INDIA.

229. **Sir Deva Prasad Sarvadhikary :** Will the Government be pleased to state :

(a) Whether there are in India more Army officers than are required for normal requirements ; and, if so, what is their number ?

(b) What is the amount of expenses incurred for retaining their service and for all incidental expenses and charges ?

- (c) Whether there has been a proposal for discontinuing such service?
 (d) If so, when and on what terms is their service to be discontinued?
 (e) The reasons for not giving effect to the proposals for discontinuance of such service earlier?
 (f) If there have been such proposals, when are they likely to be carried out?
 (g) The amount of costs incurred on account of not having the proposals carried out when they were sanctioned?

Sir Godfrey Fell : (a) Yes. As an inevitable result of the recruitment of additional officers for service with the expanded Indian Army during the war, there are now many officers surplus to the normal requirements of the Indian Army calculated on the basis of its peace organisation. The number is estimated at between 2,000 and 2,500.

(b) It is impossible to give an exactly reliable figure. All the surplus officers are junior officers of the rank either of Lieutenant or Captain. The average cost of a Lieutenant of the Indian Army may be taken at Rs. 612 a month, and that of a Captain at Rs. 800 a month. It is impossible to give any figure for incidental charges, such as travelling allowance, since this must necessarily vary. A very considerable number of these officers have been, and are still, employed and paid by His Majesty's Government, being attached to the Indian troops still serving in Mesopotamia, Palestine and other overseas areas; while other surplus officers have been required up till the present in connection with the operations in Waziristan.

(c), (d), (e) and (f). Proposals for discontinuing the services of these surplus officers have been the subject of most anxious consideration by the Government of India for some months past. The issue is a very important one, and the decision as to what compensation should be given to young officers, who joined the army to serve the Empire during the war and who have now to lose their chosen career, is one which cannot be taken lightly. Following the principle of the liability of India for charges connected with the war, which has been enforced throughout, the Government of India have claimed that the cost of compensating these surplus officers must be shared by His Majesty's Government, who have had to be consulted in the matter. This has entailed some delay and a final decision has not yet been reached. It is impossible therefore to announce at the moment the terms which will be offered, or to say how soon the scheme will be put into effect; but the final orders of the Secretary of State are expected very shortly.

(g) As the proposals have not yet been sanctioned, this part of the question does not arise.

REORGANISATION OF RAILWAY DEPARTMENT.

230. **Rai G. C. Nag Bahadur :** Has the consideration of the reorganisation of the Railway Department, as recommended by the Indian Railway Committee in their Report of August, 1921, yet been taken up by Government; and, if so, do Government expect to be able to place their proposals in connection therewith before the Legislative Assembly during the current Session?

Colonel W. D. Waghorn: The reply to the first part of the question is in the affirmative. The Report covers a great many important questions, and it is impossible to say at present to what extent, if any, Government will be in a position to place their proposals before the Assembly in the current Session.

BRANCH LINES OF RAILWAYS BUILT UNDER GUARANTEE TERMS.

231. **Rai G. C. Nag Bahadur:** Will Government kindly lay on the table a statement shewing the branch lines of railway built under guarantee terms, the interest guaranteed, the return anticipated, when construction was sanctioned and the payments, if any, made up to the end of 1919-20 to make up the guaranteed interest?

Colonel W. D. Waghorn: A statement showing (i) the names of branch line railways built under guarantee terms, (ii) interest guaranteed, (iii) return anticipated when construction was sanctioned and (iv) guaranteed interest paid up to the end of 1919-20 is laid on the table for the Honourable Member's information.

Name of branch line railway built under guarantee terms.	Interest guaranteed.	Return anticipated when construction was sanctioned.	Guaranteed interest paid up to end of 1919-20.
1	2	3	4
			Rs.
Ahmadpur-Katwa .	3½ per cent.	4·6 per cent.	1,59,015
Arakan Light Railway.	A guarantee of 3½ per cent. per annum on the approved paid up capital of the Company by the Government of India and an additional 1 per cent. by the Burma Government for the first ten years since the opening of the railway and another one per cent. from the Arakan Flotilla Company, Limited.	Information not obtainable.	1,21,508
Bankura-Damoodar River.	3½ per cent.	5 per cent.	2,29,941
Burdwan-Kafwa .	Do.	4·84 per cent.	1,12,403
Kalighat-Falta .	Do.	6 per cent.	Nil.
Hardwar-Dehra .	3 per cent. When the Company does not receive the minimum dividend of 3 per cent. from the earnings of the line, the sum of Rs. 3,600 for such year is paid by Government for or towards management and office expenses.	5 per cent.	Nil.
Dasghara-Jamalpur-ganj.	3½ per cent.	5·83 per cent.	2,017

GOVERNMENT CONTRIBUTION TO RAILWAY CONCESSIONS TO ARMY OFFICERS.

232. **Mr. N. M. Joshi** : With reference to the answer given on 22nd September, 1921, to my question regarding railway concessions to Army officers, will Government kindly state whether a portion of the loss referred to is shared by Government through the division of profits; and, if so, in what ratio, approximately for the whole of India and whether the British Government similarly shares the loss with the railway administration in the United Kingdom?

Sir Godfrey Fell : The answer to the first part of the question is in the affirmative. As regards the second part, Government are unable to work out any figures, even approximately, as the ratios vary in accordance with the provisions of the contracts with the Companies.

The Government of India have no information with regard to the third part of the Honourable Member's question.

FREQUENCY OF MACHINERY ACCIDENTS ON THE GREAT INDIAN PENINSULA RAILWAY.

233. **Mr. N. M. Joshi** : Will Government be pleased to state whether it is a fact that of all the railways in India, the Great Indian Peninsula Railway shows the largest number of accidents under the heads 'bursting of tubes, etc., of engines' and 'failure of machinery, springs, etc., of engines, axles, brake apparatus and couplings'; and, if so, whether any inquiry has been made with a view to ascertaining the causes of these failures and finding out remedies therefor?

Colonel W. D. Waghorn : It is a fact that the largest number of accidents under the heads mentioned by the Honourable Member has occurred on the Great Indian Peninsula Railway in 1919-20. The comparatively large number of accidents under these heads may, to some extent, be explained by the fact that the Great Indian Peninsula Railway has to work heavy traffic over *ghat* sections. The Agent has been asked to investigate this matter with a view to remedies being suggested.

RAILWAY TRAFFIC STATISTICS FOR 1895, 1905 AND 1915.

234. **Mr. N. M. Joshi** : Will Government kindly state separately for the years 1895, 1905, and 1915,

- (a) the total number of passengers carried by railways;
- (b) the total weight of goods carried by railways;
- (c) the total number of carriages on the railways;
- (d) the total number of wagons on the railways?

Colonel W. D. Waghorn : A statement showing separately (a) the total number of passengers, (b) the total tonnage of goods carried and (c) the total number of coaching and (d) goods vehicles on the Indian Railways during the years 1895, 1905 and 1915-16 is placed on the table for the Honourable Member's information.

Statement showing (a) the total number of passengers, (b) the total tonnage of goods carried on the Indian Railways during the years 1895, 1905 and 1915-16, and (c) the number of coaching vehicles and (d) the goods wagons at the end of those years.

Year.	Passengers.	Goods.	COACHING VEHICLES.	GOODS VEHICLES.	REMARKS.
			In terms of four-wheelers.		
1895. (January to December)	No. 153,081,000	Tons. 33,628,000	13,866*	80,102*	*Excluding 2'-6" and 2'-0" gauge rail-ways for which information is not available.
1905. (January to December)	248,157,000	54,936,000	22,143	121,135	
1915-16. (April to March)	464,381,000	82,499,000	31,199	198,139	

INCIDENCE OF FINES AND BONUS FORFEITED ON INDIAN RAILWAYS.

235. **Mr. N. M. Joshi**: With reference to Appendix 26 of the Railway Administration Report for 1919-20, will Government say why the incidence, per head, of fines and bonus forfeited is as high as 0-10-3 on the Burma Railways, 0-12-9 on the Assam-Bengal Railway, Re.1-0-9 on the Bengal Nagpur Railway, Rs. 1-2-2 on the Rohilkund and Kumaon Railway and Rs. 2-3-8 on the Jodhpur-Bikaner Railway?

Colonel W. D. Waghorn: The differences pointed out by the Honourable Member are correct and are due to the fact that the infliction of fines and the forfeiture of bonus are matters within the discretion of Railway Administrations and the circumstances in which these are ordered may and do vary on the different lines.

No inference of a general nature can profitably be drawn from the differences pointed out.

DISTRIBUTION OF DISBURSEMENTS FROM FINE FUNDS ON INDIAN RAILWAYS.

236. **Mr. N. M. Joshi**: With reference to Appendix 26 to the Railway Administration Report for 1919-20, will Government lay on the table, when available:

- (a) a statement showing the distribution between European and Indian schools of the disbursements from fine funds on the East Indian and the North-Western Railways;
- (b) a statement showing the distribution between European and Indian recreation clubs of the disbursements on the East Indian and Great Indian Peninsula Railways;
- (c) a statement showing the details of the disbursements under the head 'Miscellaneous' against the East Indian, the Great Indian Peninsula and the Bengal and North-Western Railways;
- (d) a statement showing the amount recovered as fine from each of the three races mentioned in Appendix 24 and their numbers on the East Indian, the Great Indian Peninsula and the Bengal and North-Western Railways; and

(e) a statement showing the amount recovered as fine from each of the three races mentioned in Appendix 24 and their numbers for the entire railways in India?

Colonel W. D. Waghorn: The information asked for in items (a) to (c) of the Honourable Member's question has been called for from Railway Administrations and will be supplied to him when received.

As regards items (d) and (e), the information is not available with the Government of India or in the offices of the Railway Administrations concerned. Under the circumstances, Government do not consider that this matter is of sufficient public interest to warrant the expenditure of time and labour which would be involved in its collection.

ARRANGEMENT OF GOVERNMENT BUSINESS.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban): Sir, with your permission, may I ask how it is that in the notice for to-morrow's business I do not find the Emigration Bill? I thought we adjourned it to the next official day.

The Honourable Sir William Vincent (Home Member): The Honourable Member is aware that we have fixed to-morrow by request of many non-official Members for certain Resolutions in which, I was told, the Assembly was much interested. It would have been impossible to get those Resolutions in to-morrow if the Emigration Bill had also been fixed for the same date. I understand, however, that the Emigration Bill will come on at a very early date in the future. The arrangement of Government Business on an official day is, I think, within the competence of Government.

Rao Bahadur T. Rangachariar: Sir, this House adjourned that Bill to the next official day, which was within their competence, and I don't know if the Government can interfere with that arrangement.

The Honourable Sir William Vincent: The point I want to make, Sir, is that it is within the competence of our authority to put on business on any official day that we like, and I doubt if the House has power to fix the order of business on any official day. In this particular case, however, I took the course I did merely to meet the wishes of non-official Members. The business for the first was arranged after consultation with a number of non-officials; many Honourable Members are aware of this, and, when Government goes out of its way to make an arrangement of that kind, it is a little unfair that our action should immediately afterwards be challenged.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban): Sir, I beg to move :

That the Bill to further amend the Code of Criminal Procedure, 1898, be referred to a Select Committee consisting of the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Rao Bahadur C. Krishnaswamy Rao, Mr. Harchandrai Vishindas, Rao Bahadur C. S. Subrahmanayam, Mr. J. Chaudhuri and myself.

[Rao Bahadur T. Rangachariar.]

This is the Bill I introduced the other day, dealing with the question of the rights of the High Courts in regard to issuing writs under section 491 of the Code. I am glad to note that, among our European friends in the Assembly and outside, there is absolutely no opposition to this distinction between Europeans and Indians which exists now in the Criminal Procedure Code being removed. It is one of those provisions about which there is always a unanimity of opinion that this distinction should not exist. As I have stated already, there are two principles we have in view. One is to remove this distinction between two classes of His Majesty's subjects. The other is to extend this power to issue writs not only to the three Presidency High Courts but also to all other High Courts as regards Indian subjects. I do not think, Sir, that many words are needed to commend this proposition to the House. For the Select Committee I have chosen those Members who are already members of the Select Committee on the Bill to amend the Code of Criminal Procedure. I beg to commend this motion to the acceptance of the House.

The Honourable Sir William Vincent (Home Member) : Sir, this Bill really seeks to extend the provisions of section 491 of the Code of Criminal Procedure to the whole of British India. The principle underlying the motion is based on the fact that in England the Habeas Corpus Act runs throughout the British Isles and indeed beyond. It is, however, often assumed of course that the various Habeas Corpus Acts enlarged the liberties of the British subject in this respect. It is probably more correct to say that they prescribed a procedure by which certain rights could be secured. But, in any case, the law is most valuable and probably a much greater guarantee of the liberty of the subject than those principles which we frequently see enunciated at the commencement of European Constitutions.

The powers of the High Courts are at present limited and the reasons for those limitations are, I think, to be found in the history of the origin of those Courts. We know, of course, that the old Supreme Court's jurisdiction was limited in various ways.

I should like to draw the attention of the House to the fact, however, that the Code at present contains other valuable provisions on this subject which, I am sure, that the Honourable the Mover has not overlooked in this connection. There is, for instance, section 100 which is of great importance. At the same time, from all I have heard, there seems to be a general feeling in favour of the extension of the provisions of the present section 491 and, though, for some reasons, I should have preferred that this Bill might have been postponed until we had before us the results of the deliberations of the Committee now sitting to consider the question of racial distinctions in the Code, yet, I do not think that Government would in any way be justified in refusing their support to this Bill on which there is very little, if any, difference of opinion.

Perhaps this is more desirable in that, sections 456 to 458 of the Code give more protection to Europeans than is given by section 491 to Indians. In these circumstances, the Government are quite prepared to accept this motion and to consider the proposals of the Honourable Member favourably.

* **Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammedan Urban) :** In support of the motion to refer this Bill to the Select Committee I should

like to say a few words. As has been stated by the Honourable the Home Member, there will not be much difference of opinion on the matter of this Bill. All that has to be considered now is, whether the Bill as drafted will ensure the application of the principle of Habeas Corpus throughout the whole of India; and, in this connection, the Select Committee might consider the language of the Bill itself. What the Bill proposes to do in achieving its object, is to drop the qualifying words 'at Fort William, Madras and Bombay' after the words 'High Courts of Judicature' in section 491 of the Code of Criminal Procedure. It would be just as well to consider whether the words 'High Courts of Judicature', having been retained in the Bill should stand or not; because the expression 'High Courts of Judicature' has not been defined in the Code and though the expression 'High Court' has been. Naturally enough, the words so retained may mean only High Courts in British India and not Chief Courts or Courts of Judicial Commissioners, and, if these words be left to stand as they are, it would be a matter for consideration whether the words 'Courts of Judicial Commissioners and Chief Courts' should not also be specifically mentioned in the section, in order that the application throughout India of the principle of this Bill might be ensured without doubt. As the House is aware, the expression 'High Court' has been defined in section 4 and in certain other places in the Criminal Procedure Code. In other words, apart from the general definition in section 4, clause (j), the words 'High Court' have also been defined for the purposes of a particular chapter of the Code. If the House will refer to section 266, it will find that it gives a special definition for the purposes of Chapter XXIII. My object in inviting the attention of the House to these little points is that the Bill may be so considered by the Select Committee that its principle may be applied without any exception throughout the whole of India, and, if necessary, the language of the Bill may be so altered as to make this possible. That is all I have to say.

Mr. President: The question is:

'That the Bill to further amend the Code of Criminal Procedure, 1898, be referred to a Select Committee consisting of the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Rao Bahadur C. Krishna-wamy Rao, Mr. Harchandrai Vishindas, Rao Bahadur C. S. Subrahmanayam, Mr. J. Chaudhuri and the Mover.'

The motion was adopted.

THE LAND ACQUISITION (AMENDMENT) BILL.

Mr. J. Ramayya Pantulu (Godavari *cum* Kistna : Non-Muhammadan Rural) : Sir, I beg to move for leave to introduce :

'A Bill further to amend the Land Acquisition Act, 1894.'

As I have explained in the Statement of Objects and Reasons, the main aim of this amendment is to provide a statutory remedy against improper or unlawful acquisition of land. Section 4 of the Act empowers the Local Government to publish a preliminary notification to the effect that a certain piece of land is required for a public purpose. This notification is intended to enable Government to enter upon the land and survey and take levels and to do everything to satisfy itself that the land is suitable for the purpose for which it is intended to be acquired. After that notification is published and

[Mr. J. Ramayya Pantulu.]

after the preliminary investigation is made, section 6 of the Act empowers Government to publish a declaration to the effect that the land is required for a public purpose and clause (3) of the section says :

'The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be, and, after making such declaration the Local Government may acquire the land in manner hereinafter appearing.'

Then we come to section 9 which says :

'The Collector shall then cause public notice to be given at convenient places on or near the land, that claims to compensation for all interests in such land may be made to him.'

Then clause (2) says :

'Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests and their objections, if any, to the measurements made under section 8. The Collector may, in any case, require such statement to be made in writing and signed by the party or his agent.'

Section 11 says that, if there is any objection on any of the grounds specified in section 9, the Collector shall hold an inquiry.

You will see that no provision is made here for enabling the aggrieved party to show that the purpose for which the acquisition is proposed to be made is not a lawful purpose under the Act. All the proceedings are taken behind the back of the landholder, as it were, and, when once the final notification is published under section 6, no objection can be taken to the acquisition itself, although objections may be raised on the ground of wrong measurements, improper apportionment of compensation, or inadequacy of compensation ; in which case, if any objection is made under section 10, the party is entitled to ask the Collector to state the case to the Court and then that point will be decided by the Court. So far as the propriety of the acquisition itself is concerned, no judicial inquiry is held and no provision is made for any judicial inquiry to be made and no opportunity is given to the aggrieved party to make any representation. I know that, as a matter of fact, in some provinces, I know that in the province of Madras, there are standing orders of the Board of Revenue which require a preliminary inquiry. Very often acquisition is objected to, but that leads nowhere. If any inquiry is held, it is held behind the back of the party, and the man knows nothing of what has become of his objection, and the first notice that he gets of the whole affair is that the Collector is about to hold an inquiry in order to make an award, and sometimes the first notice that he gets of the proceedings is that an award has been made and that the party should come and take the money. So, as the law at present stands, no opportunity is given to the person, whose land it is proposed to acquire, to show that the purpose for which the land is sought to be acquired is not a public purpose within the meaning of the Act, and this is felt as a real grievance. As an instance of a case of doubtful validity, of doubtful legality in the matter of acquiring land, I may mention one case. For instance, in my part of the country, there is a good deal of irrigation from the Godavari and Kistna canals. Sometimes the Government provide field channels, but sometimes the owners of fields are not satisfied with the facilities provided by the

Government and they want to have field channels of their own through neighbouring lands belonging to other parties. These parties are naturally unwilling to have private channels, taken through their lands, and so the man who requires the channel to be so taken applies to the Public Works Department, and they take it upon themselves to acquire land on behalf of this man and at his expense. This has been done in a large number of cases, and I doubt very much whether acquiring land for the sake of a private individual is really a public purpose under the Act. But the man, whose land is acquired for this purpose, has no remedy against the wrong application of the Act, and has no opportunity of stating to the Collector that the purpose for which the land is proposed to be taken is not a public purpose. Again, I know of some cases in which land has been acquired by Government for the purpose of building temples. I doubt whether building a temple for a section of the community is really a public purpose within the meaning of this Act. But, as a matter of fact, there have been cases in which land has been acquired for building a temple or a mosque, Government contributing only one anna towards the cost of acquisition, the main cost being borne by the party. Therefore, I think there is a very good ground for amending the Act so as to provide a statutory remedy against illegal or unlawful acquisition. I believe my friend, Mr. Rangachariar, will support me in this matter, as he probably has come across cases in which the Act has not been properly applied.

I take this opportunity also of proposing one or two subsidiary changes.

Section 7 says :

‘Whenever any land shall have been so declared to be needed for a public purpose or for a company, the Local Government, or some officer authorised by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.’

Now, I want to amend this section so as to preclude Government from appointing as a Collector the officer responsible for making the preliminary investigation under section 4. I know that, if the same officer who makes the preliminary investigation under section 4 is also the person appointed as Collector under section 7, very often a good deal of harm is done. The preliminary inquiry that he has made under section 4 may not be quite correct, but the officer making it feels bound to support himself, though, in making an award, he is supposed to act in a quasi-judicial capacity. I think it is desirable, therefore, that the officer who makes the inquiry, who selects the site and also makes the preliminary inquiry, should not be the officer who makes the award later on.

Then, I also make another small change.

Section 47 says :

‘If the Collector is opposed or impeded in taking possession, under this Act, of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate, and such Magistrate shall enforce the surrender of the land to the Collector.’

I propose to amend this section so as to make it necessary for the Collector always to apply to a Magistrate for putting himself in possession of the land, so that he should not himself take action, because he will be acting in a double capacity. As Collector he has made an award and acquired the land : and it is not quite proper that he should be the person to enforce his own order—it is better that he should apply to a Magistrate to enforce the order.

[Mr. J. Ramayya Pantulu.]

This, Sir, is the gist of my Bill, and I commend it to the House; and I request the permission of the House to introduce this Bill.

Mr. J. Hullah (Revenue and Agriculture Secretary) : Sir, I am not able to give any indication of what may be the subsequent attitude of the Government towards this Bill, but they have no objection to its introduction:

Mr. President : The question is :

‘ That leave be given to introduce a Bill further to amend the Land Acquisition Act, 1894.’

The motion was adopted.

Mr. J. Ramayya Pantulu : Sir, I introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Rai Bahadur Bakshi Sohan Lal (Jullundur Division : Non-Muhammadan) : Sir, I rise to move for leave to introduce :

‘ A Bill further to amend the Code of Criminal Procedure, 1898.’

The Bill, together with its aims and objects, has already been circulated among the Honourable Members and is now placed on the table. The Honourable Members, who have had time to read the amendments suggested in the Bill along with the sections of the Code sought to be amended, will, I hope, bear me out, that the amendments proposed, far from being intended to level down the standard of justice in India, as has been represented from certain quarters, are intended and are expected to have the effect of levelling up the same. They are, far from being intended to create or promote racial hatred, bitterness or jealousy intended and expected to uproot the deep-rooted tree of hatred, bitterness and jealousy, the seeds of which were sown by the provisions of the original Criminal Procedure Code more than 60 years ago by providing special privileges, preferential treatment and favourable considerations for Europeans in their trials of criminal offences in India, and continuously fostered, nursed and manured by the unanimous and strong opposition, on the part of the European community, to the repeated and strenuous, but unsuccessful, efforts of the Indians to remove such distinctions from Indian legislation, and by the gross failures of justice during the last 60 years in criminal cases between Indians and Europeans.

The object of this Bill is to uproot this tree of racial hatred and to place Indians and Europeans on the same level before the sacred altar of law and justice.

There is no denying the fact that there is a general idea amongst Indians in India, as well as in the Colonies, that Europeans consider themselves as belonging to a superior race or descent, to a victorious nation and to a higher standard of civilisation and social position in comparison with Indians, and that they are in India to rule Indians and not to be ruled by Indians and that Indians must always hold a subordinate position. These ideas are mainly due to the special privileges, preferential treatment and favourable considerations allowed by the laws of the land to Europeans which are denied

to the sons of the soil. It is for this Assembly to consider how far such preferential treatment of Europeans in courts of justice in this country is consistent with the principles of the Reform Scheme constitution introduced into this country, and with the principles of law and justice as followed in England and other civilized countries of the world. Indians, Englishmen, Europeans or Americans do not claim any such preferential treatment to be provided in the laws and procedure of other countries. India is the only exception to the general rule. A European will ungrudgingly submit to the laws and procedure in force in Afghanistan, Turkey and Russia, and stand his trial, like other people of the country in which the offence is committed, without setting up his birthright to any special privileges. But they consider it below their dignity to be tried in India in the ordinary Courts on an equal footing with Indians. If an Indian or a European claimed such preferential treatment in the mode of trial in any other country, he would be ridiculed as foolish, if not idiotic. This Honourable Assembly has also to consider how far Europeans are justified in distrusting Indian Magistrates and Judges and Juries in their trials of criminal cases, when they have never doubted the fairness of Indian Judges in civil cases or in cases in which they are complainants against Indians. It will not be out of place for me to draw the attention of the Assembly in this connection to the Despatch of the Court of Directors of the year 1834, paragraphs 58, 59 and 60, directing the Governor General in Council to put European British subjects on the same footing, in regard to the criminal jurisdiction of Courts, as British Indian subjects, without any preferential treatment or distinction in favour of either : and I would also draw attention to the Royal Proclamations and Charters which permit no racial distinction in any matter of administration, much less in the administration of criminal justice in the procedure of trial, award of sentences, course of appeal and jurisdiction of criminal courts. Thus the provisions of the Bill, which I beg leave to introduce, are not at all the creation of my brain and have not been conceived in a spirit of racial prejudice or with the intention of causing uneasiness to any particular class of British subject, but they are the result of most careful study and discussion, amongst great statesmen, both in England and in India, extending over many decades, of the state of feeling existing among Indians of all shades of opinion. The penal laws and the procedure for the enforcement of such laws affect all communities alike, and there is no precedent for different treatment for different communities in the same country. If adultery is an offence in the Indian Penal Code, an Englishman in India cannot set up his own country's custom of treating that offence as a mere civil wrong and not a criminal offence. The greatest objection to the retention of these preferential distinctions in favour of European British subjects in the Criminal Procedure Code is the creation of a feeling of bitterness on the part of Indians and contempt on the part of Europeans, who claim to belong to a higher stratum, and the consequent want of harmony between the two races residing side by side under the same laws and Codes. I appeal to the good sense of the Europeans in this Assembly not to oppose the Bill, if they feel that the preferential treatment allowed to them is resented by their Indian neighbours. I am fully aware of the appointment by Government of a Racial Distinctions Committee, in pursuance of the Resolution, moved by my Honourable friend, Mr. N. M. Samarth, as amended by the Honourable the Home Member and adopted in the meeting of this Assembly of the 15th September, 1921, in which the principle of removing racial distinctions between Europeans and Indians in criminal trials

[Rai Bahadur Bakshi Sohan Lal.]

and proceedings was admitted. I am also aware that the Committee has not yet submitted its report to Government, but that fact does not stand in the way of this Assembly allowing my Bill to be introduced in this House. I will not take any further action till after the report of the Committee is before this House. To-day, I simply move that leave be given to introduce the Bill, and, after the leave is given, I will introduce the Bill.

The Honourable Sir William Vincent (Home Member): Sir, I must say that I feel that this is a peculiarly inopportune moment to bring a Bill of this character before the Assembly. The whole subject of the privileges of European British subjects in criminal proceedings was fully discussed by Members of the Assembly last September, and it was decided to ask the Government to appoint a Committee to consider the question in all its aspects. Since then the Government have appointed a Committee for this purpose. Those who are aware of the *personnel* of that Committee will not accuse the Government of having in any way tried to avoid a thorough examination of this question or to exclude the fullest expression of opinion by Indians well qualified to speak on the point. The *personnel* of that Committee is indeed above reproach. Now, has the Honourable Member given to this Assembly any kind of reason whatever for anticipating the report of that Committee? And, now, may I turn to another point? This Bill really goes very much further than the privileges of European British subjects; the object of the Mover may be what he says, but the Bill affects many other important principles. The first of that is the introduction of a universal system of jury trial in sessions cases. I do not want to discuss the general question here as to whether jury trials are the best method of deciding criminal cases or not. That is much too large a subject for examination to-day; different opinions are held upon it; I know many great Indian lawyers who hold divergent opinions. But what I want to put to this Assembly to-day is this, that the Code of Criminal Procedure in itself provides full means of effecting what the Mover wishes in section 269. This section enables the Local Government to extend the system of jury trial to any district it likes. That power was previously subject to control by the Government of India, but, since the Devolution Act, the Local Government has full discretion, and it is for the local Legislative Council to put pressure in this matter on the Local Government to exercise their powers, if necessary, for the administration of law and justice is a provincial matter. Therefore, there is really no reason for the introduction of the Bill on this ground, nor can it be contended, I think, that jury trials can, at one stroke of the pen, be extended to every place, from Peshawar to Cape Comorin. Those who have practical experience of the many districts, will, I feel sure, support me in this matter.

The second proposal is the abolition of all trials under section 30 of the Criminal Procedure Code. This matter has been carefully investigated by the Government of India on various occasions and recently we took steps to restrict it. The Local Governments, at that time, strongly opposed abolishing the powers altogether, although we are working to that end in many places. Further, the effect of this proposal would be to impose a large and immediate financial burden on various provinces.

And now, I turn to what to my mind is the most important part of the Bill, the question of European British subjects. I have told the Assembly that a representative Committee has been appointed to examine

this matter. It includes Indian lawyers and an Indian judge of great experience; also many others well qualified to assess the value of the evidence given and consider the difficulties that arise in dealing with this difficult question. To those who sat on the Committee, these difficulties are but too apparent, and they require the most careful investigation. Now, is this Assembly going to stultify its own action by allowing a Bill of this kind to be introduced while that Committee is sitting and before it has been possible for it to make recommendations? Is that treating the Members of that Committee with reasonable respect? Will it not be regarded as indicating a desire to reject in advance, with contempt, any recommendations they may make? If this is the intention of the Assembly, why was this Committee appointed? Why did Government go to the expense of summoning men from all parts of India to give evidence before the Committee? I hope earnestly myself that, in these circumstances, the Members of the Assembly will not accept this motion.

Then, there is another aspect of the matter, and a most important one. The Honourable the Mover has disclaimed any intention of arousing racial bitterness. I am afraid, one or two of his remarks were not in accordance with this profession, but I am quite sure that it was not his intention to cause ill-feeling. But, I want to tell this Assembly that there is very great feeling on this subject in the European community and indeed in other communities also, and, if this Assembly, having appointed a Committee to examine this question, having agreed to subject the whole question to careful examination, allows a Bill of this character to be introduced, then, I believe, that action will go far to create suspicions and bitter feeling at a moment when peace above all is desirable and when we, faced with the grave crisis we are, can least of all risk the dangerous situation which will thus be caused. The acceptance of this motion may, indeed, perhaps wrongly, create the impression that Government and this Assembly will not even wait for the report of their own Committee before proceeding to legislate in regard to privileges regarded as of national importance. As I have said, there is no question about principles. The principle has been accepted. The subject is being investigated, but I must say that the present time is the most inopportune one possible for a motion of this kind. I believe the action of this Assembly in accepting it will have most injurious and almost disastrous effect on the country.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): I beg to move for an adjournment of this subject, Sir, if that would be in order.

Mr. President: The question is:

'That leave be given to introduce a Bill further to amend the Code of Criminal Procedure, 1898.'

The motion was negatived.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 4.)

Maulvi Abul Kasem (Dacca Division: Muhammadan Rural): I beg to move for leave to introduce:

'A Bill further to amend the Code of Criminal Procedure, 1898.'

[Maulvi Abul Kasem.]

My motion relates to an amendment of the definition section in the Criminal Procedure Code. As is stated in the Statement of Objects and Reasons, it only suggests to give a class of practitioners in criminal courts a little legal status and nothing more. It does not grant them any privilege which they do not at present practically enjoy, neither does it affect the vested interests of anybody. The definition, as it stands at present, places Attorneys of High Courts and Vakils as authorised legal practitioners and classes, mukhtears as other persons who may be authorised at the discretion of the Court. The fact is that these mukhtears have to appear at an examination, a fairly stiff examination, and, after they pass out, they are granted licenses by the High Court, which are renewable year after year. So, practically, they are under the authority of the High Court, and, as the definition now stands, they have no legal status and they feel it as a very great grievance, though of a sentimental character. In practice, these mukhtears are allowed to appear in Court and it is only very rarely that they are not allowed to appear in Court. So far as I know, there was only one instance in my district in which a mukhtear was not allowed to appear in Court. There is no reason why this distinction should be maintained. I might tell the Assembly that there are some very well known mukhtears, among them are some very capable men, and I might remind the Honourable the Leader of the House that, in his own province, for some time the Public Prosecutor was a mukhtear, although there were a good many pleaders and barristers practising in that Court itself. I only want, by this change in the definition, to give mukhtears a status which they now enjoy and to do away with the discretion of the Court to class them as authorised legal practitioners. They are licensed practitioners; they pass an examination, the same sort of examination, perhaps, which a pleader has to pass under the High Court rules, and they have to renew their licenses. If anybody is not of good conduct or behaves himself in an unprofessional way, the license can be withheld. Under these circumstances, so far as I am aware, I see no objection to make this simple change which will gratify their wishes—it may be their vanity—in the matter. There are large sections of people who want it, and I may remind the House that their self-respect is to some extent hurt, because they are placed in the same category as any man in the street. According to this definition, a pleader is a man who appears before a Court of justice with an authority from another person to appear in his behalf, and the mukhtear has to do the same. He is a man who has obtained a license from the Court, a recognised practitioner, who does practise in the Court; and I hope the House will have no objection to do this little justice to a deserving class of men. It affects only the United Provinces of Agra and Oudh and the two old provinces of Bihar and Orissa and Bengal proper. It does not affect the rest of the country. But these people are very keen about it and they are very sensitive, and I believe that, in the late Viceroy's Council, my friend, Mr. Ghuznavi, moved a Resolution to this effect when, I am told, he was assured by the Government that, when the Criminal Procedure Code came up for revision, this matter would be taken into consideration and the required change would be made. As the Code of Criminal Procedure is being amended now, I ask the permission of the House to amend it in this particular manner a little earlier than if we had to wait till the whole Criminal Procedure Code comes under consideration.

With these few words, I ask for the permission of the House and I hope that permission will be granted.

The Honourable Sir William Vincent (Home Member) : Sir, the Government have no intention of opposing the introduction of this Bill ; but there were some remarks that fell from my Honourable Friend, the Mover, which I think should not go unchallenged. He said that the Bill made practically no change in the present practice. That is a statement that is not entirely accurate, because there are many Courts at present in which mukhtears are not allowed even by courtesy, to practise according to the procedure now accepted. We were told of a mukhtear who was Public Prosecutor. I do not remember that *rara avis* though, I dare say, he did his work very well, but mukhtears are in some provinces not allowed to appear in Sessions Courts, whether as Public Prosecutor or for the defence. I entirely agree, however, with the Honourable Member, when he stated that many of these mukhtears are men of real ability and very great experience of criminal law.

I do not remember the occasion on which I promised to introduce into the Code of Criminal Procedure a section giving effect to the present proposals ; but, I suppose, I must accept the statement made by the Honourable Member. I am not prepared to contradict it at the moment. At any rate, he has forestalled any action by Government in this matter. In any case, the Government reserve to themselves, it will be understood, the right to adopt any attitude which they may think necessary in regard to this Bill on a future date though they do not oppose introduction.

Mr. President : The question is :

‘That leave be given to introduce a Bill further to amend the Code of Criminal Procedure, 1898.’

The motion was adopted.

Maulvi Abul Kasem : I now beg to introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I am afraid that I am unable to give effect to the next item on the list of business ; for I am unable to present the Report of the Select Committee on the Bill further to amend the Code of Criminal Procedure, because of certain legal objections which have been put before us by my Honourable friend, Dr. Gour. These have necessitated a more prolonged examination of this Bill. I hope, in these circumstances, the Assembly will excuse me.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 1st February, 1922.

LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 1st FEBRUARY, 1922

Vol. II—No. 26

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Wednesday, 1st February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

Mr. President: The Secretary will lay on the table the Bills, if any, passed by the Council of State at its meeting yesterday.

Secretary of the Assembly: In accordance with rule 25 of the Indian Legislative Rules, I lay on the table the following Bills that were passed by the Council of State on the 31st January, 1922:

- (1) Bill to repeal certain provisions of the Indian Criminal Law Amendment Act, 1908;
- (2) Bill to repeal certain special enactments supplementing the ordinary criminal law.

THE INDIAN LUNACY (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member): Sir, I move for leave to introduce:

A Bill further to amend the Indian Lunacy Act, 1912.

The proposals in the Bill are fully explained in the Statement of Objects and Reasons which is before Honourable Members at the moment, but there are certain matters of principles which I should like to place before Honourable Members while asking them to grant me leave to introduce the Bill. The first point to which I need refer is, that we seek in this Bill to emphasise the curative side of the treatment that is afforded to lunatics in asylums. At present, this is somewhat lost sight of owing to the title of these asylums in which lunatics are confined. Government do, as a matter of fact, at present give the best curative treatment they can to these unfortunate people, but we are not sure that this would always be the case in other asylums which may be licensed under the Act; we propose, therefore, to insert this addition to the definition to facilitate the action of Local Governments in insisting that proper curative treatment is afforded to all lunatics and also to enable Local Governments to withdraw licenses from private asylums if the facilities are not adequate.

The second principle involved in the Bill is really consequential on the system of Provincial autonomy that has now been conferred on the provinces. Under that system, as Honourable Members are aware, the different Provinces have certain revenues of their own and are liable for certain expenditure. Now, in practice, lunatics from one province are frequently confined in an asylum which is situated in another; and the Bill provides the means by which in such cases recoveries may be made from the province which may fairly be charged with the expense of maintaining such lunatics. It follows in this respect the principle of the English Poor Law, with which many Members are familiar. We propose that where a lunatic has been resident in any province for five years before he is placed in the asylum, the charges for the maintenance in the asylum shall be levied from that province. In other cases or where the lunatic

[Sir William Vincent.]

comes from outside British India, the charges will, in the first instance, be paid by the province in which the committal order is made, subject, in the latter case, to recovery from the State of which the lunatic is a subject. Honourable Members who are interested in the subject will also observe that in the maintenance charges we have necessarily included certain charges arising out of the capital cost of these asylums. We believe that large asylums will prove the most economical and humane method of treating these unfortunate people; and it is obvious that large asylums cannot be maintained in a small province; these provisions, therefore, to which I refer, by which, while lunatics are sent to an asylum outside the province, the necessary charges are recovered from the province which ought to be debited with that expenditure, facilitate the establishment of large asylums. May I say in conclusion that the criticisms which we have received from Local Governments in regard to this Bill have been almost entirely favourable; indeed, we have been asked to go a little further than we propose to go at present; and those points raised by the Local Governments will be considered later.

Mr. President: The question is:

'That leave be given to introduce a Bill further to amend the Indian Lunacy Act, 1912.'

The motion was adopted.

The Honourable Sir William Vincent: Sir, I introduce the Bill.

RESOLUTION *RE*: WOMEN'S FRANCHISE.

Mr. N. M. Joshi (Nominated: Labour Interests): Sir, I beg to move the following Resolution which stands in my name:

'That this Assembly recommends to the Governor General in Council that he should so amend the Legislative Assembly Electoral Rules, as to remove the sex disqualification in the matter of registration, on the electoral roll, of persons who are entitled to vote in the elections held for the Legislative Assembly.'

Sir, it is rather unfortunate for a mere man like myself to move this Resolution. (Laughter.) Sir, when I speak on behalf of labour, some friends ask me whether I had worked as a workman, and I have to reply that I had not. I am in the same predicament to-day. But, Sir, although the Resolution is going to be moved by my weak voice, I assure the Members of this Assembly that the appeal which I propose to make through this Resolution has the support, expressed or silent, of half the population of this country. Sir, at the very outset, I propose to make it very clear to the Members of this Assembly that the Resolution which I propose to move to-day is a very modest one. It does not seek to remove the disqualifications that attach to the sex of woman in all matters, either intellectual, social, economic, civil or military. I do not seek to remove all these disqualifications. Not that I approve of these disqualifications; I do not approve of them at all; but to-day the demand which I propose to make is not that all these disqualifications should be removed at once.

My only demand is that the disqualification which attaches to the sex—the fairer sex—in the matter of giving votes for the election of Members of the Assembly should be removed. I do not ask by this Resolution that the women of this country should be enabled to be candidates for the elections of Members of the Assembly. I do not ask for that. (*A Voice*: 'Why not?') I am not seeking that through my Resolution to-day. I do not ask this Assembly to create a larger number of rivals for those who are

already in the field. I again repeat that I am not at all against women coming and sitting in this Assembly. I would like them to come here; but I understand the feelings of some of my colleagues. I know many of them—at least some of them—feel shy and nervous in the presence of women. I understand that feeling, and, out of respect to that feeling, I do not make any proposal of that kind by this Resolution. There is another reason why I do not make that proposal to-day, and it is administrative: I hope, that will appeal to my Honourable friend, the Home Member. Sir, if I seek to change the rules for the qualifications of candidates for Membership of the Assembly, that change will require the approval of the Government of India first, then of the Secretary of State, and then these Rules will have to be kept on the table of the House of Commons and of the House of Lords. Great difficulty is involved in getting the sanction of all these august bodies. This point is very clear; the rule which fixes the qualifications of candidates is Rule 5 in the Book of Rules, 'Qualifications of elected Members.'

'A person shall not be eligible for election as a Member of the Legislative Assembly if such person :

- (a) is not a British subject; or
- (b) is a female; or
- (c) is already a member of any legislative body.....etc.'

I do not seek any modification of this rule. Therefore, those of my colleagues who are against women standing in competition with them in the elections to this Assembly need not be afraid at all.

Then, again, my Resolution is very reasonable, because I am not seeking that every woman in the country should have a vote. I am not asking for universal suffrage for women. The number of women that may be enfranchised, even if this Resolution is passed, will be very small indeed. Only those women will get a vote under this Resolution who pay income-tax, or who pay a very heavy land tax, say, Rs. 50, Rs. 60 or Rs. 75, or who pay a heavy municipal tax. Therefore, the number of women that will be given the vote under this Resolution will be very small indeed. I cannot say how many women will be enfranchised. I wanted that information to be given to me by Government. I asked a question in the last Session at Simla, but unfortunately, we all know that Government, in matter of social reform and perhaps in matters concerning women, stand neutral, and they, therefore, refused to give me that information. I am thus unable to give an estimate of the number of women that will be enfranchised if my Resolution is passed.

Then, Sir, there are also other limitations to the demand which is made in my Resolution. One is that my Resolution, even if it is passed to-day, will not apply to the whole country. It will only apply to those Presidencies where the Local Councils have removed the disqualification for the election of Members of those Councils. This is very clear, if we read Rule 7, which fixes the qualifications of voters for the Members of the Legislative Assembly. I will read that rule for the information of Members. This is Rule 7, regarding Electoral Rolls :

'Every person shall be entitled to have his name registered on the electoral roll of a constituency who has the qualifications prescribed for an elector of that constituency and who is not subject to any of the disqualifications herein set out, namely :

- (a) is not a British subject; or
- (b) is a female; or
- (c) has been adjudged by a competent Court to be of unsound mind; or
- (d) is under 21 years of age :

[Mr. N. M. Joshi.]

Provided that, if a Resolution is passed by the Legislative Assembly, after not less than one month's notice has been given of the intention to move such a Resolution, recommending that the sex disqualification for registration should be removed, either in respect of women generally or any class of women, the Governor General in Council shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex.....'

Mark the next words :

... if they are not so disqualified for registration as electors for the Legislative Council of their own province.'

The last words make it absolutely clear that, even if we pass this Resolution, it will apply only to those provinces where women are qualified to vote for the election of Members to the Local Councils.

Sir, this explanation will set at rest the fears of many of my colleagues in this matter, as, at present, this Resolution will apply only to the Presidencies of Madras and Bombay, because the Local Councils of only those two provinces have removed the sex disqualification of voters for the election of members to these Councils. In the other provinces, this has not yet been removed. Therefore, even if we pass this Resolution to-day, it will apply only to Madras and Bombay. My colleagues from the other provinces will certainly support me, but, even if they do not support me, I am quite sure there is nothing in this Resolution for them to fear as long as the Local Councils are not prepared to remove the sex disqualification in the election of Members of their Local Councils.

Then, Sir, my Resolution, although it is being discussed in the Legislative Assembly which legislates for the whole country, does not seek to remove the sex disqualification for election of Members to the Provincial Legislative Councils. It is right, after the declaration of provincial autonomy, that the disqualifications existing for the election of Members should be removed by the Provincial Councils themselves. I do not, therefore, seek that. Neither do I seek that the disqualification of women for the elections of the Council of State should be removed. I am quite sure that, in the Upper House, there is hardly any room for such a modern idea as the enfranchisement of women. I, therefore, do not seek to remove the disqualification that exists for the election of Members of the Council of State.

Sir, there are several of my colleagues who may think that my Resolution may compel some women, who remain in *purdah* or in *gosha*, to come and vote. But I assure them that my Resolution does not compel any person to come and vote. It only gives freedom—it only gives the right—to vote. If some women, so enfranchised, wish to remain in *purdah* or in *gosha*—or if some men choose to keep their women in *purdah* or in *gosha*—let them do so. I do not want them to remove the *purdah* or *gosha* by this Resolution. They are at liberty to keep their women at home, they are at liberty to prevent their women from giving their vote at the election. The Resolution is not compulsory, but absolutely voluntary and, for that reason, those people who observe *purdah* or *gosha* will not be disturbed at all. Sir, I have thus stated how limited the scope of my Resolution is and what a modest demand it makes. As regards the merits of the question, I need not speak long to this House. If I had to speak to an uncultured and uneducated Assembly, I should have spoken, even for an hour, as to why women should be enfranchised. But I know that the Members of this Assembly have studied the history of the social conditions of this country very thoroughly. They know that in ancient India there were no restrictions to the movements of women, to the development, intellectual, social or

moral, of women. The restrictions that we see in the law as against women are, in my humble judgment, the inheritance of our contact with the West. Sir, the Members, at least the Hindu Members, of this Assembly, know very well that in ancient India many women were educated. They were allowed to discourse on subjects like *Vedant* and there was hardly any restriction upon their civic rights. Those of my colleagues here who belong to that most democratic religion, I mean the Islamic religion, which places women on the same basis as men, even as regards inheritance, know that that religion puts no restriction upon the civic rights of women. Then, Sir, I have also got some colleagues here, who take pride in calling themselves free Britons. Sir, the people of England have already given the franchise to the women of their country. In that country, a woman can rise to the highest position possible for her, and I therefore feel that those of my colleagues here who belong to that country, and who call themselves free Britons, will certainly support my Resolution. Sir, even in recent times, we have had women who ruled over this country as sovereigns with great glory. We have had women who fought in battles with great success. But, leaving aside that historical time, even at the present time, there are women who have made a name in all movements, political as well as social. Who has not heard of the great work which that noble English lady, Mrs. Besant, has done for this country? Who has not heard of the great literary work done by Mrs. Naidu and who has not heard of her political activities to-day? Who does not know the great social work which Mrs. Ranade has done and is doing in Poona? Sir, who is here who does not feel proud of the women of this country who have recently been taking part in the political movements of this country? I have heard several of my colleagues here mentioning with great pride that the women of this country are taking interest in the political movements of this country. Sir, therefore, I need not speak much to-day on this question. I also feel confident that my Resolution will be adopted by this Assembly to-day. We know there are several parties in this Assembly. One party calls itself the Democratic party, others call themselves Liberals, and I need not tell them that the basic principles of Democracy and Liberalism are Freedom and Equality. Sir, when I remember this, I feel quite confident that my Resolution will be approved by this Assembly. Some Englishmen express the fear that, when Indians get Self-Government, the rights of the weaker classes, the rights of the masses may not be properly safeguarded. When the Joint Parliamentary Committee considered this question, they, very shrewdly in my opinion, left the decision in this matter to the Indian Councils. They perhaps thought that, by leaving this matter to the Legislative Assembly and the Provincial Councils, they would be able to test the Indian people and see how far they will safeguard the interests of women. Sir, at one time I felt very angry with the Joint Parliamentary Committee for this decision, but, knowing the views of my colleagues in this Assembly, I feel delighted to-day that we have got an occasion to prove to the Joint Parliamentary Committee as well as to the whole world that the interests of the weaker classes are perfectly safe in the hands of this Assembly. Then, Sir, I also know the sense of chivalry of the Members of this Assembly. I am quite sure they will not be a party to placing any stigma upon the women kind of this country, the stigma of incapacity to vote. For these reasons, Sir, I do not propose to go into the merits of this question at any length. I feel that the Members of this Chamber are ready to do justice to the womenkind of this country. With these words, I commend my Resolution for the acceptance of this House.

The Honourable Sir William Vincent (Home Member): Sir, the Mover of this Resolution seemed to me unduly nervous of his own proposals, for his speech was really made up of apologies, such as: 'I am really not going as far as you think. My proposal is a very modest one, I do not want this, I do not want that.' And if I can say anything in order to re-assure him, to give him a little confidence, I shall be only too pleased. But it was a little surprising that while adopting his attitude towards his non-official colleagues, he thought it necessary to attack or to have a jibe at Government. I have often wondered why the Honourable Member thought it necessary to take this line. Sometimes I have wondered whether, being a nominated Member, he thinks it necessary to do this to show his independence. (Laughter.) I assure him there is really no necessity for it. We fully appreciate his independence. But, when he attacks the Government on the ground that it is indifferent to the welfare of women, then I must join issue with him at once. (Hear, hear.) I will cite before this Council two instances to prove my point. I was in the old Council when the Government introduced a Bill for the protection of children, girls, from a life of vice, a Bill designed to help to bring them up in decent surroundings. Well, Sir, it was not owing to the actions of Government that that Bill never became law. This was due to the efforts, and unceasing opposition of the orthodox community. Again, at this moment, we have given notice to this Assembly of a Resolution to provide for the protection of young women and children whom it is sought to abduct and procure for immoral purposes which, I hope, will be accepted. On this occasion we have, of course, a more liberal Assembly, of which the Honourable Mover is a Member and I hope to secure the fullest support. But it is, I submit, unfair to charge us with indifference to the welfare of women, a charge for which there is no foundation.

Again, as to this question of women's franchise, I am informed by my Honourable colleague (Sir Malcolm Hailey) that the question was very carefully considered by the Franchise Committee when it made its inquiries, and the almost unanimous opinion of non-official witnesses examined in the Provinces was against the grant of this. (Mr. N. M. Samarth: 'Except in Bombay.') The Honourable Member is quite right. There were certain centres where the proposals were approved and Bombay was one, I believe, but the general feeling, I think I am right in saying, was entirely against female suffrage. Is it fair, then, to blame the Government for giving effect to non-official opinion on this subject? Sir, I apologise for this digression. I really got up to speak not so much on the merits of this proposal, but on the attitude of Government, because there may be official Members of this Assembly who have very decided views on this matter. I do not know that there are any, but there may be.

The first point I wish to make clear is, that the question before the Assembly is not whether women should be eligible for election as Members. That question does not arise; it can only be decided by an amendment of the Electoral Rules which are made by the Governor General in Council and cannot be altered or amended by this Assembly; though, of course, the Assembly might make recommendations regarding such an amendment. The question before the Assembly at present is merely whether women should be put on to the electoral rolls or not, and the Joint Committee decided that, on that point:

'The Government of India should be instructed to make rules, so that, if a Legislative Council so voted, women might be put on the register of voters in that province.'

The Committee say that they :

'do not feel themselves able to settle this question as urged by the majority of the witnesses who appeared before them. It seemed to them to go deep into the social system and susceptibilities of India, and, therefore, to be a question which could only, with prudence, be settled in accordance with the wishes of Indians themselves as constitutionally expressed.'

They again advert to this question in their first report on the Draft Rules under the Act and say that they think it essential that a constitutional change of this importance should be effected only as a result of a genuine and considered opinion of the majority of the Council, and they have therefore provided that, before a Resolution on the subject can be moved, the Mover must give not less than one month's notice.

There is one difficulty we have actually experienced in interpreting that rule which I might mention on which we are taking legal advice. It will not affect the result of this Resolution, but I am sure the Honourable Member's attention has been drawn to the words 'any class of women', in the rules. Now, we are not quite clear about the exact meaning of those words; but, in any case, this would not affect the principle of the Resolution now before the Assembly.

Sir, having regard to what the Joint Committee have said and the previous attitude of Government in this matter, I think that we shall not be accused of lack of sympathy with reforms in this matter if we say that the question should be settled in our judgment in accordance with the wishes of Indians themselves as constitutionally expressed in this Assembly. It is a matter which affects them very much more than it affects us, and, for that reason, the Members of the Executive Council will not vote on this question at all. But I want to make this quite clear, that other official Members of this Assembly have full freedom to vote and speak as they like. I hope that every Member here will be clear on this point. If, for instance, my Honourable friend, Mr. Bray, has strong feelings on this subject, he can get up, and express them, but I am not in the same fortunate position. I may also inform the House that Resolutions on these lines have so far been adopted, I believe, by the Madras and Bombay Councils, so that the effect of this Resolution, if adopted, will be to give women the vote in those two provinces. Bengal has turned the proposal down (Cries of 'Shame') and I believe my own province also has refused to enfranchise women. In some provinces, this question has not been discussed. The net result, therefore, will be that, if this Resolution is adopted, it will mean that for the electorates in Madras and Bombay, women will not be disqualified from being voters only by reason of their sex; but this Resolution will, for the present, have no effect in other provinces.

Baba Ujagar Singh Bedi (Punjab: Landholders): The Resolution before us to-day is such that it deserves the due deliberation of the House. I myself have pondered over it for a considerable period of time and have come to the definite conclusion that the present circumstances of the country, both social and educational, do not seem to support it.

At the very outset, I intend to dispel the idea, if any Honourable Member be labouring under it, that I regard the weaker vessel as being inferior to man in any way, intellectually, socially or politically. Far from that. I have all honour and reverence for the tender sex.

There was a time when Indian ladies shone to their great credit in the firmament of true greatness. They stood shoulder to shoulder with men

[Baba Ujagar Singh Bodi.]

for their culture, erudition and knowledge. They have left such volumes in politics, jurisprudence, logic and mathematics, that the world has not been able to produce their like even in the 20th century.

Woman in those days was regarded as the equal of man. She enjoyed all those privileges which the women of an advanced and cultured country enjoy. It was because of this her social position (*vidya*) and learning that she was called *ardhāngy*, the half of the human body, the essential of the human machinery.

The fault lies with us if she is found in the present degenerated condition. The egoism and tyranny of man debarred her from all educational and social activities, because of which she had to see the present days.

In the ancient days of India's glory, it was a custom, regulated by *dharam shastar* that, whenever somebody desired the attainment of some object, he had to undertake a *yag*. In this *yag*, the presence of the wife was essential by the side of her husband, otherwise the *yag* was not regarded as complete.

I say it emphatically, with all the force that I can command, that this *yag*, which we have undertaken to attain self-autonomy and *swarajya*, cannot be achieved or complete, unless and until our ladies share our task in legislation and sit side by side with us to achieve this noble object.

Our Indian philosophy teaches us that no undertaking can be complete unless three things converge, that is, *desh* (country), *kal* (time) and *vastu* (thing).

We have got two things with us, namely, the *desh* and *vastu*, but the third thing which is essential, the *kal*, is missing. We are to wait for the time to complete our undertaking. Therefore, let us join our hands to bring about this missing thing—the time. We should make our ladies fit for the task which is before us. We should afford them education, so that they may be able to help us in these matters.

If my Honourable friends will bring the vista of the past glory of their country before their eyes and compare it with their present situation, they will realise the immaturity of the Resolution.

It may be said by some of us here that we should follow, whatever has been and is being done in the West, as in England. But we ought to realise that we are not in the same condition as those countries. To slavishly follow the West, which is not only far ahead of India, both educationally and politically, but is also diametrically opposed to her from the social point of view, would be a course replete with many a hindrance, and would involve the Legislature in a regular labyrinth of difficulties, to extricate themselves from which would be by no means an easy matter.

I regard the removal of the sex-disqualification in the matter of registration in the electoral roll, to be premature.

It is premature because it is a broad day-light fact that Indian women are not sufficiently educated as yet to take any genuine interests in such vital and all-important matters as legislation and police.

The sad fact that only 2 per cent. of our women are educated, and the majority of that percentage only to the extent of reading and writing ordinary letters, is well known to all of my friends. To expect as such that our women, surrounded as they are by the four walls of their houses and

debarred socially from all educational institutions, would help us in the legislation of the country is to expect impossibilities.

My friends may quote one or two instances of highly-educated ladies, like Mrs. Sarojini Naidu and Chaudhurani Sarala Devi and others, but they are an eye among the blind, an oasis in a desert.

Again, it is inexpedient, because only those can be expected to perform the diverse duties entrusted to them who are best suited to them, who, by their tact, training and experience, can prove themselves to be truly worthy of the task imposed upon them. Is it not fantastic to expect a child to command an army? In the same line of argument, I would like to ask, if it is not inexpedient to expect our women to legislate on matters beyond their comprehension, knowledge and understanding.

To add to all this, I would like to point out to my Honourable friends that a nation cannot be expected to make any genuine progress unless it is through evolution.

The progress, to be certain, sure and stable, must be systematic, organised and evolutionary. In the West, if my friends point out the parallelism, the removal of the sex restrictions was brought about after centuries of constitutional struggle.

India also should follow the foot-prints of the western countries and should wait patiently for the time, which is not so very distant, when our ladies, being fully educated and prepared for the task to be imposed on them, shall lend us a helping hand in the better government of the country.

I do not mean by this that franchise should not be extended to women. All that I hold is, that the time is not ripe for the change as yet. If, however, my friends think otherwise, and convince me of the same, I shall have no hesitation in backing up their voice.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I heartily support this motion and I am sure my Honourable friends will be agreeably surprised at the attitude I am taking. Orthodox as I appear to be, and devout Hindu as I am, I cannot with any conscience say that this Resolution is in any way premature.

Sir, we in the South enjoy the privilege of associating with an educated fair sex, with a fair sex which is quite capable of taking care of itself. It may be due, Sir, to our want of contact with our Muhammadan friends that we have not got those ugly *ghosa* habits which confine women inside the house or behind the *pardah*. Our women are quite free. Those belonging to the most respectable families are free to go about by themselves. They go to the temples, they go to the riverside, they go to the bazaar. And, Sir, they are able to manage our households much better than we men can do. Though I feel myself competent to come here and criticise the Budgets placed before us by the Government of India, I dare not criticise my home budget! Nor could I do so with any effect.

Sir, the women of the South are noted for their learning, for their wisdom and for their sound commonsense. Our women have enjoyed the privileges of the franchise for years past. I may mention for the information of the House that our municipal franchise (in district municipalities) have for years past granted freedom to women and that the franchise has been wisely exercised. Sir, if we turn to Madras City, there are about 600 women voters in my ward, and nearly 400 of them went to the poll, and

[Rao Bahadur T. Rangachariar.]

I am sure that I had a majority of the women voting for me when I was returned to the Madras Corporation.

It will, therefore, be no new thing in our part of the country. It will be highly prized and valued, and it will be soundly exercised.

Sir, every student when he begins to learn his alphabet in the South learns from a text-book which was written by a woman. In this book every letter of the alphabet is converted into a short moral saying; the first letter 'A' for instance, is 'that you must learn to do charity.' (*Aram choyya virumbu*). Sir, this work was compiled by a Dravidian woman, Awayar, whose name is still cherished with respect; and, as I told you, her text-book is the first text-book used in all our vernacular schools. And in our religious ceremonies, when we worship our family gods, one of the compulsory verses that we have to recite every day was composed by a woman. She is still cherished as a saint, one of the most revered saints of the South—by name. Andal, born in Srivilliputtur. She was also a Dravidian woman. And, therefore, we allow the greatest freedom to women in the South, and, although I am not quite willing to allow them yet to share in making laws and regulations, the time is sure to come; and, when that time comes, I am sure that the South will take the first step forward. Sir, I heartily support the amendment.

Lieut.-Col. H. A. J. Gidney (Nominated: Anglo-Indian): Sir, I rise to support this Resolution very whole-heartedly. I give in to no one in this House in the anxiety that is shown in this Resolution, because I welcome any movement for levelling up the women of India with the women of other countries. Sir, it is truly said that no nation can be greater than its mothers, and in supporting my Honourable friend, Mr. Joshi, in this very noble effort of his for the uplifting and emancipation of the women of this country, I feel that I am treading on firmer and less debatable ground when I refer to the women of my community, who, I may remind this House, are, in every respect, women of this country. They are born, bred, live and die in this country, and their interests in the country, are second to none of their Indian sisters. Therefore I speak with more certainty when I speak about the women of my community in their claims for the suffrage and for participation in the responsibilities of citizenship.

Sir, a reference to various official statistics and records makes it perfectly clear that, from the population, wage earning, and payment of various taxes, points of view the women of my community—I mean the Anglo-Indian and Domiciled European community—are practically equal in number to the men. In education, which is universal in my community, men and women are practically on an equal status. This is proved by a reference to the official publication called 'Statistics for British India for 1919-20' and which record shows that 22,568 boys and 21,354 girls are receiving education in our various schools and colleges. Our women are to be found in all spheres of life, paying their taxes as do our men and, in not a few cases, they form the sole supporters of families. Wherever you turn, be it the Government, the Army, mercantile offices, be it in the Railways, the Schools or the Hospitals—in every department, you will find women of my community occupying positions of trust and responsibility. It must, therefore, be obvious to this Honourable House that a large number of my women-folk have not only proved their worth to be trusted with a vote but, that they are equally qualified with men in every respect to be included in the electoral roll. I submit, it is unjust to disfranchise my women-folk and to give the right to vote to many men who

are not so worthy. Surely this House will not tolerate such an injustice? Remember this Resolution confines itself in a very narrow way, only to 'persons who are entitled to vote in the elections held for the Legislative Assembly.' There are a number of women in my community who come within that category and it is in support of these women as also the rest of the women in India who will receive the freedom to vote in the elections for this Assembly, that I offer my support to the Resolution put forward by my Honourable friend, Mr. Joshi.

Sir, there was a recent inquiry made in Calcutta which was called the Calcutta Domiciled Community Inquiry Committee, 1918-19, and the information that it provides is of great interest, reflecting, as it does, the indisputable claims of the women of my community to the right to vote at these elections and even at all Provincial Council elections. It shows the following statistics relating to the Anglo-Indian women workers per hundred working men—*Industries 30, Transport 5, Trade 22, Public Administration 4, Arts and Professions 114, and other occupations 59.*

Since that year, 1918, I submit, my women have been employed to a larger extent and these figures have consequently been greatly augmented. I therefore think, Sir, that I have shown beyond any doubt that, as far as my community is concerned at any rate, the women-folk have indisputably earned their right and claim to vote for election of Members to this or any Assembly. I have just heard one Member of this Honourable House—and I regret to see it was my friend, Baba Ujagar Singh Bedi, who, I thought, was a champion of the fair sex of his country, the Punjab, say, that the present time was too premature to give women the vote. Sir, we have to make a beginning and I submit that the very temperate and moderate Resolution that has been put before this Council by Mr. Joshi does not in any way deserve to be stigmatised as premature. I would ask him to note that this Resolution does not touch the ignorant village women. It touches only those women who occupy a higher and more select and educated status in life, women who are and do activate themselves in the political life of their country and, whose husbands are generally politicians, and who no doubt discuss politics with their wives. It is these women, Sir, to whom it is sought to give the vote and not to every woman in India.

The Honourable the Home Member said in his speech that when the Franchise Committee sat, most of the Governments, except Bombay, were not in favour of giving the vote to women. I gave evidence before that Committee, and I was certainly in favour of it. But times have changed since the sitting of that Committee. The politics of India, both for women and men, have vastly altered. We find to-day Indian women taking an equally active part in politics as do the men. The women of my community are actually alive to their political needs and surely we cannot deny them a vote. Why? To-day we have Lord Northcliffe, a person occupying a very distinguished position, saying in the Press that one of the most serious portents in the present political atmosphere in India is the participation of Muhammadan women in politics; and it is these women whom we want to guide and teach in the political work of India and whose guidance and help we wish to avail ourselves of. I therefore say, Sir, that this Resolution has everything to commend it. My Honourable friend, Mr. Rangachariar, has given his able support to it, a support which is both pleasing and valuable, coming as it does from the distinguished Member from Madras, a Member who is one of the most orthodox Hindus in this Assembly.

[Lieut.-Col. H. A. J. Gidney.]

Sir, I have no doubt that some of my Muhammadan friends in this House will reject this Resolution as it violates the *purdah* system of their women-folk. But Mr. Joshi has very rightly pointed out that the Resolution is not compulsory and that those who do not wish to take part in the election, or avail themselves of this privilege, can remain within the four walls of their *purdah*.

But I would like very much, with all respect to my Muhammadan friends, to ask them how they like it. I say, with all respect to them, that as long as we in India—and I am of India—cultivate this four-walled system, so long as we become slaves to this enforced silence, so long as we are a party to this shutting up of our women, so long will India remain in the position in which she is now, that is, there will be no progress at all as compared with other nations. Emancipate your women. Start female suffrage as Mr. Joshi tells us in this limited capacity, and we will have with us a flood of opinion that will be second not even to ours. I therefore, Sir, support this Resolution very heartily.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, I desire to give this motion my personal support. I am sorry, I am very sorry that I am not able to speak on behalf of my province as a whole, as represented by the Majority Vote of its Council. I hear a voice crying 'shame', I am not ashamed of the situation, because I understand it. Madras and Bombay have long been much more fortunately situated with regard to social conditions than Bengal. I do not desire to refer at length to those conditions, because they may not be agreeable to many, and I do not in this concern want to rouse again racial and religious animosity. If the voting of the Bengal Council was analysed, I think the matter could be gone into more deeply than is necessary for our purposes here to-day. There are peculiar combinations of circumstances in Bengal that unfortunately made it impossible for those whose views are the views of Mr. Joshi to carry their point; but I do not despair that in time, in the near future, we shall have another vote, and we shall be able to come up to the Assembly in the way that Mr. Joshi has come up for Madras and Bombay. The greater regret was that, when a plea was put forward *de novo* on behalf of Anglo-Indian women, with regard to whom no objections could be urged, even then the motion was lost in Bengal, strange to say, because of the very reasons to which I referred and which did not apply to them. My Muhammadan friends have not yet spoken, and I believe they will be able to throw some light on the situation that will ease the situation regarding non-Muhammadan Bengal. I could not agree to wait, with Mr. Bedi, till the counsels of perfection, of which he speaks, were attained. If he were to be taken at his word, I think that Sir Malcolm Hailey's dictum the other day would stand with which I utterly disagree. Parliament has allowed its many advantages and benefits after hard and long struggle, said he, and we must not be precipitate. Are we to go through the same struggles and strivings here and then succeed? Has the Mother of Parliaments worked and struggled and striven in vain? We are the rich inheritors of all that she has attained, and, if the right be worth having, let us have it without that struggle, long drawn and ghastly. That is and ought to be our advantage. Sir, it is not necessary, for the purposes of this Resolution, to go back to the achievements in ancient India, or even immediately pass modern India, for the matter of that. Things are moving fast and we have to take note of them. What right have we, in this Assembly, to stand in the way of the

Madras and Bombay women getting what their provincial Councils have already agreed to in the case of the local Councils? That is the small point here before us, and I give it my support, not because the proposition is circumscribed in the way that Mr. Joshi has properly circumscribed it, but because personally I am prepared to go further and agree to the larger measure. Mr. Joshi shrewdly made an observation of which Sir William Vincent has taken no note. He said, it was 'shrewdly' left to the decision of the local Councils themselves whether they were going to show that they were fit to get further measures of Self-Government or whether they were going to condemn themselves. Sir William Vincent, who has stood out for the Government, has not taken note of this. I do not myself think that there was any shrewdness concerned in the matter at all. It was only right and proper, where the difficult woman question is concerned, that the people themselves should be left to work out their own salvation; and how they worked it out would show what further they deserve to get. When province after province comes up, through their representatives here for sanction of what they themselves agree to, it ought to be up to this Assembly to endorse what has been done there, and not to stem the idea because others are not ready or willing.

The movement forward will be a premium upon future progress and ensure better status for women all round. Women's rights in this country are not what they may well be in some respects, particularly with regard to property and general civic abilities. If a movement like this fructifies, what is bound to be the next step? Those who value their womenfolk will see that they have suitable property qualifications to earn votes. We have heard from Mr. Bedi about the need of women's intellectual and educational advance before the contemplated steps can be taken. Strange to say, that has not been insisted on in the case of the mere man. He may be an illiterate millionaire or he may be paying just a modicum of income-tax or municipal tax, and he is allowed to vote and no question is asked about his intellectual calibre. But as soon as the woman's claim is put forward, we say 'Let her wait till her intellectual and educational attainments are what we superior people think they ought to be.' That, I think, Sir, is a point of view that will not find favour in this Assembly. We do not want to wait for and go through all the experiences of the West in this or any other matter. We do not want our windows to be broken. We do not want to go through all the suffragette troubles in the West. I think we ought to benefit by them.

Sir, Bengal has had shame cried on it, and I have got to submit to it. But, may I remind those that have been observing things in the past how Cambridge undergraduates have of late been behaving towards would-be lady graduates, and may I also remind them that it is now more than 40 years that Calcutta gave her degrees to women. Therefore, you are not to come to hasty conclusions as to sinister motives and perverse conditions in Bengal. There may be forces in operation which we do not adequately understand, and mere charity, if nothing else, should make people pause before pronouncing shame upon the province which has its undoubted complex difficulties. Sir, I believe that our vote here to-day will set the pace of the other provinces.

Maulvi Miyan Asjad-ul-lah (Bhagalpur Division: Muhammadan):

(The Honourable Member spoke in the Vernacular.*)

* The original speech and a translation of it will be printed in a later issue of these Debates.

Mr. S. C. Ghose (Bengal: Landholders): Sir, I have much pleasure in supporting this Resolution of my Honourable friend, Mr. Joshi. The time has come when we cannot possibly keep back the ladies from coming on the electoral roll. Education has spread so much as also civilisation has spread so much that they can form an independent opinion of their own which they have learnt to imbibe from their European sisters. We speak of the *pardah* system. Coming as I do from Bengal I can say this much that the *pardah* system is not in vogue there so much as it was before. If you go to Darjeeling, you find ladies coming out very freely. If you go to Madhupur, you also see ladies going out freely. If you go to Baidyanath Junction and other health resorts, you also see ladies moving freely. I do not, therefore, understand why it is said that the *pardah* is still very much in vogue in Bengal. It may be that in some villages the *pardah* system is still in vogue, but that is no ground why the modest demand of the Honourable Mr. Joshi should be rejected. What he wants is that the electoral roll to the Legislative Assembly should be so amended that sex disqualification might be removed. He does not want to force it upon ladies in order to give effect to his proposal. The ladies may vote or may not vote at their pleasure; it will be only a privilege granted to them. It is not necessary that they should use it, but the only thing that he wants is that the franchise should be given to women by putting them on the electoral roll to the Legislative Assembly. So far as this Assembly is concerned, the number of female voters will not be very many. I represent the Bengal landholders, and there are only about 400 of them on the roll among whom there would possibly be only half a dozen female voters and I do not think that, if these women are put on the electoral roll, they will materially affect the elections. We shall be selfish if we do not allow this progress. I have heard to-day that the time has not yet come when we can give our ladies the franchise. But I think the time has come so far Bengal is concerned. There is not a single house in Bengal from where girls are not sent to schools: some of them go even to English schools. They are being educated equally with the boys and they get high education. They can form opinions of their own and they would like very much that their opinions should have some weight in matters affecting their interests. In matters political we have seen that they are working side by side with the men. Some of the women have come out of their seclusion and are trying to help the men in their political life. If there be any reason, it is only a selfish reason that their names should not be borne on the electoral roll. It is not the point whether they exercise this right or not; they may or may not be willing to use it. The only ground that is urged against the grant of the franchise to women in Bengal is that the *pardah* system is in vogue there. But the *pardah* system is fast disappearing and we have to move along with the times. And if we do not do so betimes we should lag behind in the march of progress. It is, therefore, a very modest demand on the part of my Honourable friend, Mr. Joshi, that the sex disqualification should be removed and I beg to support it whole-heartedly.

Mr. P. E. Percival (Bombay: Nominated Official): I do not wish to discuss the question of woman suffrage generally, but I should like to refer briefly to what may be described as the constitutional aspect of the case. Mr. Joshi has pointed out that this Resolution has been accepted by the Bombay Legislative Council. A part of the Reform Scheme is that greater latitude, greater freedom, should be given to the local Legislative Councils in all matters such as education, excise, and so forth. Now, Sir, the main question in regard to this Resolution, it seems to me, is

whether it is right for this Assembly to override the wishes of the Bombay and Madras Legislative Councils in a matter which concerns those provinces only.

The Bombay and Madras Legislative Councils have taken the view that women are sufficiently advanced in those provinces to vote in elections held under the Government of India Act of 1919; and there is no logical reason why the Members of the other provinces, even if they do not wish to have woman suffrage in those Provinces, why they should oppose the wishes of the elected Members of the Bombay and Madras Legislative Councils in the view that women should vote in their Presidencies. So far as the Bombay Legislative Council is concerned, it was not a chance or casual vote. The matter was discussed at great length on two days. Officials and non-officials spoke on one side or the other. The final conclusion was that the Resolution in favour of woman suffrage was carried by a majority of more than two to one. It is, therefore, perfectly clear that the elected Members of the Bombay Legislative Council, and I believe that the same applies to Madras, are strongly in favour of the view that women should be allowed to vote in the elections under the Government of India Act. I submit, Sir, that it is only right, whatever opinion Honourable Members themselves may hold on the question, that they should give effect to the wishes of the Bombay and Madras Legislative Councils, as expressed by the Members of those Councils.

There is only one other point to which I should like to refer, and that is the practice in other countries. Now, let us take the case of the United States of America. Previously, woman suffrage was not in force in the United States as a whole; but it was in force in certain particular States. At that time, when woman suffrage was in force in certain States, the women from those States were allowed to vote in the election of the President of the whole Republic; that is to say, the fact that women in other States were not allowed to vote did not stand in the way of women voting in the States in which woman suffrage had already been granted. The same point arose in Australia. Before 1902, there was no general woman suffrage in Australia, but there was woman suffrage in certain States. At that time, namely, in 1900, it was laid down in the Constitution of Australia, that women in the States where woman suffrage was in force, should be allowed to vote on matters affecting the Constitution of Australia as a whole, even when women from other States were not allowed to vote. Therefore, the logical and reasonable position is that women from the Bombay and Madras Presidencies should be allowed to vote in this matter, even if the other provinces do not wish to have that suffrage; and, in regard to the other provinces, there is no obligation whatsoever that they should introduce woman suffrage until they think it desirable to do so. I submit, therefore, that the wishes of the Bombay and Madras Legislative Councils should be given effect to by this Assembly.

Mr. J. P. Cotelingam (Nominated: Indian Christian): I rise to support the Resolution of my Honourable friend, Mr. Joshi, although I am not quite sure if there is any immediate urgency for such a measure. Mr. Joshi in his advocacy has wisely followed the line of least resistance. He does not ask for the removal of sex disqualification in the matter of the candidature of ladies for election to the Assembly, and in support of that position he mentioned that Honourable Members in this House, at any rate, a number of them, may feel shy or nervous in the presence of ladies and are, therefore, not willing that they should be candidates for election to the Assembly.

[Mr. J. P. Cotelingam.]

Perhaps, it is the law of self-protection or self-preservation that stood in the way of Mr. Joshi making such a demand. But, Sir, when Councils such as Madras and Bombay have removed sex disqualification among those entitled to vote, it follows, as a matter of course, that that disqualification should be removed also in the matter of registration on the electoral rolls for election to the Legislative Assembly. In Madras, as was pointed out by Mr. Rangachariar, women have this privilege conferred upon them in the case of Municipal elections, and it may be a piece of information to this House if I mention, that recently when the Madras Government appointed District Educational Councils, and there are nearly 24 of them, in every one of these Councils Government have appointed educated ladies to represent the women of each district. There are in every one of them, besides Inspectresses of Girls' Schools, Indian ladies to represent the women of each district. I, therefore, think that Mr. Joshi has made out a case against sex disqualification in connection with the Regulations that govern the elections to the Assembly, but, I must say, I was struck with something like dismay when he referred to the time when Indian Annie Besants and Sarojini Naidus galore will be stumping the country. Although I do not think that this measure will usher in the millenium and, although I am not quite sure that the extension of the franchise to women will be an unmixed blessing, I support the Resolution.

Colonel Sir S. D'A. Crookshank (P. W. D. Secretary): Sir, at the outset, I wish very cordially to endorse the words which have fallen from my friend, Colonel Gidney, in his expression of the great value of the services which the womenfolk of his community have rendered to the Government in the various offices, more particularly so those ladies who help in my own Department, or rather the Department which I represent, that is to say, the Posts and Telegraphs. Their services, I may, perhaps, be permitted to remind the House, are of the very greatest value, and I am sure all who have had business to do with them will realise how considerate and useful they are. When I looked at this Resolution, the first thing I asked myself is this: 'If a woman is capable of ruling in her own house, as I think, it will be admitted by all, she is perfectly capable of doing, why should she not be capable of lending her assistance towards the government of the country?' If this Great Empire of India is to advance to the immense destinies which one sees lying before her, one can only wish that this sex disqualification will be removed so that the women of this country will be able to join forces with the men and voice their opinion in carrying it forward. Perhaps no greater or more worthy monument to the memory of our beloved Queen Victoria could be left than that this Resolution, which has been so ably put forward, should receive the unqualified support of this House. Sir, there are many points on which I join issue with my friend, Mr. Joshi, but in championing the cause of labour, and in respect of this Resolution I cordially support him.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadian): Sir, while I heartily support the Resolution moved by my Honourable friend, Mr. Joshi, I confess, to a certain amount of regret, that a discordant note has been struck in certain quarters in this House. I am surprised to find my old and esteemed friend, Baba Ujagar Singh Bedi, amongst the champions of a reactionary movement intended to thwart and arrest the progress of time, but I have hope for him, and I hope, Sir, I shall be able to convert him, because he has expressed himself as still open to conversion. He tells us

that the time is premature for an advance in the direction of female emancipation. I ask my friend, when the time would come when we should make an advance. If 50 years hence a similar Resolution were to be moved, I am sure, Sir, that some one would rise and say, that the females of this country are not sufficiently advanced and educated to justify an advance. I ask my Honourable friend: 'If we had made an advance 50 years ago, what would have been the position of women of this country, to-day?' I assure him that he cannot light one side of India and keep the other side in Cimmerian darkness. An advance has to be made and I would ask my friend to take his courage in both hands and advance with us along the line of progress and reform. As for my friend who delivered his long oration in Urdu, which, I fear, many Members of this House must have enjoyed and a few of them must have felt surprised at, because it was wrapt in classical garb, all I can say to him, if he thinks that there is any danger to religion and to the customary *pardahnashin* character of his creed, is that this Resolution will leave him and his co-religionists wholly unaffected. If he desires that the womenfolk of his community should not emerge from their places of seclusion, I am sure, that neither the electioneering officers nor anybody else will use the slightest pressure upon them, but, if he cannot advance, let him not retard the pace of those who are ready to go forward. Let him not follow the dog-in-the-manger policy of saying to those who are in favour of the advancement of the women of this country: 'So long as we are not ready to go forward you shall not go forward also'. He tells us: 'We are here *pardahnashin* people, our women are kept in harems; and how can we allow our womenfolk to go out and vote?' I heard, Sir, from the Honourable Mover, that there is a possibility of converting some Members of this House also into *pardahnashin* men. He confessed to a feeling that he and a few others of this House would feel shy in the presence of lady Members of the Legislative Assembly. I can give my Honourable friend an assurance that what he will lose in the *pardahnashin* character of the *harem* he is likely to gain by the fresh acquisition which will be made from the would-be shy Members of this House, if ladies sit here. So the loss will not be entirely unrequited. But, Sir, this is a subject upon which I should think there would be hardly any room for discussion. The question is one which, I submit, concerns our mothers, our sisters and our daughters: and, if we prize political emancipation, if we value the franchise, and if we are struggling and fighting for the enlargement of our liberties, can we conscientiously deny to our female relations what we value and prize as a national asset? How can we, I submit, advance without having along with us our better-halves? And it is, in that spirit, Sir, that I ask the Honourable Members of this House to lend this Resolution their support. But, Sir, as Honourable Members will see, this Resolution deals with the removal of the sex disqualification, confining itself to the political franchise. My amendment, Sir, asks this House to support my claim for what I may call the forensic franchise.

Rao Bahadur T. Rangachariar: I rise to a point of order. Is the amendment in order?

Mr. President: Before I pronounce my opinion, I should like to hear the counter-argument which the Honourable Member proposes to put forward.

It is at least an open question whether the Resolution is for the removal of the sex disqualification or for an amendment of the Legislative Assembly Electoral Rolls.

Dr. H. S. Gour: I say, Sir, the removal of the sex disqualification which is entirely within the competence of this House will not be complete, unless you stamp out of the Statute Book, if it is necessary, a blot which shuts out our female folk from the practice of the profession of law. I would ask this Honourable House to remember the short history of this movement. In 1916, Miss Regina Guha passed her examination of B. L. in the University of Calcutta and she applied to the Honourable Judges of the Calcutta High Court for her enrolment as a legal practitioner. The Honourable Judges met at a Special Bench, and Honourable Members will find the case reported in 44 Cal., page 291. Now I wish to take you through the provisions of the standing law. (Cries of 'No, no'.) It won't take you a minute. ('No, no'.) Under the Legal Practitioners Act, any person is qualified to apply for such enrolment, and under the General Clauses Act 'a person' is held to include both a man and woman. Consequently there was no legal impediment to the enrolment of a duly qualified Graduate in Law in the High Court in Calcutta. But that was in 1916 when the Removal of Sex Disqualification Act was not passed by the mother of Parliaments as it was three years later in 1919. Their Lordships of the Calcutta High Court said, that it was perfectly true that, both according to the etymological sense as according to the context of the Indian Legal Practitioners' Act, the word 'person' made a woman eligible for enrolment as a legal practitioner. But they said, the thing had never been done, and they were not prepared to make an innovation. Her petition was rejected, and Miss Guha subsequently died, I fancy, broken hearted. (Laughter.) In 1921, five years later, another lady from Orissa, Miss Hazra, filed a petition before the Honourable Judges of the Patna High Court, and I have before me the judgment of Their Lordships. They said that there was no legal impediment to the enrolment of Miss Hazra as a legal practitioner, but in view of the fact that the Calcutta High Court in 1916 had held that such enrolment was limited and confined only to persons of the male sex, they could not make a deviation. But, at the same time, one of the learned Judges of that Court opined that it was for this Legislature to decide whether women Graduates in Law should be made eligible for enrolment. Well, Sir, about the same time, another lady law Graduate, Miss Cornelia Sorabji, filed an application before the Allahabad High Court, and I am glad to congratulate the Honourable High Court of the Honourable the Law Member that they had the good sense to enrol her as a duly qualified legal practitioner. (Hear, hear.) The position has now become anomalous. The two High Courts are not many miles apart. In one place, a lady Graduate in Law is duly enrolled and is eligible to practise the law as her profession in the same manner as a man. Go a few miles lower down the Gangetic plain, and you find another High Court exclaiming: 'The law seems to be all right, but we will follow the Calcutta practice, unless we are set right by the Indian Legislature.' Well, Sir, you know that the Inns of Court have for a very long time interpreted the word 'person' to mean only persons of the male sex. But now we find that this word 'person' has been interpreted to mean persons of either sex, and ladies have been admitted within the portals of that august body, the Inns of Court.

The members who will be called to the Bar of the Inns of Court in England cannot be shut out from practising by the High Courts of this country. Some ladies have already been called to the Bar there. Some of them are, at the present moment, prosecuting their studies with a view to be called in future, and I think it is necessary that we in this House should declare that the word 'person' shall not exclude persons of the female sex, when there is no legal impediment to their practising the

profession of law. In the course of their judgment, the Patna High Court pointed out that, while sections 6 and 8 of the Legal Practitioners' Act which mention persons who are eligible for enrolment as pleaders, are limited to men, section 36, which deals with persons who practise the trade of touts in connection with the Courts, states that they may be either men or women. In other words, while the word 'person' in one connection means both men and women, in another connection also dealing with the practice of the Law it is merely confined to men. When I read these judgments, I am reminded of some of the speeches made here. We are told, the thing is absolutely impossible. One of my friends said, we love women so dearly that we want them to remain in our houses and not to cross the threshold. Another friend said, woman's primary duty is in the house. I say, Sir, that the whole question is a question of justice and not a question of favour, as some of the other Members of this House seem to think. Are you prepared to give justice to your female folk? Are you prepared to deny them their right to practise the profession of law? As Colonel Gidney has told you, they are to-day successfully practising the profession of medicine; and they are honourably discharging other public and responsible duties. The great war was won with the assistance of women. The great war could not have been won had it not been for the sacrifices that the women of England—and, let me add, that the women of this country—made for the achievement of that great national purpose. Sir, if nothing else entitles the women of this country to their rights and privileges, it is the great service they have rendered to you and to the nation in the immediate past. And I say, Sir, that, even if it was a question of favour and not a question of primary human right, I would still ask the Assembly to remember the great services of women in the past and to support their claim to-day. Sir, I move my amendment, which runs as follows:

'That the following be added at the end of the Resolution:

'And the Government be further pleased to remove the sex bar held to disqualify women from enrolment as legal practitioners in the Courts of this country.'

Rao Bahadur T. Rangachariar: May I draw your attention, Sir, to Standing Order 33 at page 86. It says:

'An amendment must be relevant and within the scope of the motion to which it is proposed.'

The scope of the motion of Mr. Joshi is to enable women to be registered on the electoral roll of the Assembly. How the enrolment of women as advocates or pleaders in Courts is relevant to that subject I fail to see. I, therefore, take the objection that it is not a proper amendment.

The Honourable Sir William Vincent: May I just explain the attitude of Government on this matter? I confess, Sir, that it was with some surprise that I saw a notice of this amendment of Dr. Gour's this morning. And there was some excuse for my surprise, for one would think, to hear the eloquent speech the Honourable Member has made, that he has always constantly had in his mind this idea of freeing women from the restrictions which now operate to their prejudice in the legal profession. But, when I look at the terms of the Resolution of which the Honourable Member gave us notice but a few days ago, I find no trace of any action to remove the disqualifications of women in this respect.

Mr. President: Order, order. Is the Honourable Member dealing with the point of order raised by Mr. Rangachariar or with the amendment?

The Honourable Sir William Vincent: I was going to deal with the point of order. For the moment, I was pointing out that the Honourable

[Sir William Vincent.]

Member, though he had an opportunity, did not mention the subject of his present amendment in his Resolution, which he ought to have done and that I received notice of this amendment very late in the House this morning. Government, at the same time, are unwilling to oppose an amendment of this kind, or rather, I ought to say, to oppose the discussion of an amendment of this kind. Indeed it would be a somewhat discourteous act. Though I feel, the more one gets mixed up in these questions relating to women, the greater become one's difficulties, as in other occasions of life. However, if you decide, Sir, that the amendment is not altogether out of order, then the Government do not wish to object to the discussion to-day.

Mr. President: The Honourable Member is aware that I am not a lawyer and, therefore, I take perhaps a slightly different view from that which he has taken. It would be possible, following closely the letter of the rule, to take the point made by the Honourable Member from Madras. Nonetheless, I consider that this is a Resolution for the removal of the sex disqualification. Therefore, though I consider further that the point is open to doubt and is not for that reason to be taken as a binding precedent, I allow the Honourable Member from Nagpur to move his amendment.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): Sir, I support the spirit of the Resolution, but, at the same time, I must say, it is much ahead of the time. There is no demand in the country for this franchise. There may be a few solitary cases here and there, but no universal cry for it. I admit, there are womenfolk in certain classes in India, who want it and I do not wish to stand in their way. We have come to such a time when we find that women are fighting the battles of Swaraj along with men and it will be a monstrous wrong to deny this privilege to these ladies. When it is granted, it will no doubt bring Swaraj nearer—at least by five years. But I must point out one difficulty—one great difficulty—and it is this. If this Resolution is accepted, it will be given the womenfolk a double vote. They not only command the votes of their poor husbands, but they encroach on the votes of their brothers, cousins, fathers and sons. If they are allowed a separate vote of their own, in addition to these, then, I am afraid, they will be totally irresistible. Whether this plural vote is to be allowed to them or not, is a matter for this Honourable House to decide.

With these few words, Sir, I say that the privilege should be given to those who want it.

Sir Godfrey Fell (Army Secretary): Sir, I feel that the time has come when something should be said on the other side of this question, and I, therefore, propose to undertake the rôle—the unwilling and ungallant rôle—of *advocatus diaboli*. I have listened for more than an hour and a half to a string of speakers who, with varying degrees of emotion, varying degrees of eloquence, but with an unvarying degree of apparent conviction, have supported the Resolution moved by my Honourable friend, Mr. Joshi. I asked myself, what is the reason for this unanimity? Such unanimity is very rare in this Assembly, and it makes one feel somewhat suspicious. Now, the two main motives which impel human action are love and fear. I ask myself, which of these motives has influenced the speakers to-day? (Laughter.) I think the clue has been afforded by the speech made by my Honourable friend, Mr. Rangachariar: Mr. Rangachariar has confessed

to the Assembly—and I hope to make further use of this confession hereafter in another connection—that he dare not criticise the domestic arrangements made by the ladies of his household. I believe it is precisely the same motive—fear—which has led him and other speakers to support the claims of the fair sex to a right to vote in election to this Assembly.

What, Sir, are my reasons for opposing this Resolution? I am perfectly aware that I am leading a forlorn hope. I know that, when this Assembly rises, as I suppose it will have to rise before very long, and when I slink home, I shall not be received, as most of the speakers to-day will be, with enthusiasm and with acclamation; but I shall be made to feel, in a number of ways, that I have been guilty of inexcusable temerity and have displayed a most regrettable and unwise reactionary tendency. Indeed, I feel that I have probably already earned the dislike and the contempt of the large number of fair ladies who are gracing the galleries with their presence to-day. Nevertheless, Sir, I claim to have shown that I am not lacking in personal courage in stating my opinions on this subject; and I am, therefore, free to confess to this House that the reason why I oppose this Resolution is from the very same motive that impels, in my opinion, other Members to support it, and that is fear. But, Sir, my fear is not fear of domestic consequences; my fear is based upon public grounds. Now, Sir, as the last speaker has just said, to grant women the right to vote will mean giving them a double or treble vote, and that is my chief objection to this Resolution. We know that 'the hand that rocks the cradle rules the world'; in other words, that we are all influenced by the opinions of our womenfolk. Are we to allow them not only to influence us in the seclusion of our homes, but also gradually to oust us from the position which we now hold of being entrusted with the public affairs of the country? It is not that I fear the incapacity of women; it is their capacity of which I am afraid. I quite admit, Sir, that the time must come, with the spread of education, when the women of this country must be given votes. But I ask whether that time has yet come. I ask whether, if they had a vote, women could return abler Members of this Assembly than we now have. (*Voices: 'Yes.'*) I entirely differ. We are told that we cannot put back the hands of the clock. But what I ask, Sir, is: 'Is it necessary for us to put them on?' I think not.

Maulvi Abul Kasem (Dacca Division: Muhammadan Rural): Sir, I feel a little diffidence in addressing the House at the present moment. In the first place, I find that the Resolution moved by my Honourable friend, Mr. Joshi, has received cordial support from the majority of the House and it must be a matter of very great gratification to him that in this instance, at any rate, he has forced himself into the citadel of orthodoxy and conservatism in the person of Mr. Rangachariar. I feel diffident, Sir, because I find myself here in the presence of the gallery of ladies who are adorning our galleries this afternoon

Mr. President: Order, order. This is the second time that reference has been made to the presence of persons in the gallery, who, from the point of view of the Chair, are invisible. ('Laughter' and 'Hear, hear.')

Maulvi Abul Kasem: Mr. Joshi has distinctly said that his Resolution does not go beyond granting the franchise of voting at elections for this Assembly and that only to two provinces, that of Bombay and Madras; and naturally, coming as I do from the ungallant province of Bengal, (*Voices: 'No', 'no'*), it does not affect me much. Although I am prepared to support the Resolution as it stands, I want it to be distinctly understood that I do so because it does neither affect the province from

[Maulvi Abul Kasem.]

which I come nor the community to which I belong. (Hear, hear.) I do not approve of the principle at all. It has been said by some of the distinguished Members of this House that the time has come when we should emancipate our womenfolk. I take objection to that expression. We do not and never have enslaved or imprisoned our women. In the words of a great British statesman and orator, uttered on a historical and memorable occasion, we do not imprison but enshrine our ladies within the fold, and it is not the jealousy of the men but their reverence for women that protects them from the impertinent gaze of the stranger; and, as long as it does not interfere with the religious or the social customs of the Mussalman community, as has been suggested by my friend, Dr. Gour, and as has been stated by Khan Bahadur Zahiruddin Ahmed, let those communities and those provinces which want them have the franchise, but do not thrust this upon others. So, I would be quite satisfied if, when the rules are changed, the members of my community are excluded from it. Mr. Joshi has said that it does not compel any particular individual to come forward and vote, it is only a voluntary permission that it gives and that it only removes a disqualification. But he should remember that, except perhaps serving on the jury, there is no compulsion in any case, whereby a man or a woman may be compelled to give a vote. As has been pointed out by my friend on my left from Bihar, to give franchise to the Muhammadan ladies would mean that a large percentage of them will not either vote or go to the polling station, or record their vote in any other manner which may be proposed and suggested. Therefore, they will be at a disadvantage, because the ladies who will go and vote, though they will be a very small number, will at least be a cause for changing the result of the election itself.

Mr. N. M. Joshi: The Muhammadans have got special representation.

Maulvi Abul Kasem: That is in the case of a contest between two Muhammadan candidates. Suppose one Muhammadan candidate has got a larger majority of supporters in the male section of the population, and another, at the same time, enjoys the confidence of the ladies, who will not go and vote for him because they resent the idea of going to the polling station and taking part in the franchise, people who will go and exercise their franchise will have preference and they will have an advantage over the others. In this connection, I want to say that I would have very much welcomed the proposal, if it had been made, to have ladies as Members of this Council. Certainly I do not object to their coming to this Council and voting on the ground of either ability or education.

It has been said that, with the spread of education, this thing is bound to come off. I say that, so far as education goes, and so far as the electorate goes, I do not think that our ladies are less educated or less competent to exercise the franchise than the male section of the population. They understand their business pretty well and sometimes much better than men. They manage their own properties in my part of the country and look after their own affairs. But the difficulty is, that they will not exercise the franchise. Let those who want to exercise the franchise have it, but, if in a particular community the majority will not exercise it, it will not be advisable to give the right to a minority.

Now, Sir, it has been said that time is progressing and that the hands of the clock should not be set back. I say, I cannot understand whether it is a set-back or not or whether you are going into the right path or into the wrong path by the imitation of western people. Whether it

is a move forward or a move backward is a matter of opinion and of some difference too, so far as I am concerned. There are a large number of people who believe and think with the Persian poet:

'I am afraid you will not reach Mecca, Oh! you villager, because the road you are pursuing leads to Turkestan, or in a different direction altogether.'

Sir, another amendment has been moved by Dr. Gour, asking that ladies should be permitted to appear as members of the bar, and I see no reason why this privilege should be denied to them. Ladies who pass their examinations are as competent as males to practise at the bar, and it will be great advantage, especially to my community, because they will be of great assistance to *purdahnashin* ladies, since they could take up their cases and fight them out without the intervention of a male and a tout. Therefore, Sir, the amendment, as it stands, has my whole-hearted and entire support, and I hope, Sir, that this House will accept the amendment as it stands.

I have only one word more to say and that is, that I do not regret that my province has rejected this proposal, and, although I support Mr. Joshi, I want it to be distinctly understood, and I have explained my position here, that I do not approve of the principle which underlies it.

The Honourable Sir William Vincent: Sir, I want to deal very shortly with this amendment of Dr. Gour's if I may, because I feel it has introduced a very difficult subject into this debate and that I may be able to suggest a solution of the difficulty which will meet the wishes of many Honourable Members. I think that many of us feel, certainly the Government feel, that this amendment in regard to women appearing as legal practitioners has been rather sprung upon us at the last moment and that many of us here have not had time to consider it fully. With all respect to the ruling from the Chair, Sir, it is a very great extension on the original proposal, which, we all thought, dealt with the question of suffrage. That Resolution would, moreover, by reason of the rules and regulations, if accepted, have only applied to two provinces, whereas, now, the Assembly is asked to commit itself to an entirely different and much larger proposition, namely, the right of women to practise as legal practitioners throughout the whole of India. Now, there must be arguments on both sides in regard to such a matter, and that is apparent even from the decisions which the Honourable Mover of the amendment has read out to the House. When he moved the amendment, I was, however, as I explained, very anxious not to take advantage of a possible technical ground of objection in view of the anxiety which the Honourable Mover and some of his supporters took in his amendment, but I suggest that a way out of the difficulty would be that the Government should give an assurance that they will consult the High Courts and the Local Governments on this question and then, later, when public opinion has been sounded, it will be open to any Member of this Assembly to move a fresh Resolution on the point. (Hear, hear.) In that way the Honourable Mover's object will be secured. He will be enabled to stand before this Assembly as the champion of the fair sex and as an eloquent advocate of their rights. At the same time, Members of this Assembly will not be asked to come to a premature decision on a question of such vital importance. I hope and I have some reason to believe that this suggestion will meet with the approval of the Honourable Mover of the amendment.

Dr. H. S. Gour: Sir, in view of the assurance given by the Honourable the Home Member, I not only accept his assurance but resign by championship of the fair sex in his favour. (Laughter.)

The amendment* was, by leave of the Assembly, withdrawn.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division: Muhammadan): Sir, I rise to support the Resolution so ably moved by my Honourable colleague, Mr. Joshi. When women are not exempted from the payment of taxes, when they have to pay taxes, common fairness and bare justice demand that they should not be deprived of the right of representation. According to the laws of the land, they can sue and be sued, can prosecute and be prosecuted and can transact business. Our own laws, I mean the Islamic Laws, have given them the right of inheritance; and, as owners of properties, they can appoint servants and carry on business. In such circumstances, there is no reason to suppose that they will abuse their right of voting if they are given the power of voting. Besides this, as regards the *purdah*, the Islamic Laws have permitted our women to go out with their veils on. Not to speak of other countries, such as Egypt, Persia, Turkey, Turkestan and other places, even in India, ladies, while going on pilgrimage, go about from one place to another with their veils on. Even at present you will see such a high personage as, for instance, Her Highness the Begum of Bhopal, and cultured and highly respected ladies, such as the mother of the Ali brothers and the wife of Mr. Muhammad Ali besides others, going about with their veils on. In the same way, if they have got the right of voting, they can go with their veils on the polling booths and, if they do not like even to go there, there is no reason why, for the sake of the scruples of only a few ladies, others should be deprived of this right. I, therefore, support this Resolution. There is nothing in our religion—I have read the Koran and can understand it—against this. The Koran simply says, that women should not be allowed to go out with their faces open. With their veils on, they can go everywhere, and with all deference to those who hold the contrary view, I say, they are entirely wrong; it is simply a matter of prejudice. As a Mussalman I say so, and, therefore, there is no reason why our community as a whole should be deprived of this right. There may be persons who may have scruples about it, and will not go to the polls; nobody compels them, nobody brings any pressure to bear upon them. Therefore, both on the ground of the emancipation of women and also on national grounds, and also on religious grounds, as I have stated, I heartily support this Resolution.

Mr. K. G. Bagde (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to heartily support the Resolution moved by my Honourable friend, Mr. Joshi. From our experience and knowledge of the deliberations in this House, it is not surprising to us if any proposal based on liberal principles is opposed on religious grounds. But it is really surprising to see a Resolution like this opposed by my Honourable friend, Sir Godfrey Fell. He said, that in his opposition to this Resolution, he was influenced neither by the sentiment of love nor by the sentiment of fear, and when I listened to him, I listened with great interest in the hope that in his balanced state of mind and head, he would give us some reasons at least on which he based his opposition: but, unfortunately for me, I did not hear any reasons from him at all. I, therefore, do not attach much importance to his opposition.

* Vide page 2093 of these Debates.

Now there is another aspect from which this Resolution should be viewed, and that aspect, I think, is important. Some persons here have urged that women in this country have not sufficiently advanced and, therefore, the franchise should not be extended to them. Now, if the Honourable gentlemen mean that they are not sufficiently educated, then I would point out to them the state of education that obtains with regard to the male section of our population. The percentage of literacy among men is not very high. But we do not oppose the franchise which has been granted to men under the Reforms. Why then should we grudge the same to the women of this country? But I attach more importance to this Resolution because the extension of the franchise brings in its wake a political awakening and political education, and that political education is very important. If you look at the history of our public activities before the introduction of the Reforms, you will see that political activities were confined only to cities; but the extension of the franchise, under the present Government of India Act, has given the right of voting even to a man in a distant village, with the result that all this political agitation has now reached the remotest villages. If a similar extension of franchise were made in the case of women, I believe that that political awakening would spread among the womankind of this country and it would help along our political progress very much.

Now, Sir, all of us are aware that there is a deplorable and, I may say, somewhat hopeless contradiction in our public activities in connection with some vital national problems. Whenever there is a political question at issue, there are many people who become fiery, very enthusiastic and very impatient to accelerate the rate of progress towards the political future of this country. But the moment they are confronted with any social problem, all of a sudden, some of them cry halt—not only do they cry halt, but they take a complete right-about turn, and, instead of looking to the future, look back to the past and would even re-trace their footsteps. This, Sir, has done more harm to our national cause than could be done by the staunchest enemies of this country. If we want to advance nationally, we cannot ignore social problems, and therefore I appeal to all my friends here to support this Resolution. I hope that my appeal will not go in vain, and I trust that this Resolution will not meet with the fate of foundering on the rock of opposition as another Resolution did the other day. With these few words, I support the Resolution.

Rao Bahadur C. S. Subrahmanyan (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, this Resolution of Mr. Joshi, worded as it is with great circumspection and practically narrowed down to only two Provinces, is one that is intended to remove an existing anomaly, an anomaly which is indefensible. A man that pays a few rupees in taxes or rates has got a vote. Well, I know personally a good many who have been elected to this Assembly who will bear me out when I say that many of these men no better than bipeds when they came to the polling station had their hearts with a particular candidate but they could not name the candidate to the polling officer being too stupid and illiterate to tell the polling officer the name of the candidate in favour of whom they were to record the vote. And I know I was a victim myself in some cases, where a man having gone down to give his vote to me but did not and I lost a vote. The system which allows such a man to vote and to influence the election of Members to this Assembly—well, if they can do that, what is the sin in allowing women who pay rates and taxes to come and vote—that is, women who own property in their own name. It is not every woman who is going to get the

[Rao Bahadur C. S. Subrahmanayam.]

vote in this way, but only a very few women who own property in their own names. They may be wives or mothers, or the daughters of very wealthy people, but they will not on that account be voters. It is only in those special cases where a woman has separate property, property which stands in her name, and has been registered as a voter, that comes under this Resolution.

All the argument about female education not having advanced far enough in this country is entirely beside the point. That has nothing to do with this question. If you were going to give every woman in the country a vote, that argument would hold good. But you have given illiterate men, men who do not understand what they are doing, votes. You are asked to give votes to a very much smaller number of women who hold property, who pay rates and taxes, and who are probably in point of intelligence much better qualified than men in a corresponding position. Now, that is the only point which is now before the Assembly, because the Resolution is worded in such a narrow restricted manner.

Well, a discussion like this must needs raise many other points and it has raised some. It is a study in psychology—I mean a fair and amiable study in psychology that my friend, Rao Bahadur Rangachariar, the protagonist of orthodoxy in this Assembly, should give his whole-hearted support to this Resolution. But my friend, Mr. Cotelingam, who represents the most advanced section of the Indian community in my presidency and probably the whole of India, a community which has contributed a large number of educated and cultured women, stood up and gave his half-hearted support and paid some back-handed compliments to Mr. Joshi and others. There is one thing gratifying in it—and that is that he is consistent; he is not a radical in politics and he is not a radical in social matters; and therefore it will please the Honourable the Home Member that there is one Member at any rate here who is consistent all round.

Now, Sir, there is another anomaly in my presidency. The department of education is manned (or womanned) by a large number of ladies. There are a good number of them, graduates of the University; and one of them recently had the whole department of education in her hands; she was the Deputy Directress of Education and that lady, if she resigned her appointment to-morrow—though probably as an official she may not have a vote—would not be entitled to the vote. But the sort of people I referred to could be asked, could be persuaded and prevailed upon to use the vote, while this lady has not got a vote. There are also a good many others, Indians, Hindus, who are head-mistresses of schools and inspectresses of varying grades, and these are ineligible to vote. Now, I ask this Assembly, is not that an absurd anomaly, that cultured educated women who pay taxes should not be given the vote, but that you should allow a man, however uncultured or uneducated, the vote?

Take another section of women, those employed in the medical services. My province has got a very large number of women who are employed on the medical side. They are in the same position. So far as my Muhammadan friends are concerned, they form a distinct compartment. If the franchise is extended to them and if they do not choose to exercise it, it does not affect them. If there was a mixed electorate, it might be said that the Hindu women could turn the scale or some such trouble might arise. But so long as they are in a separate compartment, they need not raise any objection and quote us verses from the Holy Koran which no one here has been able to understand.

There is another trouble about this matter. In my province, 25 years ago, women had the vote in municipalities; they were eligible to vote at municipal elections. But our Madras Government is a very forward Government and it took it away in the Act of 1908. Why it took it away, no one knew; and I understand that the Select Committee that sat about three years ago, of which I was a Member, said : ' No, you shall not give the vote to women'. But I understand from my friends that they have turned a new leaf and they have got the vote, that is, in mufassil municipalities women have also got the vote. If Honourable Members belonging to the provinces other than Madras and Bombay fear from this Resolution that the women of their own provinces would make a demand and therefore they ought to oppose this Resolution, I think that fear is a far-fetched fear. I would ask them, while it does not affect them, it only concerns the two provinces which have already voted strongly for this measure, not to obstruct the demand that is made on behalf of those two provinces.

There is another matter about which some of my Honourable friends are in great fear, that is, of women becoming Members of this Assembly. I wish they were. We all know that women are quick at repartee, at taking the situation with a considerable sense of humour; and if there were half a dozen ladies in this Assembly, probably some of us would not speak as we ordinarily do; we should take greater care and make ourselves a little more articulate, a little more understood by our audience, and probably put in a little more life in what we say than we are now apt to do. Therefore, I welcome the day when there will be some women in this Assembly. The presence of women would probably improve our methods of debate and the manner of debate. Therefore, Sir, I do not look with alarm to the time when women would sit in this Assembly and I ask my Honourable friends who have those great apprehensions to reconsider their opinion and to await with perfect equanimity and confidence the day when that will happen.

Mr. N. M. Joshi: Sir, I am not generally in the habit of congratulating myself; but to-day I congratulate myself upon the support which I have obtained for my Resolution. Sir, from the very beginning I expressed confidence in the sense of justice of the Members of this Assembly. But unfortunately the Honourable the Home Member interpreted my confidence as an apology. I assure him, it was not an apology; but it was mere confidence in the Members of this Assembly which, only a few minutes more will show, was amply justified. Sir, the Honourable the Home Member also criticised my attitude on certain matters concerning the Government. I only want to say this, that I criticise Government and criticise them strongly sometimes, because I feel that constituted as we are to-day, it is for the Executive Government to initiate policies in the matters affecting the working and the other weaker classes. Moreover, I criticise Government because I feel that Government does not do sufficient, although I appreciate what little they do sometimes. Sir, on the merits of the question I do not want to say much. The whole Assembly, almost unanimously I am quite sure, is going to support my Resolution. But one thing I want to make clear. My Resolution will apply for the present to the Presidencies of Bombay and Madras; but it will not be fair unless I make it clear that as regards the other Presidencies, it will remain hanging over their heads, and, as soon as the local Councils remove the disqualification, my Resolution will become effective in those Presidencies also.

Mr. President: The question is:

'That this Assembly recommends to the Governor General in Council that he should so amend the Legislative Assembly Electoral Rules as to remove the sex disqualification in the matter of registration, on the electoral roll, of persons who are entitled to vote in the elections held for the Legislative Assembly.'

The Assembly then divided as follows:

AYES—41.

Abdul Majid, Shaikh.
 Ahmed, Mr. K.
 Akram Hussain, Prince A. M. M.
 Bagde, Mr. K. G.
 Bajpai, Mr. S. P.
 Barua, Mr. D. C.
 Bray, Mr. Denys.
 Carter, Sir Frank.
 Chatterjee, Mr. A. C.
 Chaudhuri, Mr. J.
 Cotelingam, Mr. J. P.
 Crookshank, Sir Sydney.
 Dentith, Mr. A. W.
 Faridoonji, Mr. R.
 Ghose, Mr. S. C.
 Gidney, Lieutenant-Colonel H. A. J.
 Ginwala, Mr. P. P.
 Gour, Dr. H. S.
 Gulab Singh, Sardar.
 Iswar Saran, Munshi.
 Jatkar, Mr. B. H. R.

Joshi, Mr. N. M.
 Kabraji, Mr. J. K. N.
 Keith, Mr. W. J.
 McCarthy, Mr. F.
 Misra, Mr. P. L.
 Mitter, Mr. K. N.
 Mudaliar, Mr. S.
 Nag, Mr. G. C.
 Neogy, Mr. K. C.
 Percival, Mr. P. E.
 Pyari Lal, Mr.
 Rangachariar, Mr. T.
 Rao, Mr. C. Krishnaswami.
 Samarth, Mr. N. M.
 Sarfaraz Hussain Khan, Mr.
 Sarvadhikary, Sir Deva Prasad.
 Sinha, Beohar Raghubir.
 Sohan Lal, Bakshi.
 Subrahmanayam, Mr. C. S.
 Way, Mr. T. A. H.

NOES—16.

Asjad-ul-lah, Maulvi Miyan.
 Bradley-Birt, Mr. F. B.
 Bryant, Mr. J. F.
 Fell, Sir Godfrey.
 Habibullah, Mr. Muhammad.
 Ibrahim Ali Khan, Lieutenant Nawab M.
 Muhammad Hussain, Mr. T.
 Muhammad Ismail, Mr. S.

Mukherjee, Mr. J. N.
 Nabi Hadi, Mr. S. M.
 Ramayya Pantulu, Mr. J.
 Renouf, Mr. W. C.
 Sinha, Babu Adit Prasad.
 Spence, Mr. R. A.
 Ujagar Singh, Baba Bedi.
 Zahiruddin Ahmed, Mr.

The motion was adopted.

The Assembly then adjourned till Half Past Ten of the Clock on Friday, the 3rd February, 1922.

LEGISLATIVE ASSEMBLY DEBATES

FRIDAY, 3rd FEBRUARY, 1922

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LEGISLATIVE ASSEMBLY.

Friday, 3rd February, 1922.

The Assembly met in the Assembly Chamber at Half Past Ten of the Clock. Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

DISABILITIES OF INDIANS IN SOUTH AFRICA.

133. * M. K. Beddi Garu : Will the Government be pleased to state :

(1) Is it a fact that throughout a large part of South Africa under the Union, Indians are not permitted to exercise the political or municipal vote or to sit as members of the Legislatures or municipalities ?

If the answer is in the negative, are there any existing Indian members of the Legislatures or municipalities outside Cape Colony ?

(2) Is it a fact that throughout a large part of the Union, Indians are :

(i) socially ostracised and subjected to personal indignities, and

(ii) prohibited from :

(a) entering public or semi-public places, such as hotels, refreshment rooms, places of amusement, etc. ?

(b) buying property or trading in the same way and to the same extent as Europeans ?

(c) moving freely between different provinces, and

(d) travelling in the same Railway compartment as Europeans or occupying the same seats in public conveyances ?

(3) Are the Government of India aware of all these disabilities for a long time past ? Have they protested against them ? If so, from what date ?

(4) Are the Government of India aware that the disabilities referred to in (1) and (2) create and have created great indignation in India ?

(5) What steps do the Government of India propose to take in the immediate future for the removal of the above disabilities ?

Mr. J. Hullah : (1) Yes. Indians possess both the parliamentary and municipal franchise in the Cape Colony and in Natal only the latter. In the Transvaal and Orange Free State, they possess neither. The Government of India have no information regarding the number of Indian members, if any, of municipalities in Natal. In one case, where the Asiatics were in a majority and could have elected an Indian Board, they refrained from doing so and no Indian was elected to the board.

(2) The facts are generally as stated by the Honourable Member.

(3) The Government of India have long been aware of the disabilities under which Indians labour in the Union. For a history of the Asiatic question and the action taken from time to time by the British Government and the Government of India in the interests of Indians, the Honourable Member is referred to Part I of Sir Benjamin Robertson's Statement before the Asiatic Inquiry Commission and to paragraphs 12 to 91 and 142 to 151 of the Asiatic Inquiry Commission's Report. Since 1900, the Government of India have constantly done their best to secure the removal of these disabilities by correspondence and negotiation, by sending deputations to South Africa, and by laying their case before the Imperial Conferences.

(4) Yes.

(5) The Government of India have recently addressed the Government of the Union of South Africa direct regarding the recommendations of the Asiatic Inquiry Commission. They do not know on what lines the Union Government propose to deal with the recommendations of that Commission. When the draft Bill, for which they have asked, reaches the Government of India, they will consider afresh what further steps, if any, the situation requires.

DEVELOPMENT OF THE CALCUTTA HIGH COURT.

134. * **Mr. S. C. Ghose** : (1) Will the Government be pleased to state what was the number of Judges in the Sudder Dewany Adalat and what were the emoluments attached to their office ?

(2) What was the number of first, second, miscellaneous and other appeals filed and disposed of the year the Sudder Dewany Adalat was replaced by the High Court ?

(3) What was the number of Judges when the High Court was first established in Bengal, and what was the emolument attached then to the office of a High Court Judge ?

(4) What was the extent of jurisdiction of (1) the Sudder Dewany Adalat, (2) of the Calcutta High Court before the establishment of the Patna High Court, and (3) of the present Calcutta High Court ?

(5) Was there any addition to the number of Judges after the first establishment of the High Court in Bengal? If so, when and how many times? What were the reasons for such additional appointments ?

(6) What was the number of Judges of the Calcutta High Court in 1915 when a separate High Court was established for Bihar and Orissa and how many Judges were appointed for the Patna High Court ?

(7) What was the number of appeals, first, second, miscellaneous and others, then kept in the file of the Calcutta High Court and what was the number that was transferred to the Patna High Court ?

(8) What was the number of first, second, miscellaneous and other appeals filed and disposed of each year from 1915 to 1920 ? What was the number of criminal motions moved and either admitted or rejected and of appeals and references filed and either admitted or dismissed, during the same period ?

The Honourable Sir William Vincent : The collection of the information required would entail great labour and Government do not think that

the advantages secured by the collection of this information will be commensurate with the expense involved.

CORRUPTION AND DISTRESS TO PASSENGERS ON RAILWAYS.

135. * Mr. S. C. Ghose : 1. Is the Government aware that corruption prevails to a large extent among Railway employees and that no reserved accommodation could be secured, especially during the last holidays, without having resort to extraordinary methods?

2. Is the Government also aware that during festive occasions, large numbers of third class passengers have to wait for want of accommodation for days together on the road-side stations after being booked? Do the Government propose to remove or mitigate such hardships of the passengers? If so, how?

3. Is the Government also aware that in many instances tickets of passengers get lapsed when they fail to get timely into the train for unusual rush and whether they get refund of their fares?

Colonel W. D. Waghorn : 1. The Honourable Member's attention is invited to the replies given to Questions Nos 104 and 105 asked by the Honourable Sir Zulfiqar Ali Khan on this subject during the last Session of the Council of State.

2. Government are aware that passengers are put to a certain amount of inconvenience in obtaining accommodation in trains during rushes of traffic on occasions of fairs and pilgrimages, and every endeavour is made to restrict bookings to the train capacity available. The remedy is the provision of extra passenger stock on railways generally and this, the Honourable Member will realise, is necessarily a question of time and money. I would refer the Honourable Member to the opinion expressed by the Indian Railway Committee on this matter in paragraph 169 of their Report.

3. Government are not aware of any instances in which passengers' tickets have 'lapsed'. The rules in force on railways provide for the refund of fares paid on tickets which are returned owing to the passengers concerned not having been able to commence their journey, due to want of room in the train or any other cause.

STATEMENT OF BUSINESS.

The Honourable Sir William Vincent (Home Member) : Sir, I should like to make a short statement of the business that will come before the Assembly next week.

On the 6th February, the following Bills will probably be taken into consideration, and, if the Assembly accepts them, will be passed :

1. A Bill further to amend the Provincial Small Cause Courts Act, 1887 and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false and vexatious claims or defences in civil suits and proceedings.

[Sir William Vincent.]

2. A Bill to amend the Benares Hindu University Act, 1915, which was passed by the Council of State and laid on the table on the 24th January.

3. A Bill to amend the law relating to emigration.

On the same day, a Resolution on the suppression of traffic in women and children will be moved.

On Wednesday, the 8th February, the Indian Lunacy (Amendment) Bill will probably be taken into consideration, and, if the Assembly approves of it, will be passed. The Government also propose on this day to allow time for the discussion of a Resolution of which notice has been received from Baba Ujagar Singh Bedi suggesting an examination by a Committee of the Indian Arms Rules, 1920. I may say, that I have received a request, signed by many Members of this Assembly, asking me to allot a special day for the discussion of this Resolution.

It is probable, but it has not been definitely decided, that we may allot the 11th, Saturday, for the discussion of Mr. Jamnadas Dwarkadas's Resolution on the recruitment of the Imperial Services. This Resolution has been pending from last Session. This date has been provisionally fixed, provisionally I say, again, in consultation with Mr. Jamnadas, who, as Members are aware, is away on business connected with the Fiscal Commission.

RESOLUTION *RE*: EXAMINATION OF THE INDIAN PENAL CODE.

(Mr. P. P. Ginwala being absent when called, his Resolution

'That this Assembly recommends to the Governor General in Council the appointment of a Committee to examine and report on the Indian Penal Code, with a view to bring its provisions, where necessary, into conformity with modern conditions'

was declared withdrawn.)

RESOLUTION *RE*: REDUCTION OF MADRAS CONTRIBUTION TO CENTRAL GOVERNMENT.

Mr. President: The Resolution :

'That this Assembly recommends to the Governor General in Council that the contributions of 348 lakhs payable to the Government of India by the Government of Madras, under rules 17 and 18 of the Devolution Rules, framed under section 54-A of the Government of India Act, be reduced to one crore of rupees'

standing in the name of Mr. Sambanda Mudaliar on the List of Business for to-day cannot, under the provisions of the Standing Orders, be moved, because this Assembly has already given a decision on an amendment of a similar character moved to the Resolution of the Finance Member on the 30th September last in Simla.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadian Urban) : May I draw your attention to Standing Order 70 (1) under which, I think, this ruling has been given? It says :

'When a Resolution has been moved, no Resolution or amendment raising substantially the same question shall be moved within one year.'

I do not know if you consider that an obstacle to this Resolution. So far as I can see, that cannot apply to the present Resolution. The Standing Order says only 'When a Resolution has been moved', and so on. No Resolution was moved in Simla; it was only an amendment to a Resolution and, therefore, this Standing Order would not apply.

Mr. President: The Honourable Member has forgotten that Standing Order 31 says:

'That a *motion* must not raise a question substantially identical with one on which the Assembly has given a decision in the same Session.'

Now, the Assembly actually negatived an amendment to extend to Madras the same or a similar treatment as the Honourable Finance Member, with the concurrence of the Assembly, extended to Bengal in September. It is under Standing Order 31 that his colleague from Madras will not be able to move this motion.

Mr. Sambanda Mudaliar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : I would also, with your permission, respectfully invite your attention, Sir, to the statement made by the Honourable Sir Malcolm Hailey, in the course of the discussion on a similar Resolution moved by him in the Simla Session, when he said :

'Other Members, not neglectful of the claims of their own provinces, have risen in their places and assured us that, should their provinces at any time be faced with difficulties such as those under which Bengal now labours, they will demand an equal concession for their own provinces.'

That is a sort of assurance given to us and it is on the strength of that assurance that I have ventured to bring forward this Resolution and I shall be nonplussed if it is rejected. In the circumstances, I would respectfully ask that I may be permitted to move my Resolution.

Mr. J. F. Bryant (Madras : Nominated Official) : I would like to point out that when the Honourable Sir Malcolm Hailey moved his Resolution at the last Simla Session of this Assembly, I received an express assurance from Mr. Sim, speaking, I believe, on behalf of the Honourable the Finance Minister, that the Resolution in favour of Bengal would not prejudice any claim that might subsequently be put forward on behalf of Madras.

Mr. President: The Honourable Member is taking the point on its merits. I have nothing to do with the merits of the question. Standing Order 31 is perfectly clear and definitely bars the Honourable Member behind him from moving the Resolution Standing in his name.

Rao Bahadur T. Rangachariar: As regards Standing Order 31, may I point out that the present motion is not substantially identical with the one on which the Assembly came to a decision in Simla. The present question before the Assembly is a definite recommendation that the provincial contribution of Madras be reduced to one crore, whereas that was an indefinite recommendation by Mr. Venkatapatiraju that, should circumstances arise, suitable help or similar concession be given to Madras and other provinces, where financial difficulties exist. I do not know whether you consider that the present question is the same or substantially the same. Here is a definite figure put forward indicating the amount to be reduced.

The Honourable Sir Malcolm Hailey (Finance Member) : With reference to what the Honourable Mover of this Resolution and Mr Bryant have said, it is perfectly true that, during the Simla Session, when we discussed the case of Bengal, I said, on behalf of Government, that there would naturally be nothing to prevent other provinces bringing their case before the Assembly and it is perfectly true that we contemplated at the time, in fact we knew at the time, that other provinces were likely to represent their case before the Assembly. The interpretation of the rules, however, is not a question for Government but for the Chair. All I wish to assure the House, if I may say so, is, it did not occur to me in September last, when I gave that assurance, that the rejection of Mr. Raju's amendment might have this particular effect and indeed it was not until yesterday evening that I heard, and then unofficially, that it was not likely that this Resolution would be admitted.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I think there is nothing to prevent a similar motion being brought up at the Simla Session and I really do not know what urgency there is to bring it now, in spite of the ruling which you have just given.

Mr. President : The suggestion made by the Honourable Member from Bombay may be considered by the Honourable Member from Madras on my left. Even though the Honourable the Finance Member is willing to allow the debate to proceed to-day, it would be a very bad precedent indeed if I were to break this rule and thereby show my sympathy with Madras.

RESOLUTIONS WITHDRAWN.

(Maung Maung Sin, Mr. K. Ahmed and Mr. Muhammad Yamin Khan, whose Resolutions* were next on the List of Business, being absent, the President declared their Resolutions withdrawn.)

The Honourable Sir William Vincent (Home Member) : May I enter, on behalf of Government Officers, some protest against the manner in which they have been treated in regard to these Resolutions ? I also ask you, Sir, if you can, to afford us some protection. We received notice of a number of Resolutions, which have taken a great deal of time to prepare. There is one Resolution in particular over which officers in the Home Department have spent many hours of labour. We received notice at the last minute, last

(1) Maung Maung Sin to move the following Resolution :

'This Assembly recommends to the Governor General in Council that he be pleased to take early steps to make an inquiry by appointment of a Commission or otherwise to examine the question of the separation of Burma from the rest of the Indian Empire with a view to collection of information and opinion and in order to determine how the question would affect the Indian Empire as a whole and Burma separately.'

(2) Mr. K. Ahmed to move the following Resolution :

'This Assembly recommends to the Governor General in Council that he may be pleased to move His Excellency the Viceroy of India to set Ali Brothers and others at liberty in exercise of the Royal prerogative at an early date.'

(3) Mr. Muhammad Yamin Khan to move the following Resolution :

'This Assembly recommends to the Governor General in Council to take steps at once to stop export of wheat and wheat flour except for the consumption of Indian Hajis in Hedjaz for a period of at least three years.'

evening only, that the Honourable Member was not going to attend to-day. I ask, whether it is possible to secure, by any means, that Members of Government, who are much over-worked at the present time, should receive more consideration from Members of this Assembly.

Mr. President: The House will, I think, respond in a sympathetic spirit to the appeal of the Honourable the Home Member. It is not in the power of the Chair to compel the attendance of non-official Members in this House. The circumstances of to-day are peculiarly unfortunate, but, I may say, that the Standing Orders Committee hopes to provide some little amelioration of the situation by making certain proposals which will be brought forward for consideration at an early date. Honourable Members are aware that the Chair has no power to compel a Member to attend and move his Resolution, if he chooses to absent himself, but I may repeat that, I hope, Honourable Members will do their utmost to meet the convenience of Government, which is, after all, their own convenience as well, in the manner suggested by the Home Member.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): I wish also to associate myself with the remarks made by the Home Member. At the same time, Sir, may I point out that the Resolution of Mr Mudaliar* was expected to take a long time, and, if we had known that there was going to be this technical objection, there might have been a better attendance.

Mr. President: Honourable Members will, perhaps, be grateful to the Honourable Member from Madras for his kindness in trying to soften the just rebuke which the Honourable the Home Member has delivered.

RESOLUTION *RE*: SEPARATION OF THE ANDHRA DISTRICTS FROM THE MADRAS PRESIDENCY.

Mr. J. Ramayya Pantula (Godavari *cum* Kistna: Non-Muhammadan Rural): Sir, I beg to move the Resolution which stands in my name and which runs as follows:

'This Assembly recommends to the Governor General in Council that the Andhra Districts of the Madras Presidency should be constituted into a separate Province, and that he may be pleased to take early action in this respect.'

Sir, before I proceed to move the Resolution, I wish to express my regret that my Honourable friend, Mr. Sarma, is not in this House. I wish he had been in this House and sitting on this side of the House, so that he might plead the cause of his province with his well-known eloquence, and with the prestige of a hero of many battles. I must, Sir, admit my inability to plead the cause of my province with anything like the ability of my friend.

I do not think, Sir, that I will be able to do justice to the cause that I am going to place before the House. Nevertheless, I take comfort in the consideration that a good cause is not likely to suffer from bad advocacy before an Assembly of this kind. The House will remember, Sir, that, in the course of the debate on the Resolution of Mr. Latthe, proposing the redistribution of provinces on a linguistic basis, the Honourable the Home

**Vide* page 2106 of these Debates.

[Mr. J. Ramayya Pantulu.]

Member laid down two conditions which should be fulfilled before the Government could be asked to take action. These conditions are, first, that a specific case should be brought forward and, secondly, that the Local Government and the local Legislature should take the initiative in the matter.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : I rise to a point of order. In consideration of the fact that this subject was debated on Mr. Latthe's Resolution, it strikes me that, for the same reason that you have overruled the second Resolution to-day, this should also be overruled.

The Honourable Sir William Vincent (Home Member) : There has been no decision on this particular question within the last year. The general question was raised, but not the particular position of the Andhra country.

Mr. President : The amendment to the Finance Member's Resolution in Simla was definitely negatived by the House, but I am not aware that the same thing occurred in relation to the question raised by Mr. Latthe.

Mr. J. Ramayya Pantulu : Well, Sir, I think I am endeavouring to meet the Honourable the Home Member half-way by bringing a specific case before this House, and I think I am entitled to ask the Government to traverse the other half. This Resolution is brought forward under section 52-A of the Government of India Act, which runs as follows :

'The Governor General in Council may, after obtaining an expression of opinion from the Local Government and the local Legislature, affected by notification, with the sanction of His Majesty, previously signified by the Secretary of State in Council, constitute a new Governor's province, or place part of a Governor's province under the administration of a Deputy Governor to be appointed by the Governor General, and may in such cases apply, with such modifications as appear necessary or desirable, all or any of the provisions of this Act relating to Governors' provinces, or, provinces under a Lieutenant-Governor or Chief Commissioner, to any such new province or part of a province.'

Now, Sir, the House will please see that this section authorises the Governor General in Council to take action in the matter. It does not require the Government of India to wait till a motion is made, till a representation is made to it, by the Local Government, for the Governor General in Council may obtain an expression of opinion from the Local Government. Under the section, it is open to the Government of India, I think it is incumbent on the Government of India, to call for and obtain an opinion on the subject from the Local Government. Therefore, I say that it is not necessary that the Government of India should wait till the Local Government has made a recommendation on the subject, although I admit that it is quite open to the Local Government to make a representation first and to ask the Government of India to take action. I think, Sir, that I am in order in asking this House to pass this Resolution asking the Government of India to start an inquiry into the matter. Now, Sir, I proceed to state the reasons for which I want the Government of India to start an inquiry into the matter.

The question of an Andhra province is not one of to-day. It has been before the public in one form or another for the last ten years or more. It forms the chief items in the programme of what is known as Andhra movement which was started in 1911, about the time of the revision of the partition of Bengal and the formation of the new Province of Bihar and Orissa. At first, there was a difference of opinion among the Andhras themselves on the subject of a separate province and it is no wonder, therefore,

that some of our Tamil friends looked at it rather askance at that time. But, in the course of a very few years, the scheme recommended itself to all Andhras as well as, I believe, Tamilians. The feeling in favour of it was so strong even some years ago that the Indian National Congress (I mean the Congress under the old dispensation) recognised the Andhra country as a separate province and sanctioned a separate provincial Congress Committee for it.

The question of the redistribution of provinces on a linguistic basis came up for discussion in the old Imperial Legislative Council in February, 1918, on a motion by my friend, the Honourable Mr. Sarma, then a private Member. The motion was thrown out on the double ground that it was impracticable to give effect to it in the very wide form in which it was put and that it was not advisable to prejudice the success of the coming reforms by undertaking, at the time, a general revision of the boundaries of the provinces. While speaking against the motion, the Honourable Dr. Sapru, also a private Member then, as well as the Honourable Mr. (now the Right Honourable) Srinivasa Sastri and the Honourable Mr. Rangaswami Aiyangar spoke approvingly of an Andhra province being constituted. I shall refer to their speeches presently.

The subject of an Andhra province was placed prominently before the late Viceroy and the Secretary of State for India in the course of their investigation preliminary to the formation of the Reform proposals. These high authorities considered this and other similar proposals as parts of a general scheme of redistribution of the provinces on a linguistic or racial basis and favourably commented on it in paragraph 246 of their Report. The subject is provided for in section 52-A of the Government of India Act of 1919, which I have already read out to the Chamber.

I now beg the permission of the House to place before it briefly the principal considerations favouring the formation of provinces on a linguistic basis. Before doing so, however, let me point out that the formation of the existing provinces has not been logical, but is more or less arbitrary and due to historical events. The Madras Presidency is particularly so. The four Andhra coast districts, known as the Northern Sircars, which were acquired by grant from the Emperor of Delhi in 1765, formed the original nucleus of this province. In 1792, some more territory was acquired in consequence of the Mysore Wars, and still more, in 1799, owing to the abdication of the Raja of Tanjore. In 1800, the Nizam of Hyderabad ceded the Telugu districts since known as the ceded districts. The last and by no means the least acquisition of territory by the British in Southern India was that of the territory of the Nawab of the Carnatic who retired on pension in favour of the British Government in 1801. As each accretion came in, it was tacked on to the corpus of the territory already existing, and thus it is that the Presidency which started with four districts now comprises 24. The chief function of the Government in those days was the collection of revenue and the problem that appears to have presented itself to the officers of the East Indian Company was how to do this with the minimum cost. They had no problems to solve arising out of an elaborate system of administration such as we have now, nor could they have seen any need to provide for the political development of the people.

As for the reasons, which should weigh with the Government in considering the desirability or otherwise of a redistribution of provinces on a linguistic or racial basis, I cannot do better than refer the House to paragraph 245 of the Montford Report on Constitutional Reforms.

—[Mr. J. Ramayya Pantulu.]

The following propositions emerge out of that paragraph, *viz.* :

1. Some of the existing administrative areas are of an artificial and inconvenient character due to historical reasons.
2. Administration would be simplified if the administrative units were made smaller and more homogeneous.
3. The need for simplification of administration becomes all the greater as the administration is transferred to the elected Legislative Councils with little experience in that direction.
4. If provinces are constituted on a linguistic or racial basis, that would make it possible for the business of legislation being conducted in the vernacular and would thereby enable men unacquainted with English to enter the arena of public life.
5. Redistribution of provinces should not be imposed on the people but should be undertaken in response to the popular demand.

Let us see how far these considerations apply to the present case. We have already seen how history has contributed to the formation of the present Madras Presidency. That its constitution is artificial is clear from the fact that it comprises no less than five language areas—Tamil, Telugu, Malayalam, Canarese and Oriya—inhabited by five distinct communities, each having its own peculiar problems, administrative, social, educational and political, to solve. It goes without saying that a province so heterogenous in composition cannot be a very convenient unit of administration. I have taken pains to analyse the work done in the Madras Legislative Council during the second Session comprising the first six days of August last. It comes to an average of 205 questions (including sub-questions), 9.5 Resolutions and 3.5 Bills per day. Look at the amount of work and time which the answering of so many questions entails. The work is bound to increase as time goes on. Before long, the elective franchise will have to be extended and, along with the extension of the franchise, there is bound to be an enhancement of the number of the Members of the Council. Even now, the general electorates, comprising whole districts, are heavy, and, with the extension of franchise, they will become unworkable. It will, therefore, be necessary to reduce the size of the electorates, thereby increasing the size of the Councils. Enlargements of Councils means enhancement of the work of the administrative officers, which is already heavy. It will, therefore, become necessary, before long, to reduce the size of the Madras Presidency, and what more convenient and practicable method is there of doing this than by taking away the Andhra district from it and constituting them into a separate province? This would be the best method of meeting the situation, considering also the probable constitution of the enlarged Provincial Council. For the enlarged Councils are very likely to contain many Members not acquainted with English. It will be inconsistent with the democratic character, which it is the policy of the Reform scheme to impart to these Councils, to insist on the Members speaking in English. The Montford Report expressly contemplates the business of the Council being conducted in the vernacular. What chance has a Member, speaking, say in Telugu, of making himself understood in a mixed assemblage consisting of Andhras, Tamilians, Malayalees, Canarese and Oriyas, not to speak of Englishmen? When the necessity for the formation of a new province or sub-province on administrative grounds

is recognised, reason suggests that the new province or sub-province should be homogeneous, as far as practicable, for it is only in a homogeneous province that the people take genuine interest and pride in the administration of their province and try to make it a success. The need for stimulating and encouraging popular interest in the administration becomes greater and greater as the sphere of responsible Government in the provinces becomes wider and wider. Unless such a province is homogeneous, the success of administration is endangered by mutual jealousies and mistrust among the people inhabiting it.

Nothing contributes to the homogeneity of a people more—for nothing binds people together better—than a common language. A common language not only serves as a common vehicle for the expression of the ideas of the people, but it also preserves their common literature and common traditions and the memories of their common heroes. Speaking about Shakespeare, Carlyle says that if you ask any Englishman : ‘ Would you have the Indian Empire or Shakespeare ?’, he would unhesitatingly reply : ‘ Indian Empire or no Indian Empire, we cannot do without Shakespeare.’ The Telegu man’s love of his literature is akin to this.

In the now famous despatch of the Government of India, dated 25th August, 1911, there is a passage which gives reasons for proposing the formation of the new province of Bihar and Orissa.

The following is a quotation from that passage :

‘ These people (the Biharis) have hitherto been unequally yoked with Bengalis and have never, therefore, had a fair opportunity for development. The cry of ‘ Bihar for the Biharis ’ has frequently been raised in connection with the conferment of appointments and excessive numbers of offices in Bihar having been held by the Bengalis’

There has, moreover, been a very marked awakening in Bihar in recent years and a strong belief has grown up among Biharis that Bihar will never develop until it is dissociated from Bengal. That belief will, unless a remedy be found, give rise to agitation in the near future and the present is an admirable opportunity to carry out, on our initiative, a thoroughly sound and much desired change.

I must say, Sir, that there has been a feeling akin to this among the bulk of the Andhras. It must be admitted, however, that there is less ground now for this feeling than a year ago, for all the three Ministers in Madras are Andhras and there are two Andhra gentlemen on the Madras High Court Bench. My country has also contributed a Minister to the United Provinces and a Member to the Executive Council of His Excellency the Governor General. Nevertheless, I should not be justified in saying that the feeling has ceased to exist. But I may claim for an Andhra Province less on this ground than on the administrative and political grounds already referred to. Taking one administrative department alone, let me quote figures showing the progress so far made by the Presidency as a whole and by the Andhra country separately, in the matter of education which will, I trust, show that there is much scope for the development of education in the Andhra districts.

	Whole Presidency.	Andhras.
1. Total number of boys in colleges	3,732	500
2. Total number in secondary schools	1,06,231	23,590
3. Total number in elementary schools	10,000,447	280,142
4. Number of girls in secondary schools	4,315	327
5. Number of girls in elementary schools	85,574	27,056

[Mr. J. Ramayya Pantulu.]

These figures were compiled in 1912. I have not been able to secure the latest figures, but I believe that the proportion between the two sets of figures is nearly the same now as in 1912 and, in order to perceive the full significance of these figures, it is necessary to bear in mind that the population of the Andhra districts is nearly equal to that of the Tamil districts.

I have thus far tried to show, and I hope, not without success, that the formation of a separate Andhra province is highly desirable, both in the interests of good administration and also to satisfy the legitimate demands of the Andhras for opportunities for full self-development. It remains for me to show that the Andhra country is compact and sufficiently large and important to be constituted into a province. That it is compact will be evident to anyone who glances at the map of the Madras Presidency. It extends along the east coast from Ganjam almost to Madras and is exclusively Telugu.

The extent of the Madras Presidency is 1,42,330 square miles, which is larger than that of any other province in India except Burma. Of this, the Telugu country alone occupies 83,410 square miles, *i.e.*, more than half the total area of the province and it also exceeds the area of the Assam and Bihar provinces and also that of the Hyderabad State.

The population of the Madras Presidency, according to the Census of 1911, is 4,14,05,404 which is less than the population of Bengal and of the United Provinces, but exceeds that of any other province. Of this, 1,57,35,835 are Andhras and 1,66,92,417 Tamilians, the rest being Malayalis, Canarese, etc. Thus, the population of the Andhra Province will exceed that of Assam (67,13,635), Burma (1,21,15,217), Central Provinces (1,39,16,308) and also of the Hyderabad State (1,33,74,676) and will not be very much below the population of the Bombay Presidency (1,96,72,642) and of the Punjab (1,99,74,956).

As regards revenue, the latest figures available are those contained in the Budget Estimate for 1921-22. According to this, the revenue of the Madras Presidency is Rs. 16,70,89,000. I am not in a position to apportion this correctly among the several districts in the Presidency but, considering the area and population, the share of the Andhra districts may, I think, be put down at half the total of the Presidency, or Rs. 8,35,45,000. This exceeds the revenue in 1920-21 of Assam (1,93,62,000), Central Provinces (3,40,16,000), Bihar and Orissa (3,82,61,000), Burma (7,31,39,000) (excluding rice profits) and the Punjab (6,80,18,000).

I hope, Sir, that the figures I have given will show to this Assembly and also to the Government that the Andhra province, if formed, can stand on its own legs financially as well as otherwise.

I shall now take the liberty to refer to a few opinions of eminent men on this question of the Andhra province. I might well begin with the Honourable Mr. Sarma. You might say that, being an Andhra himself, he must be for it and his Resolution dated 6th February, 1918 in the old Imperial Legislative Council certainly shows he is for it. But I can tell you that he took time to arrive at that conclusion, for, as President of the 1st Andhra Conference in 1913, he advised that the question of an Andhra province should, for the time being, be left as a moot question. If he has since come to a decision on the point, it must be for very good reasons. I would next refer to the opinion of

the Honourable Dr. Sapru. Speaking on Mr. Sarma's Resolution in 1918, he said :

'I was wondering, as to myself, as to what was the centre of gravity of the Honourable Mr. Sarma's argument, and then, at the end, I discovered that it was really a desire to separate his part of the Madras province from the rest of the Presidency and to constitute it into a separate province by itself. If that was the real object of the Honourable Mr. Sarma's Resolution, I can assure him that he would have had my sympathies in an unstinted measure, but my grievance against him is that he has dragged us along with him in a very comprehensive survey from China to Peru. I was not prepared for such an academic debate on a question affecting only a small part of India.'

Later on he says :

'If it (the Resolution) really does concern his part of the Presidency, let him bring up a concrete case before us and then we shall be better able to judge of that case on its merits. If he were to ask my candid opinion about Andhra, I would say that, while I was prepared to sympathise with him in his aspirations, I would like to have more material before me before he could expect me to vote, though, so far as sympathy was concerned, he could have plenty of it from me.'

Now that I have brought a concrete case before this Assembly and also supported it by facts and figures, may I not count—not merely on the Honourable Member's sympathy, which has been already vouchsafed, but also on his active support.

Speaking on the same occasion, the Right Honourable Srinivasa Sastri said :

'I am perfectly willing to grant that, in the case of the Andhra country there are circumstances which place it on a different footing and it might ultimately be advantageous to constitute it into a separate province. But the Honourable Mr. Sarma has not confined his Resolution to the Andhra province: he has travelled over a wider area and asked for the reconstitution of the whole country.'

The Honourable Mr. Rangaswami Aiyangar is even more emphatic in his support for the scheme of an Andhra province. I refrain from reading these remarks for fear of exceeding the limits of my time.

Speaking on Mr. Latthe's Resolution in September last year, with reference to the question of an Andhra province, the Honourable the Home Member said :

'A great deal has, from time to time, been said of the creation of an Andhra province. One of my Honourable colleagues at one time was very keen on this. I am not sure whether it was my unhappy duty on that occasion to oppose his proposal, but I am quite clear that, at any rate, on this occasion it is his to support me. Well, there is a great deal to be said for an Andhra province and (speaking without prejudice, the Honourable Member has converted me to some extent to his views. Indeed, I do not doubt at some time in the future some redistribution of territory will be necessary or some change in the arrangements'.

Having thus accorded his general support to the scheme, the Honourable gentleman proceeded to point out certain difficulties in the way of giving effect to it, such as finances and the location of the capital of the new province. These are certainly problems that should be considered and solved before the scheme is given effect to, but they ought not to scare us away or prevent an inquiry being made. How can these matters be gone into unless an inquiry is made? And I do not see why these matters should prove more formidable in the case of an Andhra province than in the case of Bihar and Orissa. I do not mean to ask Government forthwith to carve out the new province, but I should be satisfied if they will start an inquiry,

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of course by first making a reference to the Local Government and Legislature. If they start such an inquiry with a view to ascertaining how far the formation of an Andhra province is feasible, I shall be satisfied. I, therefore, ask this Honourable House to support me in that and to pass this Resolution.

Mr. J. F. Bryant (Madras : Nominated Official) : Sir, I think it is a most extraordinary fact that a Resolution of this character should have been moved in a House of this standing, unreinforced as it is, by any Resolution from the local Madras Council. It is not as if the Andhra province was unrepresented in the local Madras Council. The Andhra province is in a majority in that Council; the Ministers are, I believe, all Andhras. Two Andhra judges of the High Court have been appointed. We see the Andhra influence not only in Madras but all over India. We see it in this House; we see it even in the United Provinces, where one of the Ministers has the honour of being an Andhra. It is true, Sir, that there was some dissatisfaction in old times; it is true that the Andhras thought they were not given a proper share of the emoluments of office. That feeling, Sir, with the recent redistribution of seats, has entirely passed away. I might say that at the present moment, instead of Andhra being an adjunct of the Tamil country of Madras, the Tamil country of Madras is rather an adjunct of the Andhra province. (Hear, hear.)

Now, Sir, a great objection to this proposal at the present moment is its cost. I would be perfectly prepared at some future time, when our finances permit it, to support this proposal, if it first emanated from the Madras Council; but, whether it emanates from that Council or whether it does not, at the present moment it is entirely out of the question. Sir, might I draw your attention to some of these figures showing the incidence of taxation in the Madras Presidency? We have been told that Madras pays a revenue of Rs. 2-8-11 per acre of cultivated *raiyatwari* land as against an incidence of Rs. 1-12-8 in the next most highly-taxed province. We have also been told, in another connection, that the average taxation of a proof gallon of country spirits in Madras is Rs. 11-2-2, far higher than in any other province in India. Might I also draw attention to the local statistics of taxation per head of the population? Those local statistics have, I believe, been compiled at the instance of the Government of India itself. They are to be found on page 208 of the Statistics of British India, 1919, Volume IV. Those statistics show that Madras pays per head of the population '27 of a rupee. According to these statistics the incidence of taxation in Madras is far higher than in any other province of India. Not only is the incidence of taxation higher in Madras than elsewhere, but her finances are, I regret to say, in an absolutely deplorable condition; and owing largely to the activities of these very inhabitants of the Andhra province, she will sustain, I regret to say, a loss of probably 100 lakhs of rupees in Abkari alone. In the current year I have been authorised to say that the expected deficit is 64 lakhs; what it will be next year I tremble to think. Might I point out, Sir, that in every department of the Government of Madras retrenchment is in progress? And I might draw attention to a statement which appeared in one of the local papers the other day that, not only was retrenchment rife in every department, but that Executive Councillors would likewise be retrenched. That, Sir, indicates a very serious state of affairs. It indicates that something is radically wrong

with our finances, and, at a time when retrenchment should be the order of the day, I regret to see my Honourable friend on my left advocating a policy of outlay.

There is another aspect of the question, Sir, namely, that this deplorable state of affairs has been largely brought about by civil disobedience in an Andhra district,—I regret to say, the district of Guntur itself. Now, Sir, my position is this, that, if there is any real demand for Local Self-government in the Andhra province, I clearly call upon my Andhra friends in this section of the House to speak for themselves.

Rao Bahadur T. Bangachariar (Madras City: Non-Muhammadan Urban): Sir, I regret I have to oppose this motion. I am afraid this motion is absolutely premature. I quite agree that, probably some 20 years hence, the country may be ready to take such action. We are now on the threshold of working the new Reform Scheme. Each province is trying to learn its lessons in Provincial Autonomy, and I can assure the House that Madras is not able to carry on its administration even as it is. The financial difficulties in the way of the Ministers are great. We have got a Development Minister, who cannot develop in any direction. We have got an Education Minister, who cannot even advance primary education.

We have got a Local Self-government Minister, who is unable to find the funds for drainage, water-works and sanitation. Sir, Madras has been most economically administered hitherto. Notwithstanding its vast area and its vast population, we have only got now 25 or 26 districts whereas Bombay, with a smaller population, has got a larger number of districts, a larger number of sub-divisions and a larger number of taluks. We have very large district establishments nearly 1,18,000 village officers, such as Munsifs and Kanungoes. Now, this is not a matter of urgency at all, and I deprecate the Government getting pre-occupied with all sorts of problems of this sort which appeal merely to sentiment, and not to the everyday work of administration which it is now necessary to carry on.

Sir, when there are so many administrative questions calling for attention, when there are so many questions connected with the industrial development of the province, which await speedy and urgent solution, what is the meaning of asking the Government to embark upon an inquiry in order to find out whether the Andhra province should be separated from the Madras Province or not. The cry will come up again, whether the West Coast should not also be separated. It has perhaps got a better case for separation than the Andhra province. And what about separating South Canara from Madras? There are questions and questions. This is certainly not a question of immediate importance, and, in spite of what our friends, who on account of sentiment or affection for their own language and for their own province—or rather for their own districts—may advise Government to do, I wish, Sir, that our energies should be exercised in a different direction altogether. The country is already pre-occupied with a number of difficulties which prevent the Government from taking the practical steps which are so urgently needed to ameliorate the condition of the masses. What with an expensive Police and with an expensive Army, which we had expected you would be able to reduce, the Government are faced with a number of difficulties at any rate, they fancy they are so faced with a number of difficulties which will keep the whole machinery of Government occupied for some time to come. Besides, I do not know whether it will be at all good for the Andhra province at the present

[Rao Bahadur T. Rangachariar.]

time to separate itself from Madras. The non-co-operation movement has taken root in the Andhra province. It is more in the districts of the Andhra province than in other districts that this movement is spreading and spreading with vigour. And if those districts have not the assistance of the other districts, I feel sure, the government of that portion of the country will become difficult of performance. Village officers have resigned in large numbers in the Andhra districts—I think mostly in the districts which my Honourable friend, Mr. Pantulu represents,—I mean Guntur

Mr. J. Ramayya Pantulu : I do not represent the Guntur district.

Rao Bahadur T. Rangachariar : I am glad to hear that, Sir; but there are the Godavari and Kistna districts which my friend represents. It is a most untimely proposition to bring forward at the present stage, and it is really tying the hands of Government with unnecessary burdens. I, therefore, ask my friend not to press this Resolution at this time.

Rai D. C. Barua Bahadur (Assam Valley : Non-Muhammadan) : Sir, I beg to oppose this Resolution also, although my province is not directly concerned. Sir, in times gone by, when there were no railways and there was great difficulty of communication, much larger areas were administered under the same Local Government. The Bengal Government, for example, had its jurisdiction extending as far as the eastern boundaries of India on the East, and on the West as far as the boundaries of the United Provinces, on the North it extended to the Himalayas and on the South to the Bay of Bengal. It included the present Bihar and Orissa, the present Assam and the present Bengal—three provinces; and yet there was good government. Now that one province has been divided into three provinces, notwithstanding that there has been great improvement in communications. On the other hand, we find at the present time great financial stringency in all the different provinces: so our policy, if not our principle, should at this juncture be one of uniting and amalgamating provinces rather than dividing them or making a division of existing provinces. As far as my province is concerned, I would recommend to the Government, though I know there is no question of that at present before us, that my province be included in Bengal. The whole of it may go to Bengal without effecting the justice or efficiency of the administration, but, on the contrary, affecting a good deal of economy. Economy is the thing to be most sought after just now, because in these days we have got the advantage of railway communications, railways are multiplying, we have been raising more money for the extension of our railways, and our principle should be to amalgamate more provinces together instead of dividing the existing provinces. Of course, I have no authority or experience as regards Madras Presidency, but as regards my part of the country, I would suggest that Assam may be included in Bengal while Bihar and Orissa may be divided, Bihar going to the United Provinces, and Orissa to the Central Provinces.

Mr. President : Order, order. If I allow the Honourable Member to raise controversial issues of that kind, the debate will widen far beyond its proper frontiers.

Rai D. C. Barua Bahadur : I was only going to submit, for the consideration of the House, that, on grounds such as these, we should be rather for

the amalgamation of provinces than for their partition into smaller provinces, thus increasing the expense of maintaining them. My friend from Madras would not be benefited by the partition of the Andhra districts into a separate province because, by doing so, he can at the most expect a Chief Commissionership, whereas the people of the Andhra districts now enjoy the benefits of a Presidency Governorship. Considering all the circumstances, Sir, I beg to oppose the Resolution.

The Honourable Sir William Vincent : Sir, on the 21st September last we discussed a general proposition brought forward by an Honourable Member that there should be a complete redistribution of all the Provinces of India, and this Assembly very wisely, if I may say so, rejected that proposal on the ground that it meant undertaking a task which it was quite impossible to cope with effectively at the present juncture. The present proposal is a more modest one, namely, to create a separate province of the Andhra country on a linguistic basis. All the same, I am surprised that this motion should be brought forward in this Assembly, because, time after time, the principles that rightly guide the Government of India in this matter have been cited in this Assembly and its predecessor. They are contained in the Joint Committee's Report. The Joint Committee on the Government of India Bill, dealing with clause 15 (now section 52-A) of the Government of India Act, which the Honourable Member read, say :

'The Committee have two observations to make on the working of this clause. On the one hand, they do not think that any change in the boundaries of a province should be made without due consideration of the views of the Legislative Council of the province. On the other hand, they are of opinion that any clear request made by the majority of the Members of a Legislative Council, representing a distinctive racial or linguistic territorial unit, for its constitution under this clause as a sub-province or a separate province should be taken as a *prima facie* case, on the strength of which a commission of inquiry may be appointed by the Secretary of State, and that it should not be a bar to the appointment of such a commission of inquiry that the majority of the Legislative Council of the province in question is opposed to the request of the minority representing such a distinctive territorial unit.'

The position is therefore quite clear. The Honourable Mover suggests that the Government of India should take the initiative in this matter and that this Assembly should urge that course on the Government. May I put it to the Assembly that there are very few Members here representing Madras? The full number of Madras Members, I think, is about 14, and they are not all present here to-day. Are the other Members of this Assembly in a position to say whether this change would be advantageous or not? Have they any knowledge whatever of the conditions in the proposed Andhra province? Would it not have been a fairer, a wiser and a more proper course for anyone interested in this proposal to move it in the local Council, to see what treatment it received there, and then get the Local Government to approach the Government of India, as it would have been bound to do, if the motion had secured substantial support from the Andhra representatives of the Madras Presidency? In that event, we should have to consider what action ought to be taken, and whether a commission of inquiry should be appointed or not.

I do not want to suggest that I am entirely out of sympathy with this proposal, because I have from time to time been personally influenced by the argument of my Honourable Colleague (Mr. Sarma) regarding it; but in any case, I say, as was stated by Mr. Rangachariar,

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that the present moment is a singularly inopportune moment for taking such a proposal up. I say further that this is not the forum before which that question can properly be brought, and I say it is quite uncertain, it must be quite uncertain to all Members of this Assembly, whether the change is required or not. Last year there was a discussion in the Madras Council on the question of an Andhra University, but not on the question of the separation of the Andhra province. I have looked up the debates; I have not been able to find any such discussion, though I find the debate regarding the University; and when, Sir, in the course of that debate it was suggested that that Resolution was intended to raise, as a side issue, the question of a separate Andhra province, there was a good deal of feeling against it. It is, of course, quite true that this redistribution of territories among different provinces is a central subject, and therefore the Honourable Mover is in order in bringing this Resolution here, because we are necessarily the persons who should make any representation that might be necessary to the Secretary of State, if further inquiry were necessary. But this is not the place where the discussion of such a proposal should be inaugurated.

Again, I do not know whether the Honourable Member has ever considered what the practical difficulties in regard to his proposal would be, difficulties, for instance, in regard to such a district as Ganjam which would apparently be separated from the rest of Madras and yet be a portion of the Madras Presidency

Mr. J. Ramayya Pantulu : Not the whole of Ganjam, only a portion !

The Honourable Sir William Vincent : Let us accept for the moment the view that a portion of Ganjam would be left out of it, though, as a matter of fact, the proportion of Telugu-speaking people in Ganjam is comparatively small. Then, there is the district of Bellary where 33 per cent. of the people, on my information, only speak Telugu.

I want also to emphasise another proposition which I have frequently placed before this Assembly, and that is, that it is unsafe to base one's conclusions in a matter of this kind purely on linguistic tests. There are many other considerations which must be of equal importance. There are industrial considerations, historical ones, sentimental ones, and commercial ones. None of these can be neglected. And lastly, at present, there are very powerful financial considerations involved. The Mover said that this was—if I took his words down correctly—an admirable opportunity for raising this question. Sir, I venture to suggest that a more inopportune time could not have been chosen. Here we have these reformed Provincial Governments, all struggling with grave financial difficulties. Even to-day we had a motion on the agenda before this Assembly asking that the Madras Province should be relieved of a portion of this contribution to the Government of India. And yet while this is suggested as necessary on the one hand, the Honourable Mover makes a proposal which, if carried into effect, must largely increase the expenditure now incurred in the administration of Madras. I have read the letter of the representatives of the Andhra Conference to the Joint Committee, and I find that what they really wanted was a new province; not a sub-province, not a Chief Commissioner, as was suggested by one Member, but a new province, apparently with a Governor, Members, Ministers,

Secretaries, High Court, University and all the paraphernalia of a Presidency Government, and I suppose a body-guard also for the Governor

Mr J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural) : And a band.

The Honourable Sir William Vincent : A band is not mentioned. Well, Sir, the cost of the University alone, I found, was Rs. 25 lakhs initial and Rs. 7 lakhs recurring. Is it likely that expenditure necessary for the constitution of a new province can be incurred by a province which, we have just been told, in spite of starting with a very large balance last year, is now faced with a heavy deficit? Is this the time for inaugurating a proposal of this kind?

Sir, though I have had to throw cold water on this proposal, which I hope the Assembly will not accept, I would not for one moment have it thought that the Government of India are devoid of sympathy or that they are necessarily opposed to this project, if it should emanate from the proper quarter at a suitable time and receive proper support. If a Resolution were to be moved in the Madras Council, and the Local Government can obtain an expression of opinion from the Members coming from the areas affected in favour of such a proposition, then and then only will the Government of India be prepared to consider what, if any, action should be taken by them. May I suggest that the present Mover might, in the circumstances, seeing that he has not received support even from the Members of his own province, withdraw his Resolution.

Mr. President : Does the Honourable Member wish to respond to the invitation of the Honourable the Home Member?

Mr. J. Ramayya Pantulu : Yes, Sir, I should like to make a few remarks in reply to some of the remarks made by the Honourable the Home Member and by some of the other Members who have spoken against my Resolution. One objection that was raised by all of them is that of finance. They said that the proposal to form a new province is likely to entail a large amount of expenditure which cannot be met. My reply to that is this. The formation of a new province necessitates, no doubt, the creation of some new offices and consequently some additional expenditure, but most of this will be only initial, and the recurring expenditure will not be very heavy. But that again is a question for the new province itself to decide. If the new province is prepared to bear that expenditure—and you cannot ascertain this unless you start an inquiry—I do not see why this Assembly should oppose my Resolution on the ground of finance. The expenditure that is to be incurred will be borne entirely by the new province itself and not by the Government of India. If the Andhras want a separate province for themselves, and if they are willing to pay for it, I submit that it is not for this Assembly or for the Government of India to say that it cannot afford to pay. So, I want an inquiry to be started so as to ascertain whether the new province will be able to bear the expenditure or not. That is my reply to that part of the criticism.

Then my Honourable friend, Mr. Bryant, referred to the non-co-operation movement in the Andhra districts and said that it has taken root there, and therefore it does not lie in the mouth of the Andhras to ask a favour from the Government in the form of the creation of a separate Andhra province. I would earnestly ask this House not to prejudice the issue of this Resolution by any references to the non-co-operation movement. This movement, I

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believe, is a passing phase. It is bound to go, and I do not think the consideration of such large issues as are involved in my Resolution should be prejudiced by any reference to the non-co-operation or other movements of that sort. I would request this House and also the Government not to allow their dislike of the non-co-operation movement, which I dislike as much as any other Member of this House, to interfere with the proper consideration of this question.

My Honourable friend, Mr. Rangachariar, while admitting the propriety of the formation of an Andhra province, said that my proposal is somewhat premature now. He further said that some 25 or 30 years hence perhaps we might be in time in asking for the formation of an Andhra province. One reason why he considers that my proposition is premature is, if I have understood him correctly, that he wants time to be given for the Reforms to be worked. Well, I am really surprised to hear that from my Honourable friend, Mr. Rangachariar. I believe, he was one of the Members of this Assembly who suggested a Round-Table Conference to which Mr. Gandhi—Mahatma Gandhi if you please—was to be invited for settling our differences and to obtain a further instalment of Reforms so as to satisfy all parties in the country. Now, Sir, I am not going to speak against any movement that may be started for getting a further instalment of Self-Government for India, but what I would say is this. We have all come here under the Reform Scheme that is embodied in the Government of India Act, 1919, and by which we are supposed to agree to work the Reforms for a period of ten years, at the end of which an inquiry will be made with a view to ascertaining whether a further instalment of Reforms should be granted or not. If after having come to this Assembly on that understanding, some of us ask for a further instalment of Self-Government, not in ten years but at the end of the very first year, and consider not that premature, I ask my friend, Mr. Rangachariar, how he can consider my modest request for the formation of an Andhra province premature now. I am really surprised at his attitude. I do not see what the working of the Reforms has got to do with the formation of a new province. These Reforms will be worked quite as well in two provinces as in one province. I do not think the formation of a new province makes the slightest difference at all, for, if a new province is formed, the same rules which exist in the other provinces will apply to it.

Then my Honourable friend, Mr. Rangachariar, said that my Resolution is based on mere sentiment, as if sentiment is a matter that should not be taken into consideration. I am glad that the Honourable the Home Member has taken a much broader view of the matter and said that sentiment should be respected. I admit that it is largely a matter of sentiment. We, the Andhras, feel that we should be given full opportunity, we should be given a full chance for development on our own lines. I admit that the movement is based upon a feeling that we have not had full opportunities for distinguishing ourselves in the past. I admit, Sir, that in the beginning, some of the statements made by Andhras on platforms were somewhat offensive to our Tamil friends, but that state of things has changed. If we do not get the Andhra province meanwhile, I should not be surprised if five or six years hence our Tamil friends should come forward and ask for the creation of a Tamil province, because we the Andhras have already commenced to encroach

upon their preserves. I should not be surprised if four or five years hence my Honourable friend, Mr. Rangachariar, stands up in this Council and asks for a Tamil province.

Rao Bahadur T. Rangachariar : We will be only too glad if you would come up to such a state.

Mr. J. Ramayya Pantulu : Sir, I thank the Honourable the Home Member for the very sympathetic manner in which he has approached this subject. I am glad he has been good enough to call my proposal a very modest proposal. I understand that his chief objection to my Resolution is that I have brought it forward in this Assembly instead of allowing it to be brought forward in the Provincial Council. He has referred to some remarks made by the Joint Committee in regard

to this matter. I say it is not outside the province of this 12 Noon. Assembly, or outside the province of the Government of India to take the initiative in the matter, as the subject is a central one. What I ask is that the Government should start an inquiry, not necessarily an expensive one, and refer the matter to the Local Government and ascertain their views, with a view to seeing what further action, if any, should be taken in the matter.

The Honourable the Home Member has referred to the fact that there are very few Members from Madras in this Assembly to-day. That is not my fault. For one reason or other, the Members have had to be absent from the Assembly. I should have been glad if more Members were present, because I am sure that I would have received some support from some of them. I must say I am rather disappointed at my friend, Mr. Rangachariar, not supporting me. I fully expected him to support me.

The Honourable the Home Member said something about the Ganjam District. The question of the Ganjam District is not necessarily connected with the Andhra province. Whether you have the Andhra province or not, the Uriyas want that the Uriya portion of Ganjam should be added to the present province of Bihar and Orissa

The Honourable Sir William Vincent : Does the Honourable Member admit that Ganjam is an Uriya District ?

Mr. J. Ramayya Pantulu : No ; it is half and half. I resided in the Ganjam District, and in the most Uriya portion of that district, for five years. I have studied this question of the Uriya Province, and I claim to understand it. What the Uriyas wanted then is that the Uriya portion of the Ganjam District should be added on to Orissa, and I now see that they want a province or sub-province of their own. Practically the whole of the Uriya country is under one Government now, the Government of Bihar and Orissa ; but the outlying portions are distributed among three other provinces. It is a question more or less of boundaries. There is one taluq which contains the bulk of the Uriya population in Ganjam, and that will have to be added to Orissa. There again it is a question of boundaries. It is impossible to draw a line, on one side of which you can put all Uriyas and on the other side all the Telegus. The fact is that the question of boundaries will always arise whatever may be the province. What I say is that the Uriya question is not at all directly concerned with the question of an Andhra province. Whether the Andhra districts form a new province or

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continue to be a part of the Madras Presidency, the question of adding the Uriya portion of the Ganjam District to Orissa is the same.

Then about Bellary and Anantapur. It is true that these two districts contain a large Canarese population ; but I see no other province to which these portions can be added. They are now in the Madras Presidency, and, if the Andhra province is constituted, they will be in the Andhra province. They can never be in a Canarese province, because the only Canarese province to which they can be added is the Mysore country, and this is out of the question. Either they will be in the Madras Presidency or in the Andhra province. So this question ought not to prejudice the question of the Andhra province.

My object in bringing this Resolution before this Assembly is to elicit the sympathy of Government and ask them to start an inquiry by making a reference to the Local Government. That is the first step in starting the inquiry. I do not at all want them to commit themselves to the creation of a province all at once, but to start an inquiry to see how far that is feasible. But, since I see that my Resolution is not very likely to command support from this Assembly—because I see no signs of it—and in view of the very sympathetic reply given by the Home Member, I am willing, with the permission of the House, to withdraw my Resolution for the present, reserving to myself the right to take such action as may be considered necessary at some future time.

Mr. J. Chaudhuri : I rise to a point of order, Sir. The Honourable the Home Member has stated what would be the policy of the Government of India with reference to this question

Mr. President : That is not a point of order. The Honourable Member may address his remarks to me and not to the Honourable the Home Member.

Mr. J. Chaudhuri : May I ask your permission to ask the Honourable the Home Member for certain information. His statement of policy presents some difficulties to my mind. We are aggrieved in Bengal

Mr. President : The Honourable Member is entering upon the merits of the question.

The Resolution* was, by leave of the Assembly, withdrawn.

RESOLUTION *RE* : COMMITTEE OF INQUIRY ON EXPULSION FROM CANTONMENTS.

Haji Wajih-ud-Din (Cities of the United Provinces : Muhammadan Urban) : Sir, the Resolution which I have taken the liberty to move in this House runs thus :

* This Assembly recommends to the Governor General in Council the desirability of appointing a Joint Committee of officials and non-officials to inquire into all cases of expulsion from cantonments under section 218 of the Indian Cantonment Code of 1912, and further recommends that the Committee should contain two-thirds non-officials, partly elected by this Assembly, and partly nominated by the All-India Cantonment Association.

In moving the Resolution Sir, I would like to explain to this House that the Cantonment Code, 1912, under which the Cantonment Administration is carried on, has a section known as section 216 which authorises the Commanding Officer of a Cantonment to expel a person from the cantonment *with or without assigning reasons*. I may further state that the Cantonment Code, and therefore this section 216, is not a legislative enactment. The whole of the Code is the *manufacture* of the Governor General in Council and consists of rules framed by that illustrious Council headed by His Excellency in pursuance of the powers conferred upon them under section 24 of the Cantonment Act. I understand, Sir, that these rules are generally framed at the instance of the local military authorities and, in framing these, little or no consultation is held with the civil population of cantonments who are ultimately affected by these rules. It is no wonder, Sir, therefore, that the Cantonment Code gives a prominent place to section 216, the sinister working of which has given rise to the necessity of the Resolution I am now presenting to the House.

The All-India Cantonment Association has issued a pamphlet about the origin, history, and past application of this section. It appears that this section was first intended to be a measure necessary to exclude from cantonments persons of bad characters likely to spread venereal diseases among the troops. This section is really a reproduction of section 211 of the old Cantonment Code. To have an accurate idea of the purposes for which this section was originally framed, we should go back to the proceedings of the Legislative Council of India when the Cantonment Act of 1889 was passed. In presenting the Act to the Council, the then Commander-in-Chief assured the Council :

'That the rules which we shall have to frame under section 24 of the Act which gave the Governor General in Council powers to make rules consistent with the Act, will be directed mainly to the exclusion from the limited area to which the Act applied, of individuals known to be affected with contagious diseases.'

General Chesney spoke in the same strain when he observed :

'That the primary object of the rule to be framed under the Act, for the exclusion of bad characters from the cantonments, was to check the alarming increase among the soldiers of the Indian Army, both British and Native.'

Of course the word '*native*' used here by General Chesney, means '*Indian*'.

For ten long years after the passing of the Cantonment Act, the Governor General in Council framed no rule, and it was in 1899, Sir, that the first rule about the expulsion of such persons was framed and embodied in the Cantonment Code as its section 211.

I have already said, Sir, that section 211 of the Cantonment Code of 1889 is the section 216 of the present Cantonment Code.

Having thus stated the main objects for which the Governor General in Council was given power to frame such a rule for expulsion of persons from cantonments, I shall now try to acquaint the House with the manner in which this section has been used in the past by local military authorities and with the persons to whom it was applied. The All-India Cantonment Association has stated in a very emphatic and pronounced form that instead of applying this section to bad characters, as was the original intention of the framers of the law, it has been applied to persons of public spirit, high education and

[Haji Wajih-ud-Din.]

eminent social position, for purposes entirely different from those for which the rule was said to be framed. The least assertion of civic rights on behalf of a civil resident of a cantonment or the slightest constitutional movement of protest against some official action has led the local cantonment authorities to have recourse to this terrible weapon in their armoury in order to silence the voice of protest or self-assertion once for all by expelling the man from the cantonment. Scores of instances can be cited to substantiate this statement. Mr. Jamal-ud-din Khan, a respectable citizen of Ferozapore, Mr. Mansa Ram, M.A., Pleader, Chief Court, Rawalpindi, Lala Payare Lall, Rais and Banker of Jullundar, Dr. Bhana Ram of Ambala, and Lala Narain Dass, B.A., LL.B., Vakil of Jullundar, are some of those to whom this section has been applied. Sir, only in recent years Hakim Allah Bakhsh and other respectable gentlemen were expelled from Multan simply for their entertaining at the Railway Station a group of 'Muhajirins' passing through that Station. The other day Hakim Sami-ullah, a well-known physician from Ambala, was expelled under this section for the alleged fault of his reciting some patriotic verses at public meetings.

I need not tire the House by mentioning other cases, in which this section has been freely applied for suppressing every form of constitutional agitation and legitimate expression of views in all these cases. The persons expelled have never been given an opportunity to defend themselves.

The fact is that this section makes no provision for giving the persons affected an opportunity for defence, and this is rightly regarded by the people of cantonments as something unrighteous and un-British in character.

The Chairman of the Reception Committees in their various Sessions have strongly condemned the section and urged its deletion from the Cantonment Code. Even the official members of the Cantonment Reform Committee consider it a great hardship to the civil population in its present form.

I am, however, not concerned with the section itself at present. The object of my Resolution is, that since the Government has thought it fit to reform the Cantonment administration by introducing an element of popular control into it, it is very desirable that the sufferers of the old autocratic system be dealt with in a spirit of *fair play, justice and liberality*. There is a strong resentment felt in cantonments against the application of section 216, and the popular belief is that all the persons expelled under this section are mere victims of official bureaucracy. The feeling is so strong that there is a danger of the cantonment people rejecting the Cantonment Reform Scheme if the cases of all these persons, now under orders of expulsion, are not reconsidered in the light of justice and a generous recognition of their civic rights.

I think, Sir, it will be a gracious act on the part of the Government if, on the eve of their inaugurating a new era in cantonments, a general amnesty is extended to all such persons. This will be a statesmanlike act of judicious conformity with the spirit of the Reforms. It will pave the way for the reception of the coming Reform Scheme and make the cantonment atmosphere calm and peaceful; but leaving this for the consideration of the Government, I move, Sir, the Resolution I have read.

It is, in my humble opinion, only fair and just that the cases of all such persons should be inquired into by a mixed Committee of officials and

non-officials conversant with cantonment affairs. This will be an act of real, though belated, justice; and I am sure that this House will agree with me that in making this demand for inquiry in this Resolution, I am only asking the House to extend to the people of cantonments merely the elementary right of British citizenship, namely, to have a trial before punishment.

With these words, Sir, I beg to move this Resolution, and hope the Honourable House will adopt it unanimously.

Mr. Pyari Lal (Meerut Division: Non-Muhammadan Rural): Sir, if I understand the Honourable Mover aright, the objects of the Resolution are two: one, the appointment of a Committee for the examination of all cases of expulsion under section 216 of the Cantonment Code and to invite the attention of this House to the fact that this section has been applied to uses other than those intended by its original framers, and, secondly, that the section is so worded that it is capable of abuse in the hands of any one and, as such, should be deleted from the Statute-book. The Government of India, I understand, just about a week or two ago, themselves have felt the necessity of amending this section. They have tried to amend it in a way which leaves the thing where it was. The way in which they propose to amend the section is, they make it applicable only to cases of tampering with the loyalty and discipline to troops.

Sir Godfrey Fell (Army Secretary): Sir, I should like a ruling from the Chair as to whether the Honourable Member is in order in discussing the draft revised section 216 which has recently been published in the Gazette of India. I beg to point out that the Resolution which we are discussing deals in terms with the appointment of a Committee to inquire into past cases of expulsion, and on to-day's agenda paper, No. 12, there is a specific Resolution dealing with the question of the amendment of section 216. I ask you, Sir, for a ruling whether it is in order to discuss the merits of section 216 in connection with the Resolution which has just been moved.

Mr. President: I was waiting to see how far the Honourable Member was going. The terms of the Resolution limit the debate to the question of the administrative action of Government in the matter of those persons expelled from cantonments, and, as Sir Godfrey Fell has pointed out, the Honourable Member is not in order.

Mr. Pyari Lal: The appointment of a Committee would be perfectly meaningless unless there is an object behind it, and that object is the deletion of the section, which is objectionable. If the modification or amendment of the Code, such as we are now attempting, is unsatisfactory and does not meet our objections, I submit there is no amendment at all, and therefore it is perfectly relevant to the subject of this Resolution.

Mr. President: I have just said that it is not relevant.

Mr. Pyari Lal: I submit, Sir, that this section has been most violently protested against by the people living in cantonments, and especially by the civil population and, as such, by the appointment of that Committee it would be shown that the words of this section have been construed to cover cases which are not intended by it and therefore I support this Resolution, if I cannot discuss further the section itself as being irrelevant.

Sir Godfrey Fell: Sir, I think that it will probably save the time of this Assembly if I state at once in a few words the Government's attitude towards the Resolution moved by my Honourable friend, Haji Wajih-ud-Din.

[Sir Godfrey Fell.]

The Government of India are not prepared to agree to the appointment of a Committee, as proposed, to inquire into past cases of expulsion from cantonments under section 216. They think that it would be difficult for such a Committee to examine the cases and to arrive at satisfactory conclusions. Many of the cases are old ones. In many cases the evidence on which action was taken may have disappeared or is not available. The cases would require local examination. The Committee would have to travel over a great part of India, and the expense to the State will be very considerable. But having said that the Government are not prepared to accept this Resolution as it stands, I do not wish it to be thought that the Government of India are entirely devoid of sympathy with the object of my Honourable friend's Resolution. The Government of India have recognised that the time has come to modify section 216. I do not propose to discuss the proposed modification now, as it has just been ruled out of order to do so in connection with this Resolution. I merely mention it, to show that Government are aware that objections have been taken, and perhaps rightly taken, to the existing section and the way in which it has been applied, in some cases, in the past. I hope that its past application has not been quite so objectionable as my Honourable friend stated in his speech, but there may have been cases in which the power has been, I will not say abused, but perhaps used without sufficient consideration; and Government are, therefore, prepared to re-examine all cases in which persons have been excluded from cantonments and are still so excluded under section 216, on account of what may be termed their political views. With this object, I have already called for the records of all cases of this sort for the past seven years, and I can give this Assembly a pledge that every case will be most carefully considered, with a view to seeing whether the time has not come to cancel the order of expulsion and to allow persons, who have been expelled, to return to the cantonment to which they belong. I hope, Sir, in view of this pledge, my Honourable friend may see his way to withdraw his Resolution.

Haji Wajih-ud-Din : I am perfectly satisfied with the answer given by my Honourable and esteemed friend, Sir Godfrey Fell, and, on the assurance given by him, I withdraw my Resolution.

The Resolution* was, by leave of the Assembly, withdrawn.

Mr. President : As this is a Friday and we do not, as a rule, sit on Fridays, I think it may meet the convenience of our Mussalman colleagues if we adjourn for a longer period, from now till 2 O'clock. If that is inconvenient to Government, I am prepared to hear what they have to say.

The Honourable Sir Malcolm Hailey (Finance Member) : We are quite prepared to adjourn.

PRESENTATION OF REPORT OF SELECT COMMITTEE ON STANDING ORDERS.

Mr. President : I present the Report of the Select Committee appointed to deal with the amendment of the Standing Orders.

The Assembly then adjourned till Two of the Clock.

*Vide page 2124 ante.

The Assembly re-assembled after Lunch at Two of the Clock. Mr. President was in the Chair.

RESOLUTION *RE*: COMMITTEE ON RETRENCHMENT.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadian) : Sir, the Resolution that I have to move runs as follows :

'This Assembly recommends to the Governor General in Council to be so pleased as to appoint a mixed Committee of officials and non-officials to inquire into the cost of the Central Government and report on the possibility of effecting economy therein.'

In moving this Resolution, Sir, I have had the advantage of perusing a similar debate raised in the other House in which the view of the Government and of the elected Members of that House was clearly expressed. In moving my Resolution in this House, I do not propose to traverse the same line of attack or to repeat what has been said by my Honourable colleague, the Mover of the Resolution, in the other House. I wish to tackle the problem of retrenchment of the expenditure of the Central Government on entirely different lines, and in doing so, I shall confine my remarks, for the benefit of the Departments concerned, first to the Military and then to the Civil Departments. If the Honourable Members of this House will turn to the memorandum which was supplied last year by the Military Department, they will find at page 13 that the expenditure on the Army in India was about Rs. 62½ crores, of which about Rs. 16,73,00,000 was spent on the upkeep of the British Army. It has been pointed out, and it is a fact which will be admitted by the spokesman of that Department, that the British soldier in this country costs as much as five times the Indian soldier. If, therefore, we were to replace the British soldier by the Indian soldier, there would be an immediate saving of 13 crores in the military estimates. I am aware, Sir, of the existence of the Military Retrenchment Committee that held its sittings in Simla during the last summer, but as its recommendations are confidential and are unknown to me, I am not in a position to divine as to what course that Committee has recommended. But I venture to hope that the Committee could not have overlooked this heavy drain on the resources of this country, and I invite the attention of the members of the Military Department to this possible line of retrenchment. Now I pass on to the Army Headquarters. Before the war, the Army Headquarters was manned by officers which could not have been considered as insufficient. During the last eight or nine months the Army in India has been sub-divided into four Commands, and yet we find that Army Headquarters is more populous than it was in the pre-war days. In this connection, you will find that many of the commissioned officers drawing high salaries are employed to do merely clerical work, which would have been more advantageously performed by clerks drawing Rs. 150 or Rs. 200 a month. It is, Sir, a well-known fact that the military requirements of this country must take into account the possibility of future danger here. Now I beg to suggest to the Honourable the Secretary, what necessity is there for the maintenance of an expensive and costly army for purposes of internal security? The reduction of the artillery will carry with it economy in lines, transport and training. One other source of retrenchment might be found in the Military Works Services. It is a well-known fact that the Military Works Services drain away from the Military Budget an important item of their revenue, and I venture to submit that if more business-like methods are pursued,

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better than what they were during the war, then there will be room for further economy. I further suggest that there is a complete lack of policy in the Royal Air Force. Aerodromes are constructed, and, as soon as ready, they are scrapped, and a vast amount of this country's money is uselessly wasted upon this service.

In the condition of this country I venture to doubt the wisdom or utility of the aerial force. Protagonists of the army will defend the aerial service on the ground that it is useful for scouting, bombing, spotting and lending moral support to the army. I submit, Sir, that all this is very well; but can we afford it and is it essentially necessary? If we dispense with this service, a saving of about a crore and a quarter will be effected in the Military Budget. Of late there has been a considerable increase in the number of armoured cars. I do not deprecate the use of modern appliances for the purpose of preserving peace; but I submit that there should have been a corresponding decrease of the cavalry and infantry units. As your weapons increase in effectiveness and precision, the number of people who are employed must necessarily be reduced. I venture, further, to submit that now we have a territorial force and an auxiliary force which in themselves cost a lot of money—I am informed that every territorial soldier upon enlistment means an expenditure of Rs. 250, which is the cost of his rifle and bayonet, besides other costs incurred on account of uniform, equipment, Lewis guns and the rest. Now, I submit, Sir, that as the line of defence is strengthened by the recruitment of the territorial force, there must be a corresponding decrease in the regular infantry. The Military Budget absorbs the major portion of our revenue. You will find that in pre-war days it cost us 19 to 20 crores of rupees, and now the cost has gone up to 62 odd crores of rupees. In other words, the cost has been doubled or trebled within the last few years

The Honourable Sir Malcolm Hailey (Finance Member) : Was it not 29 you meant and not 19 crores ?

Dr. H. S. Gour : In the early years it was 19, and 29 in later years. Now, I suggest, Sir, that in this Department of the State drastic retrenchment is called for.

With the limited time at my disposal I do not propose to go into further details and I will pass on from the military to the civil; and, on this side of the question, I draw the attention of those responsible for the administration of this country to the Foreign and Political Department. I submit that the higher Secretariat of this Department is over-manned. I should very much like to know how many Secretaries, how many Under Secretaries, how many Joint Secretaries, how many Registrars and how many other similarly highly paid officers are entertained in this Department, and what has been the strength before the war and since? In order to facilitate my own task and the task of those responsible on behalf of the Government, I addressed a number of questions to the Secretary of the Legislative Department for information; but, as no replies have been vouchsafed me, the only available material that I have to go upon are the Quarterly Returns and the Government of India list. From these I find that a very large number of officers are employed in the Foreign and Political Department whose utility I beg to doubt. In the Department of Commerce and Industry, Honourable Members will find that, though there is only one Member, there are two

Secretariats with two Secretaries and all the other official equipment, although the two Departments were merged into one something like two years ago. In the Intelligence Bureau, otherwise known as the Criminal Investigation Department, we similarly find a very large number of people employed under different designations. I am not sure that their presence is necessary for the due discharge of the duties assigned to that Department. A very large number of officers are told off on special duty. Now, Sir, Honourable Members will know what this means. An officer comes and says : 'I want to be in Delhi or Simla for the sake of my health,' and somebody tells him : 'You are on special duty.' (*The Honourable Sir Malcolm Hailey*: 'Shame ! Shame !') I beg to ask how many officers are on special duty and what is the nature of the duty they perform.

Then, Sir, I pass on to another question. Honourable Members will know that the Departments of Education and of Revenue and Agriculture are either provincialised or are transferred subjects. The Department of Education deals with Public Health, Medical, Sanitation, Local Self-government and Ecclesiastical. Now, with the exception of the last, all the other Departments are transferred Departments, and yet we have a Secretary, an Educational Commissioner and a very large staff exactly of the same kind as used to be employed before the transfer of this Department to the provinces. I am quite sure the Honourable the Finance Member intended to ejaculate 'shame' at this stage and that he cried it out a little too previously. We then pass on to the Revenue and Agriculture Department. Revenue is a provincial subject and yet we have got the usual complement of Secretaries, Under Secretaries and the rest. Agriculture is a transferred subject and yet we have a Director of Agriculture. (*Mr. J. Hullah* : 'No'.) We have an Irrigation Department and only major irrigation is looked after by this Department and the rest is transferred, and yet we have an Inspector General of Irrigation. The same remarks apply to Forests. I now pass on to a very interesting Department, the Munitions Board. The Munitions Board Branch is still going strong and I do not know for how many years this Board will continue to flourish. Then, Sir, we have the Public Works Department and the Post Offices. The Public Works Department is more or less a transferred subject. But, if Honourable Members will turn to pages 28 to 30 of the Government of India list, they will find that this Department employs 14 Europeans in the higher services and only 3 Indians. Now, turning from these departments to the Home Department, we have one Secretary, two Deputy Secretaries, two Under Secretaries and a very large number of other Secretaries. We have then the Staff Selection Board and other allied Boards. I submit that, in all these Departments, the members of the Indian Civil Service are very largely employed. I have the very greatest respect for members of the Indian Civil Service, but I venture to submit that, in the interests of economy and retrenchment, more Indians and more members of the Provincial Civil Service might be employed. I commend to the Honourable the Finance Member the recommendation which this House wishes to make upon this aspect of the question. Lastly, I turn to the Finance Department. We have in the Finance Department one Secretary—a member of the Indian Civil Service—two Joint Secretaries—also members of the Indian Civil Service—the Secretary drawing a salary of Rs. 4,000 per mensem, the Joint Secretaries drawing salaries of Rs. 3,000 per mensem each, and one Deputy Secretary, also an Indian Civil Servant,

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who draws his grade pay and Rs. 400 as local allowance. Then we have three Assistant Secretaries and six Audit officers. This is only on the civil side. We have on the military side a Financial Adviser on Military Finance, a Military Accountant General of War Accounts and the regular paraphernalia of his office. I submit that both on the civil as well as on the military side there is great room for economy. Last December, when I was in Calcutta, I was going along the place called the Esplanade and I saw a huge palatial building very much out of repair, the doors and windows all shut, and I inquired of a friend who was going along with me what this large palatial building was, and I was told that it belonged to the Imperial Government; and, on further inquiry, I found that a very large number of Imperial buildings, which belong to the Central Government in Calcutta, are at the present moment unoccupied or occupied at a very low rent. Honourable Members may go to Raisina and Delhi and they will also find the same uneconomic use of the house accommodation provided by the Government. Now, I wish to ask whether there is not room for economy and retrenchment on these heads. Are the Imperial buildings in Calcutta fully utilised? If they are not utilised, why should not they be so utilised? Why are they kept in that condition, either vacant or rented out to people not at a fair and economic rent. These, Sir, are the salient points which call for an inquiry. The Honourable Mr. Cook, speaking in the other House, said that he had employed, or the Government of India had employed, an officer, and with him one or two non-officials might be associated for the purpose of effecting economy and retrenchment. Honourable Members of this House demand that they do not wish to associate themselves as mere lookers on or advisers, but that they should form themselves into a Committee for the purpose of effecting salutary retrenchment in the expenditure of this Central Government. I therefore submit, Sir, that the Resolution which I have the honour to move will not encounter serious opposition. I move it.

Sir Godfrey Fell (Army Secretary) : Sir, as my Honourable friend, Dr. Gour, has done the Army the honour of making it the first object of his attack, perhaps the Assembly will kindly allow me to deal with the points raised in his speech, without prejudice to the general handling of the Resolution, which will be done later on by the Honourable the Finance Member. Before I attempt to answer the detailed criticisms and suggestions which he put before this Assembly, I should like to correct one rather serious mistake which I think the Honourable Member has made. In the early part of his speech, he quoted from the Memorandum on the growth of expenditure, which was laid before the Assembly during the Budget season last year. If he had read the first paragraph of that Memorandum, he would not have fallen into the error of comparing our pre-war military expenditure with that of the present time in the way which he did. He said that our pre-war expenditure was 18 or 19 crores, and that now it is nearly 60 crores. The actual facts are as stated in that Memorandum. Converting the Home expenditure at the rate of Rs. 10 to the £, our military expenditure in the year before the war was 26.11 crores, and the normal expenditure in this year's Budget was taken at 58.20. If we convert the Home expenditure for 1913-14 at the rate of exchange then prevailing, the actual figure for pre-war expenditure would have been rather higher than that which I have mentioned.

My Honourable friend, the Finance Member, also reminds me that it has not been below 24 crores since 1896.

Now, Sir, Dr. Gour has been good enough to offer certain suggestions as to the directions in which he thinks that our military expenditure might be reduced. The first point he made referred to the number of officers employed at Army Headquarters, and he argued, and I think very naturally argued, that, with the introduction of the four Commands scheme, there should not be the same necessity for employing a large staff at Army Headquarters as there had been before. I do not wish to detain the Assembly by explaining in detail the origin of the four Commands scheme, but I should like just to lay before them, in very brief outline, the reasons why that scheme was adopted, in order to show that it is really to a great extent independent of anything that may be done at Army Headquarters. Now, the reason why the four Commands scheme has been adopted is this. The experience of the war showed many defects in our military organisation, and one of those defects was that Divisional Commanders were overburdened by the large administrative responsibilities thrown upon them. Their staffs were insufficient to meet even the minimum requirements of administration, or to provide for continuity on mobilisation; and, owing to the dispersal of troops in their areas, they were unable to exercise any degree of close control or to devote their main attention to the primary duties of a Commander, namely, the training of troops for war. That is particularly necessary in this country, where we are always in danger of having to meet sudden attacks on the frontier. India, too, is a very large country; and it is difficult for officers to get about and get to know their troops and to superintend their training. It is for these reasons that the Government of India, with the approval of the Secretary of State, introduced the present four Commands system.

The functions of the General Officers Commanding-in-Chief of these Commands and again, below them of the General Officers Commanding Districts, are the responsibility for the command, administration, training and efficiency of the troops located in their areas, and also for the internal security of the areas. Now, Dr. Gour argues, and I may say very plausibly argues, that the creation of these Commands, with their necessary staffs, ought to be accompanied by reductions at Army Headquarters. I quite agree; but the difficulty is this, that it is impossible to compare the pre-war staff at Army Headquarters with the existing staff without taking into consideration a number of other factors. Those factors are that modern requirements have necessitated a great expansion of staff, far exceeding any possible reductions which might be made in consequence of the four Commands scheme. I will give you very briefly the reasons. Firstly, the introduction of new services, such as mechanical transport, armoured cars, tanks, aviation and machine guns; secondly, the great development of pre-war services, such as, signals—and the extraordinary importance of the signal service had not been appreciated in India before the war—medical and supply and transport; next, the multiplicity of new weapons, such as Lewis and Hotchkiss guns; next, as one of the lessons of the war, the value to the staff of specialists with an expert knowledge of the technique of the several arms of the service. Then again, comes another factor, the higher standard demanded as a result of the war for the training, equipment, housing, education, amusement, comfort and general welfare of the soldier. That has necessitated the creation of educational institutions, military schools, etc. Again, there have been other administrative

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changes, consequent on the grant of free rations and clothing to the Indian Army and the abolition of the Sillardar system. However, to descend to details, I will take one branch in which the increase over the pre-war staff is most marked, that is the branch presided over by the Quartermaster General. Before the war, there were 22 officers employed in that branch; there are now 54. Now, the explanation of this is, that the liability of the Directorates has increased very greatly, partly owing to the causes I have just mentioned, and partly owing to other details of administration connected with equipment, clothing and stores. I will take another branch—the Military Secretary's Branch. Before the war there were two officers employed in that branch; at present there are, I believe, 11. The reason is, of course, that the war led to an enormous expansion of the Indian Army, and that led to a consequent increase in the number of officers. Now, every officer means a separate case; everything about that officer has to be recorded, when he obtains his first commission, his postings, his transfers, his promotions, his leave. All these have to be dealt with; and the Assembly will readily understand that it is simply a question of arithmetic; if you have so many thousand more officers, you have to have a larger staff to deal with them.

My Honourable friend then went on to suggest, with reference to Army Headquarters, that we employ there a number of officers whose work might equally well be done by clerks on a lower rate of pay. I do not think, Sir, that this is correct. Of course, it is impossible for me to stand up here and assert that every officer at every moment of the day is fully occupied. No one can tell whether an officer has a full day's work or not unless he has himself had experience of the work and knows what the work means; but this I do know, and I speak from very considerable personal experience, that the senior staff officers at Army Headquarters are very hard-worked indeed; and it is partly in order to relieve them that a certain number of relatively junior staff officers are employed, so to speak, to 'devil' their cases for them. It must be remembered, too, that every Army requires a staff, and a staff officer is not made in a day. We tried to improvise staff officers in the war, and it was not wholly successful. A staff officer requires very careful training; and consequently, it is the policy of Government to take graduates from the Staff College and put them for a time in Army Headquarters, in order not only that they should gain experience by dealing themselves with unimportant cases and disposing of them, but also in order that they may see how highly trained senior staff officers deal with their work and thereby gain experience. I cannot help feeling, Sir, that my Honourable friend imagines that the Commander-in-Chief, in spite of the fact that he does not know where to turn for money, keeps a large number of redundant junior staff officers at Army Headquarters, in the same way that other people might keep pets. I can assure the Honourable Member that that is not the case. If we thought that we could economise by getting rid of junior staff officers, we should do so.

At the same time, the Assembly will be interested to know that His Excellency the Commander-in-Chief has himself, within the course of the last month, directed that there shall be an arbitrary reduction of 5 per cent. in the strength of Army Headquarters; and that very shortly, within the next week or two, a very strong Committee is going to inquire into this question again with the object of seeing whether further reductions are practicable.

I would also mention that this is not the first time that the matter has been examined. In 1920, I think it was a very strong Committee, consisting of two civilians and one soldier, went into the question, branch by branch, and suggested reductions and economies; and those reductions were, I think without exception, carried out.

The next point that my Honourable friend made related to the employment of troops for internal security purposes. He said—I think I heard him aright—that surely there was no necessity for an expensive army for internal security purposes. Well, Sir, no one would rejoice more than the Military authorities if they could be relieved of the burden of arrangements for internal security; but I think it must be within the knowledge of every Member of this Assembly that troops have unfortunately had to be employed for this purpose not once, but many times in the course of the past year.

My Honourable friend then went on to speak of the possible reduction of artillery in connection with internal security. My reply to that is this, Sir. There are no batteries of artillery earmarked for internal security purposes. It is true that, if the internal situation is so serious as to necessitate the use of a movable column, the movable column will have its normal complement of artillery; but that artillery will be found by detaching a section from a battery in the district, a battery existing primarily for field army purposes. No special transport is kept up in connection with the artillery which might on occasion be used for internal security purposes. If artillery were employed with a movable column in those circumstances, the transport would have to be improvised, by hiring or otherwise.

Then, Sir, Dr. Gour made a vigorous attack upon the Military Works Services. He pointed out that they constitute a very heavy drain on our resources. My complaint is, Sir, that they are not a sufficiently heavy drain on our resources—in other words, that we cannot afford to spend on essential military works nearly so much as we should like. I think the Assembly is aware how much leeway has to be made up in the matter of providing better accommodation for Indian troops, for hospitals, and to some extent for British troops also. But I gather that Dr. Gour's main criticism is levelled against the unbusinesslike methods and waste of money which prevailed during the war and which, he suggested, continues to the present time. Now, Sir, that is a matter which I need hardly say has not escaped the attention of the Government of India. So far back as 1919, a Sub-Committee of the Executive Council examined this very point. They devoted a great deal of time and attention to seeing whether money had been wasted by the Military Works Service, and how they were to prevent this waste in future. Two more Committees examined the matter in 1920; and, only a few months ago, the Government of India addressed the Secretary of State and communicated to him their considered opinion on the whole subject. There is no doubt that there was a great deal of money wasted during the war in connection with military works; but war is necessarily wasteful; and I do not think it is quite fair to place the blame upon the Military Works Services. If you recall the conditions which prevailed during the war, when India was straining every nerve to raise additional men for the service of the Empire—in 1918 alone, we endeavoured to raise an additional 500,000 men, and for every man we recruited some accommodation had to be found—when you think how our hospitals were full to overflowing with the sick and wounded from overseas, when you think how far below the requisite

[Sir Godfrey Fell.]

standard our hospitals were before the war, and what efforts had to be made to improve them during the war, I think you will realise that the officers of the Military Works Services had an exceptionally difficult task to perform. That task was rendered still more difficult by one or two other factors. One—the principal one—was this, that at the outbreak of war we had, in the interests of the Empire, to send overseas almost all our experienced Royal Engineer officers, and we had to replace them by temporary officers—I do not wish to decry them in the least—not possessing the same high qualifications, not knowing the country in the same way as our regular officers did. Then, again, speed was essential. We had to do things in a very great hurry, and that always means extravagance, because, instead of insisting upon full detailed estimates being prepared and sanctioned before the work was undertaken, we had to tell them to carry on, to get on with the building, etc. The plinth area estimates on which they worked were often prepared in a great hurry and often proved to have been too low. These are the reasons why there was undoubtedly waste during the war over the Military Works, but I deny that there is any appreciable waste now. At any rate, I feel sure that if my Honourable friend, Dr. Gour, knew the present Director of Military Works, he would realise that we have at the head of that service a man of very strong business instincts, a man who is just as much opposed to the waste of public money as any one in this Assembly, one of the most capable officers who has presided over the destinies of that service. I also know that, as the result of the examination of this question to which I have already referred, the financial control of Military Works has been tightened to such an extent that it is practically impossible for irregularities to occur.

Then Dr. Gour went on to criticise our lack of policy with reference to the Royal Air Force. Well, Sir, the Royal Air Force is a new service, is particularly new in India, and it surely does take time for a policy to be developed. Everything connected with the Royal Air Force is still somewhat fluid; but a settled policy is gradually emerging, and I do not think that lack of policy is likely to lead in future to waste of money; though if Dr. Gour's recommendation, that we should do away with the Royal Air Force altogether, were adopted, undoubtedly we should be involved in very serious loss, that is to say, the sacrifice of the money which we have already spent. Dr. Gour sketched briefly the purposes for which the Royal Air Force exists, and he asked, 'Can we afford an Air Force?' Well, Sir, that is as may be; but I would say this, that we do owe it to our soldiers to give them the assistance and support which the Royal Air Force affords. We have had some little experience of the use of an Air Force in India both during the Afghan campaign and during the recent operations in Waziristan. One of the greatest difficulties about warfare of that sort is, as the Assembly knows, that in a hilly country you often cannot locate the enemy; you cannot scout effectively, because if you try to scout you are almost certain to be shot. One great advantage the aeroplane gives us is that aviators can, by flying over the country occupied by the enemy, spot concentrations of men, lashkars, and warn the soldiers where they are; and the soldiers can then either make their dispositions to meet them, or in some cases can train their guns on to them and disperse them. Then again the flying men themselves can bomb and break up these gatherings. That use of the Air Force was very clearly demonstrated only a very short time ago, in the direction of the Tochi Valley. Dr. Gour also mentioned—I do not think I am misquoting him—

that aerodromes have been built and then scrapped. I should be very much obliged if my Honourable friend would give me details of this alleged waste; because I have consulted the Air Officer commanding the Royal Air Force, and he assures me that it is not the case that every building erected for the Royal Air Force is not used and fully used, except certain buildings connected with the depôt at Lahore which are not yet fully occupied; but the only reason why they are not fully occupied is because, owing to certain causes which are beyond our control, we have not yet been able to get the full establishment. The Air Commodore indeed says that, so far from having buildings which are not fully occupied, he has not got enough buildings.

Then, Sir, the next point that Dr. Gour made was with reference to armoured cars. He said that, with the introduction of these weapons, which I gather he approves of, we ought to find it possible to make reductions in the cavalry and the infantry. My answer to that is perfectly simple. It is that we have made these reductions. I think the Assembly is aware—for the Commander-in-Chief told them so in speaking on the Budget last March—that, as compared with the pre-war strength, the British troops and fighting units of this country have been reduced by some 6,000 men and the Indian troops by 7,500. These reductions were made with the concurrence of the late Commander-in-Chief; and further reductions were made by the present Commander-in-Chief. But both of them stipulated, at the time these reductions were made, that they would only be possible if they were allowed the full complement of armoured cars and other appliances which they considered necessary to make up the shortage of actual fighting units compared with the pre-war figures. These reductions would not have been possible without these armoured cars and so on; neither would they have been possible unless we had simultaneously made improvements in such services as the Signalling Service, and made our troops more mobile by the employment of mechanical transport and the like.

Lastly, Sir, Dr. Gour referred to the creation of the Territorial Force, and suggested that this would afford a justification for a reduction in the number of regular troops. Well, Sir, the Territorial Force is absolutely in its infancy. It is a very promising infant indeed, and I should like to take this opportunity to testify, on behalf of Government, to the very willing and patriotic response which has been made in many parts of India to the call for recruits for the Territorial Force. But the fact remains that the Force is in its infancy. Now, a regular soldier takes a very considerable time to train, and his training is intensive. You cannot expect the Territorial Force soldiers to become efficient in a far shorter time, especially as their training is merely carried on spasmodically and for short periods in the year. In fact, in many cases their training has not yet actually begun. I think I need only in this connection remind the Assembly of what His Excellency the Commander-in-Chief said to them last March. He said, with reference to the creation of the Territorial Force:

‘ . . . when the Territorial Army reaches the standard of efficiency which, I hope, it may before many years are past, I should be ready to contemplate a proportionate reduction in those troops which have already been allotted to internal security, but, at the present moment, the Territorial Force is in its infancy, and, though I am prepared to give it every possible encouragement, I am doubtful whether, for some years to come, it will reach the degree of efficiency which would justify us in looking on it as of potential military value.’

[Sir Godfrey Fell.]

Well, Sir, I have dealt to the best of my ability with the actual specific points made by my Honourable friend in his speech. I will only add, with reference to the general question, that, as I assured this Assembly last year, no one can be more anxious for retrenchment than the Government of India. I think, if His Excellency the Commander-in-Chief were here, he might be inclined to say that their insistence upon retrenchment has become almost an obsession and one which has caused him considerable inconvenience. Therefore, when the Assembly presses for retrenchment, it is preaching to the converted. The Government of India devote a very considerable portion of their time to the study of this question, and every possible economy that can be effected in reducing military expenditure is being effected and will be effected.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): Sir, I fully accept the assurances given by Sir Godfrey Fell that everything that is needed to effect retrenchment and economy in military expenditure is being done by His Excellency the Commander-in-Chief and the military authorities. The question is not whether the Government of India is anxious to do it. The question is that suitable machinery should be devised by which this House will be convinced that everything that the Government of India is doing is in the right direction and in the desired direction. No departmental inquiry will satisfy this House. The Resolution asks for a Committee to be appointed of officials and non-officials who will go into it and satisfy the House here. Speaking of the military expenditure, if I had to speak upon it, I would not have taken the line which Dr. Gour did in moving the Resolution. I am one of those who think that, so far as the fighting strength is concerned, necessary expert opinion has to be given effect to; and it is not for laymen here to say how many soldiers are needed and what the fighting strength should be to guard us from external aggression and to meet internal disorder. But I ask one question. Are we getting, in regard to this military expenditure, our money's worth in all respects? Take, for instance, the large amount of money which is spent in supplies and contracts and transport. There is a Controller of Contracts. I want a Committee of this House to inquire into the whole procedure of that officer. I want to know how many contracts he entered into in regard, for instance, to wheat, sugar, tea and every other thing, and whether, at the time the rates were sanctioned by him, they were higher or not than the rates which prevailed in the open market. Are we having our money's worth, or is our money being spent as if it were nobody's money in particular and could be spent anyhow? I want a Committee to be appointed, not merely a departmental inquiry, but a Committee of this House, which will have the power to cause any officer of that Department to produce files and produce orders passed, and to show what were the tenders, if any, whether any tenders were asked for at all or not, and thus see how many lakhs of rupees per month could have been or could be saved by a business-like procedure being adopted in that Department. If Government, whatever officer they may appoint, satisfy themselves that no further retrenchment is possible, I do not think they are going to come and convince us that all that need be done and could have been done has been done. Therefore, my first point is that no departmental inquiry, however efficient it may be, will be of any use, and I want a Committee of this House to be appointed, just the same sort of Committee of Retrenchment as has been appointed in England in the House of Commons

Dr. H. S. Gour : And in America.

Mr. N. M. Samarth : That Committee to have full power to call any officer before it and cross-examine him and get all the necessary information by eliciting from that officer all the facts in connection with that Department. I am sorry Sir Godfrey Fell is not here; otherwise, I should have asked him some more questions, in regard to this Controller of Contracts and other matters, to show how much money is being wasted. As regards the Civil Departments, I have no doubt that an efficient officer, as far as I know, has been appointed to go into the matters and see how far retrenchment is possible. But economy is a question of policy. That officer has no power and cannot have any power to recommend a change of policy. He will only proceed on the policy which the Government of India has at present. I do not think any officer can be appointed, who may be told, ' Well, you may do what you like, you may change the policy of the Government if you like '. That is not constitutional and cannot be constitutional. Therefore, with the limitations and qualifications of that officer, so far as the proposed inquiry is concerned, he cannot go into the policy of the Government. And what is expenditure after all? Upon what does economy and retrenchment depend except upon policy? The Committee of this House will have power to examine the policy of Government in any particular matter and to say that we do not agree with a certain policy, it is that policy which is responsible for so much expenditure and extravagance on the part of Government, and we therefore come down upon Government and recommend to them to abandon that particular policy which results in waste. This a departmental officer cannot do, and therefore a Committee of this House is absolutely necessary. With these words, Sir, I support the Resolution.

The Honourable Sir Malcolm Hailey : The course of the debate shows that it has been taken for granted that retrenchment is necessary. I agree that retrenchment is necessary. We in the Government of India have—I may claim, I think, with justice—for years been striving for economy in the administration. Since our financial position became difficult we have steadily resisted new items of expenditure. We have attempted to the best of our ability to see that where we had undertaken a service, we should administer it in the most economical manner possible. Early last year I placed before this House a proposal to appoint a Standing Finance Committee. The functions of that Committee were to deal with all fresh items of expenditure and report also on standing items of expenditure.

Mr. N. M. Joshi (Nominated : Labour Interests) : Votable items ?

The Honourable Sir Malcolm Hailey : It has dealt mainly with votable items, but, as the Honourable Member knows, very many non-votable items have been placed before it. I have already expressed to the House the obligations we owe to that Committee. One of my friends in Government speaking of it recently said that I had added a fresh tyranny to life; for my part, I have been glad of the assistance of fellow inquisitors from this Assembly to aid in the application of the thumb screw. So much for the economy which we have attempted to enforce. But as an Honourable friend said elsewhere the other day, there arrives a stage in every nation's career when you have to look beyond economy. It is not enough, as one of my officers said in talking of the Standing Finance Committee lately, that you should stand behind the palisade and hit at every head that comes above it;

[Sir Malcolm Hailey.]

you have to penetrate behind it. That goes beyond the sphere of economy; it is the process of retrenchment; in other words, we have to see whether the scale of our administration (which of course was initiated when salaries were lower, when the cost of all supplies was lower and when money was easier) is justified in all its details in the present state of our finances.

Now, I have said that we all take it for granted that this time has arrived; retrenchment is necessary; and I, on behalf of the Finance Department, am far from deprecating criticisms or suggestions that have been placed before us for effecting retrenchment. There seems to me to be two requisites. First of all, we should by retrenchment cut down our actual expenditure by reducing the scale of every service which is not vital to the community, or in itself remunerative. Secondly, there is a point on which Mr. Samarth rightly, if I may say so, laid great stress, namely, the machinery adopted should be such that people should be convinced that we have done everything in our power to bring our expenditure to the lowest possible limit. So that we have really a double aim in view; and the question before us is really one not of principle, but of the method by which we should attain our result. Dr. Gour did not deal with the question as a whole, but attacked particular points of detail. In dealing with our civil expenditure he put before us a number of suggestions regarding our various Secretariat offices, pointing out directions in which the scale of establishment could be criticised. I do not know that the House would desire that I should justify every item that he mentioned. For my own part, I am not prepared to say that I could justify every such item, because I claim, as I have always claimed, that retrenchment is possible and must be effected. Of course, when he remarks that the Commerce and Industry Department has two Secretaries and only one Member, I hope, in view of the fact that there are two separate departments which deal with two entirely different subjects, he will give us credit for having only one Member instead of two. As regards the Central Information Bureau Department, I may say the whole question of establishment is now under separate consideration. As regards officers on special duty, surely Dr. Gour has brought a charge against our officers and against the Finance Department which he could not easily sustain. I have never heard of an officer asking for special duty at Delhi for his own purposes and gaining his request. We know from Dr. Gour himself that nobody ever wants to come to Delhi.

Dr. H. S. Gour: May I rise to a point of order, Sir? The Honourable the Finance Member has entirely misunderstood me. My remarks were never directed against him. All I said was that a very large number of officers are shown on special duty.

The Honourable Sir Malcolm Hailey: Is that all Dr. Gour said, Sir? The House is my witness. But as I see him repentant, I leave the point. He obviously wishes to obliterate that portion of his remarks. Then as regards the departments which deal with transferred provincialised subjects, again I say that is a matter for inquiry and justification. I am not prepared myself to say that the matter is not one which ought not to be decided on the lines which Dr. Gour suggested. As regards the Munitions Board, which he said still exists, he is referring, I think, to the Disposals organization, and I am sure my Honourable friend will be glad to know that this Disposals organization is

paid almost entirely by the Home Government, and that we merely pay a percentage on account of transactions which it carries out for us. I am unable to trace those many Secretaries in the Home Department whom Dr. Gour referred to. I know, Sir, only of one Secretary in the Home Department, a particularly hard worked officer. As for my own department, I will justify here and now the number of officers we have. I am, I suppose, not unreasonable in claiming that there must be (as there is) one Secretary; as for the two Joint Secretaries, I may point out that one is engaged entirely on income-tax work and is constantly on tour for the greater part of the year; he is not really a Secretariat officer at all. As for the other, owing to the change in the law, the whole of our finance rules, particularly our service rules and the rules relating to provincial relations in financial matters, have been entirely changed, and we had to place an officer on temporary duty to readjust our rules. We could not possibly have done it ourselves. That, Sir, is the only exceptional feature in my department; the Deputy Secretary, whom the Finance Committee knows so well, is in charge of the expenditure side, and there is one Under Secretary. I have, it is true, one other officer on temporary special duty. He is concerned entirely with the Budget, and I maintain that Budget is a matter of such importance that I think the country can afford an officer, who is by the way an Indian officer, for a few months for that purpose.

Now, Sir, those are merely points which Dr. Gour raises, and to which I do not attach the very greatest importance, because what I am discussing now is the question of method by which we should reach retrenchment. Dr. Gour quoted something that was said by my Honourable friend Mr. Cook in another place. I must protest, Sir, that if the remarks of gentlemen in another place are quoted at all, they ought to be quoted correctly. It is not correct that Mr. Cook said that we were putting an officer on special duty who might be helped by some other officers. The statement that was made on behalf of Government was this, that, accepting the need for retrenchment, the Governor General in Council had decided to take a double course. It may or may not seem fully satisfactory to the Assembly, but I want at least to make clear what it is. There is to be a double line of attack. Departments are under an obligation to explore their own possibilities of retrenchment; at the same time an independent inquiry is to be made by an officer of the Finance Department, and his definite suggestions will be considered by the Executive Council. As Mr. Samarth pointed out, at every turn you come up against questions of policy, in connection with different branches of particular services, and these cases must come to the Council as a whole. They are to be presented by that double method. It was suggested in the Council of State that non-officials ought to be associated in this inquiry; and here also the point has been made both by Dr. Gour and Mr. Samarth, that the country at large will not be satisfied unless they obtain a certificate from non-officials or from Members of the Assembly that everything has been done in the way of retrenchment. Well, Sir, I may inform the House that it has been decided by the Governor General in Council to associate four non-officials with the official who is examining the case of every department. That then is the practical difference between the two methods suggested. There is not the further difference that Dr. Gour's speech would seem to indicate. For when he said that what he wanted was to appoint a Committee for the purpose of enforcing retrenchment, he could not really have meant this, because the terms of his Resolution run—and they are the only terms on which they

[Sir Malcolm Hailey.]

could run—that a Committee should be appointed to report on economies possible. No Committee of this House, nor indeed any Committee whether appointed by us or by this House, could take out of the hands of the Executive Government the actual responsibility for deciding on the expenditure to be curtailed. It could only advise.

Now, what is the best method of getting this advice? We claim that the best method is to have a highly experienced officer to examine the case of every department, and to associate with him four non-officials; incidentally I should mention that we should like to have two non-officials from this House and two from the other. We should like in addition to be able to consult with the members of the Houses before they are appointed, and appoint them after such consultation. Is it a good scheme, and will it secure what we want? (*Dr. Gour*: 'No.') I say that the scheme will secure retrenchment by the best agency we can command; for we have not here the class of *ex-Cabinet* Ministers such as have been placed on the Super-Axe Committee at Home.

What we all want is retrenchment. If we are to have an ordinary Committee, I believe that this will not be such an effective weapon as that which we ourselves propose to provide, and in any case I say this, that in the first place retrenchment ought to be made by Government itself, and Government ought to be given a chance of setting seriously about it. That was done at Home. The Departments were first given a definite mandate for retrenchment and I believe secured sixty million pounds by it. In the present case we have attempted to devise a procedure which will give Government that first chance of securing retrenchment; but we have also agreed that non-officials should be associated with us in order that there may be some security to the country that we are doing the best we can to reduce our expenditure to the lowest possible figure. That is the proposal I put before the House. I should ask *Dr. Gour* and his friends here, who are anxious for retrenchment, to consider whether, in the first instance, it is not advisable to adopt the procedure I have suggested, and if afterwards it is found that it has not achieved the end in view, the House still has its remedies. The first duty lies on the Government, and the first opportunity should be given to Government.

Sir Frank Carter (Bengal: European): Sir, I, as a non-official European Member, wish to support *Dr. Gour's* Resolution, but, in doing so, I do not wish this House to think that I at all agree with what he has said in his speech. I would first like to draw his attention to the fact that he wants to reduce the British Army in India. I don't think that he can realise, at the present time, with all this non-co-operation, civil disobedience, riots, etc., going on, what the result would be of reducing the British Army. The British Army has already been reduced, and, I think, it would be a very serious matter if it was reduced still further.

There is one other point to which *Dr. Gour* alluded, and that is the Air Force. Personally I was very pleased to see in the paper the other day, that the Air Force is going to take charge on the North-West Frontier. I think that this is a jolly good stunt.

As regards *Mr. Samarth's* remarks, I entirely agree with what he has said, especially as regards contracts for sugar, etc. I know something about sugar.

I am pleased to see in the paper this morning that a Special Officer has been appointed to inquire into retrenchment; but, I don't think that this is enough. We know that the Super-Tax Committee has been sitting at Home on the subject of retrenchment, and it is hoped that a reduction may be made to the extent of some millions of pounds. I don't think it is unreasonable for us to hope that, if a Committee is appointed to inquire into retrenchment here, we shall be able to make reductions of several crores of rupees.

At the last Budget debate, I brought forward a Resolution that Stamps and Stationery should be reduced by ten lakhs. That was carried by the House, and was also accepted by Sir Thomas Holland; I understand that a reduction has been made this year to the extent of about 8½ lakhs. If this can be done in one Department, what can not be done in several other Departments?

But there is one thing that I do wish to ask Government, and that is, whether any retrenchments have been suggested to them in their various Departments, whether these have been adopted; and whether they have been given a trial. I understand not. If that is the case, then, I do not think that the appointment of a single Officer with four non-officials associated with him is sufficient. We want a Committee of this House (Hear, hear), and not merely an Officer with four non-officials associated with him. That is the reason why I think that the Honourable the Finance Member has not gone far enough. I am well aware that the Honourable the Finance Member is himself very much in favour of retrenchment. I know it, because I hear so many remarks about his stinginess. But it looks to me very much as if there are some Departments in the Government which do not want retrenchment. It is very easy to go on in the old style, to run along the straight road, but that is not what we want now. We must have retrenchment. Sir, I wish to support, heartily, Dr. Gour's Resolution.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, when there is so perfect an agreement and accord between Members on both sides of the House on the cardinal issues involved, I do not see what difficulty there is in accepting the Resolution as it stands. I quite believe that Sir Malcolm Hailey is himself as concerned in economy as any of us—in fact much more. He is the best abused man on both sides of this House and outside, for he cannot please all or any. When he has to come to the House with his deficit Budget, he would naturally want that the deficit should be as small as possible and we all want to help him. What is it that this Resolution is seeking? A Committee of officials and non-officials, whose choice and appointment will be in the hands of the Government. It is sufficiently elastic for all purposes. The Honourable the Finance Member has indicated, in a spirit which we all appreciate, that the Government of India is willing to associate four non-official Members with an official who is going to make inquiries exactly of the kind that the Resolution indicates. It is only a quarrel about terms, or a question of ways and means, of machinery. A Committee of this House would have powers which the advisory board associated with the officer will not have. (*The Honourable Sir Malcolm Hailey*: 'How?') Because questions of policy and not mere details will have to come up if for nothing else—questions of policy which will have to be endorsed by the Assembly as well as by the Government of India; and questions of policy as well as questions of detail can best be gone into by a properly constituted Committee such as this Resolution seeks to achieve. I

[Sir Deva Prasad Sarvadhikary.]

am aware that in the Council of State an assurance was given, but that did not meet the requirements of the case. I do not think that the assurance conveyed by the Honourable the Finance Member will meet the requirements of the case in this Assembly either, and we hope the voting here will be different. We ought to insist upon and have the Committee of Inquiry that has been suggested here. We are not going to constitute ourselves in this Assembly here into a Committee of Inquiry and go into the details or the merits of the cases that have been quoted or challenged. It is apparent to all that a strong *prima facie* case has been made out and that ought to be enough. The Honourable the Finance Member himself has stated that the Government is taking active steps regarding anti-waste. Sir Godfrey Fell has also said so. It reminds me of London posters in the recent Parliamentary elections, where every candidate was putting himself forward as an anti-waste candidate and some were absolutely the other way. Somebody called it an admirable camouflage. I do not think that there is any idea of camouflage or sheep-skin here. But every one is anti-waste according to his light and still waste goes on. Why is it so? Should we not insist on focussing the light and finding proper remedies? I associate myself with Sir Frank Carter and Mr. Samarth in the idea that we do not suggest a reduction of the Army. All that we want is reduction of waste in expenditure. Sir Godfrey Fell told us that we must not mind waste in war time. Even when waste is pointed out and even when waste can be avoided, is it to be said that waste is to go on? We have heard of military schools of various kinds, schools where instruction proper is imparted to members of the Army, and also the other kind of schools where would-be staff officers are to be trained for contingencies. Do we not know, Sir, the glorious 'contemptibles' who joined the Army and really won the war, were not long in training, and do we not know the admirable work the so-called untrained Army has done? We want to avoid the mistakes of the past. But is it really necessary to keep up indefinite training and nursing like that? These are questions that cannot be gone into by the Routine officer that has been appointed, if he be not associated with non-official Members. I admit he ought to be very useful in preparing cases and getting information and material.

Then, Sir, if further points were needed for making out a *prima facie* case, it is not difficult to suggest them. Sir Frank Carter has referred to the Stamps and Stationery Department and the possibility of reduction there. Matters have gone further than last year, and I think a case may well be made out for the total abolition of the Stationery Department and assigning its functions to the different Departments concerned which can without much difficulty each get their stationery under co-ordinated systems that can be devised, and it may not be necessary to keep up a central body. Each Department can deal with its own stationery under its own contingent grants that can be carefully guarded. Judging by the broad smiles across, I see that it is not a point that appeals to Members on the other side of the House. It may not immediately appeal to others. It is well worth consideration, however, whether that cannot be done because some think it can be. In the same way, Sir, take the Auditor General, who has taken place of the Comptroller General, and look at the way a large body of officers have sprung up round, about and below him, more or less unnecessarily. Then there is the excess number of military officers not dealt with by Sir Godfrey Fell. Other things will suggest themselves to other

Members. I do not say that everything that we may suggest must necessarily be right. We suffer from want of information, probably want of training also, and the Committee that will go into the subject will be able to get proper information and material with honest official help, for I believe many officials are genuinely anxious for retrenchment. They will be able to examine matters carefully and in an authoritative way.

I am very grateful to Sir Godfrey Fell for his appreciation of the way in which the appeal for Territorials has, under the circumstances and with the prevailing handicap, been responded to. That is a sort of appreciation that we do not unfortunately get everywhere and the movement is not encouraged. Nobody looks into matters properly and everybody criticises ruthlessly. For example, in Bengal we heard that the response was very poor. Nobody looked into matters close enough, and facilities are yet not forthcoming. These are matters that we want to bring up and we want to show how the Territorial movement can succeed and corresponding expenditure can be reduced. Rupees 250 may be enough to efficiently equip a man recruited for the Territorials with rifles and some necessary articles, as Dr. Gour suggests. But that is not all. Here it may be a case not for retrenchment but really for enhancement, for expenditure in the real interest of the movement. If the Territorials are to be placed on a sound footing, and genuinely relieve the military only at an increased expenditure, that also is a matter that can be gone into. Reference has been made to the needless Education Department. I am afraid that I cannot agree with all that Dr. Gour said with regard to this and some other matters. Education is no doubt a transferred subject. There is, however, a great deal that can, should and must be done in the Central Government, particularly with regard to research and technology, and you do want a strong if reformed Education Department here to co-ordinate work and avoid duplication. That may not be Dr. Gour's point of view, but that is the sort of matter that can be gone into by a Committee of the kind that this Resolution asks for and not by mere associates of an official.

All these considerations are a strong *prima facie* case for careful and authoritative inquiry that will command confidence and beget confidence. Like the Geddes Anti-waste Businessmen Committee, this Committee may not be able to achieve much, specially if departmental heads are to be guilty of hoodwinking, with which we would not think of charging them but which Sir Malcolm Hailey gratuitously apprehends may take place under certain circumstances. Those conducting the inquiry can be sufficiently on their guard only if they be responsible, and have such authority as the adoption of this motion will give. In view at least of these considerations, I think the Assembly ought to accept this motion and unmistakably declare that the announcement which Sir Malcolm Hailey has made is not enough to meet the requirements of the case.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadian Urban) : Sir, I do not think I should take the time of this House much in speaking in support of this motion. I was rather surprised to hear Sir Frank Carter stating that the army should be maintained for the purpose of protecting the Government against the people of the country. It is a very novel proposition indeed for any Government to entertain that an army should be maintained for protecting itself against the people of the country. Armies are maintained all over the world against external aggression and for defence against foreigners, but to maintain an army

[Rao Bahadur T. Rangachariar.]

for the purpose of defending a Government against the people, well, it is the first time I hear that on the floor of this House: and I am surprised also that my friend Sir Deva Prasad Sarvadhikary says he takes no exception to that statement.

Sir Deva Prasad Sarvadhikary: No, not to that.

Rao Bahadur T. Rangachariar: I stand gladly corrected. Sir, it is a very very vital question to go into as to whether any Government is justified in maintaining a costly army in order to protect itself against the people. I say, no army should be maintained for such a purpose. You must tackle the problem in the best possible way, and produce a contentment and satisfaction of the people that will make the people a part of the Government and not the people against the Government. Sir, it is very important that we should have a strong Committee. The task of the Committee will be a most unpleasant one; it will be a most responsible one; and I should like to have the assistance of expert outsiders in a task of this sort. Sir, it may be that the Committee may have to recommend the reduction of the number of Executive Councillors of the Governor General. I do not think there is need for six Councillors indeed to deal with the administration of the country. I do not think there is necessity for so many Departments. I do not think there is need for so many superintending officers, supervising officers, directing officers, Directors General, Deputy Directors General, Assistant Directors General, Superintending Engineers, Chief Superintending Engineers and all the others. In fact there is a large mass of supervising staff which, I think, might fairly be dispensed with. It is all very well no doubt to aim at efficient administration. But, Sir, there is a point beyond which the country cannot bear efficient administration. Can it be contended that nearly 35 per cent. of the revenues of the country should be spent, and that expenditure defended, on maintaining an army in any country? Does it not require close investigation? And, again, can it be contended that a country like ours can afford to pay such high costly salaries? Should not Indians be content with less pay? And should not attempts be made, and a programme be chalked out, of gradually Indianising the services and fixing an Indian pay? It is all very well to talk of retrenchment by abolishing a few clerks here and a few peons and menials there: that is not the sort of retrenchment we want; we want retrenchment in the high quarters; we want a change of policy; we want really to protect ourselves against the financial burden, which has become very heavy indeed. It will be, as I stated, a troublesome task, an unpleasant task, a responsible task; it may be a prolonged task also; I do not think you can effect all that you have in view in a month or two, as some expect; it requires patient investigation, and this Committee, Sir, ought to be assisted by a very independent officer. No Committee can perform its task. No lay Committee like the one which we want to appoint can perform its task without the assistance of an independent expert. The officer who will be placed on duty in that connection should not be on the establishment of any of the Departments in which retrenchment is going to be effected. He should be quite independent of all the Departments. His salary, for instance, should be placed on the estimates of this House like that of the President of this Assembly. We want an independent gentleman like him, and at the same time one who is an expert and will know where exactly to find the weak spot. Such an officer should be associated with the Committee proposed in

the Resolution. Sir, I heartily support this motion and I hope that good results will come out of it.

Mr. Harchandrai Vishindas (Sind: Non-Muhammadan Rural): Sir, I do not propose to follow the debate into the new channel to which it has been diverted, *viz.*, the maintenance of an army for the defence of the Government against the people. I think that that is a question upon which we need not enter just now. All that I wish to say is that those people who are in touch with the army, the commissariat and supply and transport, are generally of the opinion that there is a good deal of leakage going on. Perhaps Sir Godfrey Fell and Sir Malcolm Hailey do not realise what people are feeling on the subject, and they cannot in their position probe the depths and ascertain the true state of things. I am therefore strongly of opinion that, not only in this branch of military administration, but in several other branches also, there is a good deal of room for retrenchment. When the Treasury Benches were replying to this debate, I did not at first understand their attitude, because Sir Godfrey Fell's speech was merely a defence of Government's policy. But when he was followed by the Honourable Sir Malcolm Hailey, it dawned upon us that Government quite agreed with us on the question that retrenchment was necessary, but the difference related only to the question of method. The Honourable Sir Malcolm Hailey advocated his own method, namely, that four Members of the two Assemblies should be associated with a special officer. All that we are now concerned with is, whether that method is preferable to the one suggested by Dr. Gour in his Resolution, which has been supported by several speakers and especially by Sir Frank Carter. I add my testimony to that of Sir Frank Carter that everything is not fair and square so far as the contract system is concerned. But—to come back to the point as to which of the two methods is preferable I think it is quite clear, and I hope the whole House will be convinced that the method suggested in the Resolution is by far preferable to that suggested by Sir Malcolm Hailey; for the principal consideration, that the Committee to be appointed by this House, will carry a great deal of the confidence of the people. That is one consideration. Another point is that that Committee, if they are convinced by the Government Departments or by the special officer concerned that everything is all right, will come back to this House and give a certificate to Government, and so much the better for Government. Why should not the Government be prepared to lay all its cards on the table? I think they will be entirely in agreement with that view, and at any rate they ought to be, because when I heard the opening words of Sir Malcolm Hailey's speech, I drew the conclusion that he was going to accept the Resolution. But then, while accepting the principle underlying the Resolution and while approving of the speech of Mr. Samarth, he diverted to the position that a Committee should not be appointed but that his suggestion should be adopted. I say, Sir, that Sir Malcolm Hailey has not been able to make out a strong case for the adoption of his suggestion, because those Members who he wishes to be associated with the special officer will not serve the same purpose as a Committee. For the reason—as Mr. Rangachariar has pointed out, and I quite agree with him—that that special officer should have nothing to do with the Committee. As it is, those officers will be probably dominating. These four Members of the different Houses might not be able to do the duty in the same manner as the Committee suggested in the Resolution would do. There is also another point. With due deference to the view that has just now been put forward by

[Mr. Harchandrai Vishindas.]

Government Members, I, for one, think that there are always different angles of vision from which to look at this question. Government Members conscientiously and honestly will be thinking that some particular items of expenditure are justifiable and should be continued. On the other hand, Members of the Committee who will be representing the people and who will have the angle of vision with which the people look at this question, will be able successfully to point out to Members of Government that their point of view is wrong and that retrenchment is possible in these directions and if they are able to convince the Government and if they are able to convince the House, to which this question will be eventually referred, then we shall be able to come to a right decision. I might say that Government may rest assured that whatever Members are appointed to the Committee in pursuance of this Resolution, they will be perfectly reasonable men, not pig-headed and mulish to insist upon their own view in spite of the reasonableness of the case of Government. I am perfectly sure that if Government Members are able to convince them that for the good of the country such and such departments should be retained or that such and such expenditure should be retained, they will certainly agree with the Government. (Hear, hear.) That being the case, I think Government ought not to oppose this Resolution, but support and accept it.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions : Non-Muhamadan Rural) : Sir, I think the reforms will not be either popular or a success in the country unless we can show that it has resulted in the reduction in the cost of administration and that more money has been diverted for the development of the country. We may have a partiality for efficiency, but the people outside think that the administration in this country is much too costly. When that is the popular view, we have to take note of it. What is the scheme of the reforms? The scheme of the reforms is decentralisation, decentralisation of the administration, and if that decentralisation is being brought about we do not see why the Central Government should continue to be as costly as before, and why the cost of central administration should go on increasing. That is the general impression amongst the Members here and the people of the country outside and it is desirable that a Committee should be appointed, largely composed of elected representatives of this House, to inquire into every department of administration and submit a report as to how the cost of administration in the different departments of the Government of India may be reduced. India is a poor country, if not the poorest country in the world. (Voices : 'No', 'no'.) I mean, the civilized world, and I repeat that India is one of the poorest countries in the civilized world. It is Macaulay who said that it is poorer than Portugal. I shall try to satisfy the House that this is so. The average individual income of an Indian, according to Mr. Dadabhai Naoroji, is Rs. 10 or a little more and according to Lord Curzon, who laboured hard to controvert this, it is Rs. 30, whereas the average income per head in England (I am speaking from recollection) is more than £30. So, I say, India is one of the poorest countries and the administration of this country is undoubtedly very costly. Therefore it is for us, as representatives of the people, to see that the cost of the administration is reduced and that not much additional burden is thrown on the tax-payers. India is in need of development, educational development, sanitary development, industrial development. If taxation has got to be imposed, it must be imposed for the purpose of the development of the country, not for maintaining a much costlier administration or for increasing the cost of the military.

So I say that the method that we should adopt is, that we should appoint a Committee of the House to inquire into every department of the Central Administration, and that the Committee should, in consultation with the Members in charge of the various departments, and with assistance of the heads of departments, examine the present state of things and consider carefully to what extent the expenditure in connection with these departments may be cut down.

I therefore heartily support the Resolution which has been moved by my Honourable friend, and which has been supported by Sir Frank Carter, Mr. Samarth and other speakers.

Mr. P. P. Ginwala (Burma : Non-European) : Sir, many experts in this House have already spoken on the subject, some on this side and some on the other ; but I must confess, that in a contest of this sort, the experts on this side of the House must necessarily have the worst of it, because the Government experts and we are never at arm's length. On such questions, they have in their possession information which they throw in our faces and say : ' Here you are. You accuse us of something, but these are the facts.' That is precisely what has been done this afternoon in some respects. The Honourable Member for Military Affairs, Sir Godfrey Fell, was, it seemed to me, thoroughly unrepentant. We complained that this military expenditure was too high, but he was impenitent. He said : ' Yes, it is too high, but it is all justified. Here and there of course it may be cut down. His Excellency the Commander-in-Chief has given certain orders, and we are following them.' That was about as far as he could go. Fortunately, Sir, the Honourable the Finance Member was in rather a penitent mood and he did admit, that retrenchment was necessary, but he suggested a method which is not altogether the kind of method that appeals to this House, for it is very much like asking a sheep to shear its own wool for the benefit of the shepherd or asking a patient, first of all, to try a little dose of medicine himself or to try himself to cut off a limb that is suffering from some disease, and, then, if that fails, to consult a doctor. That, Sir, is precisely the procedure that the Honourable the Finance Member suggests. He thinks that it will do if he applies this medicine himself to purge himself of all the diseases from which, we say, he is suffering. On the contrary, we want to be doctors to him and we want to advise and compel him, or rather induce him, to take proper medicine. That is the difference between the procedure that the Honourable the Finance Member proposes and the procedure that is proposed by this House. We want an independent Committee assisted by all the experts of the Government who choose to advise us, but an independent Committee with authority to go into every question which would help us in investigating the sources of waste in every Department. Then only would it be possible for us to come to some definite conclusions which would enable us to cut down our expenditure. We have got to start with this fact, that between 1913-14 and this year, our expenditure has increased from 83 crores to 129 crores. The military expenditure has risen from 26 crores to 62 crores. It may be that there is good reason for this increase, but we want to satisfy ourselves, with your assistance if you will, whether this expenditure is necessary, whether it is in proportion to our needs, and whether it is within our means. If you satisfy us on those points we shall be willing to agree to your going on with your expenditure. If, on the other hand, you do not, we shall certainly insist on your cutting it down.

[Mr. P. P. Ginwala.]

On these grounds, Sir, I support the Resolution moved by my Honourable friend, Dr. Gour.

Dr. H. S. Gour: Sir, after the pronouncement by the Honourable the Finance Member, my task has become comparatively easy. He admits, that I have made out a *prima facie* case for some sort of inquiry, but he suggests, that the best means of making an inquiry would be to appoint a Special Officer with whom should be associated four Members of this and the other House. But, at the same time, the Honourable the Finance Member confessed, that the necessity for this inquiry is not merely to re-examine the whole question, but also to carry out retrenchment, with a view to effect economies and inspire public confidence as well as to convince this House, that the expenditure incurred is the irreducible minimum which is necessary for the administration of the Central Government. Consequently, on the main principle, there is no divergence of opinion between the Honourable the Finance Member and ourselves; but, what we differ on, is the constitution and scope of the Committee which he proposes. The Honourable the Finance Member must admit, that an officer of Government, however able and efficient, cannot possibly sit in judgment over his employers. The Honourable the Finance Member must further admit, that that Officer will merely examine the existing Departments with a view to effecting economies, but he will not, in any way, do the work which I propose a Committee of this House should do. The Honourable the Finance Member says, that a *prima facie* case has been made out, but give us the chance to set our house in order before you appoint a Committee of this House to examine the whole question. I am perfectly certain, that the Honourable the Finance Member will recall what was said from this side of the House during the debate last year, when the necessity for the appointment of a Retrenchment Committee was insisted on by one speaker after another. If the Honourable the Finance Member wanted a *locus poenitentiae*, he has had one, but I do not base my Resolution on that ground.

I desire, that the Committee of this House, with which will be associated such other persons as the Committee may consider necessary for the purpose of making the inquiry into the whole question, should inquire and report not only upon the best method of effecting retrenchment and economies, but upon the general question affecting the working of the central administration with a view to reducing its expenditure. Sir, the Army Contract is a festering sore from which the Army Department suffers. But it is a well-known fact that those who play the game do not see the points which on-lookers sometimes see, and I, therefore, ask the Honourable the Finance Member, that we in this House, may be able to offer him suggestions which may be found useful to him. I ask, Sir, that this Committee should be appointed, firstly, because it will inspire public confidence, secondly, because it will be a Committee which will be in the confidence of this House and whose report will satisfy the Members of this Assembly. If the Committee suggested by the Honourable the Finance Member is appointed, I venture to submit, that it will neither inspire public confidence nor convince the Members of this House. The Honourable the Finance Member himself has given no reason why a Committee, such as I suggest, should not be appointed. He has merely made an alternative proposal, but he has certainly not shown what

advantage that Committee would have over the Committee which we, on this side of the House suggest for appointment.

I am glad, Sir, that the beginning of such a Committee has already been made by the Honourable the Finance Member; he tells us that a Special Officer has been appointed by Government. I hope that it will be possible to appoint that Officer as Secretary of this Committee. I ask the Honourable Members of this House to support my Resolution.

The Honourable Sir Malcolm Hailey: Sir, it would have been a great pleasure to me had I been able to accept this Resolution exactly as it stands. It would have been an even greater pleasure, Sir, had I been able to comprehend fully the difference between Dr. Gour and ourselves. What Dr. Gour set out to recommend to the Assembly was that the Governor General in Council should be so pleased as to appoint a mixed Committee of officials and non-officials to inquire into the cost of the Central Government and report on the possibility of effecting economy therein. But throughout his speech I find constant references to a Committee of this House (which was not suggested in his Resolution) and to a report to this House (which again was not suggested in his Resolution). In fact I was in doubt whether he was not at times speaking on some amendment to his own Resolution. I do not gather from the terms of his Resolution that a single member of the Committee would necessarily be taken from this House. Do they really now propose that we should have a Committee of this House and nothing else? Or do they propose that the Governor General in Council should appoint, as is suggested in the Resolution, a mixed Committee of officials and non-officials? What is it exactly that they want? I have told the House what action I am prepared to take, and I maintain that, in spite of the fact that it does not seem to meet with the full acceptance of Dr. Gour and his friends, that my method affords the best machinery, while it actually gives to the Legislature a representation which the Resolution did not attempt to ask for.

If I wanted to put off retrenchment for a long time, I would at once appoint a Committee; for I know that when a large Committee, a Committee with many different interests and different points of view comes to consider departmental questions, the general conclusion is a compromise. I have seen it not once or twice, but I have seen it a dozen times. When I want a cutting weapon, I select the keenest I can find and I believe that the cutting weapon I have devised is a far better one than any general Committee, whether it is a Committee appointed by the Governor General of officials and non-officials or whether it is a Committee of this House only.

Mr. President: The question is :

'This Assembly recommends to the Governor General in Council to be so pleased as to appoint a mixed Committee of officials and non-officials to inquire into the cost of the Central Government and report on the possibility of effecting economy therein.'

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 6th February, 1922.



LEGISLATIVE ASSEMBLY DEBATES

MONDAY, 6th FEBRUARY, 1922
Vol. II—No. 28

OFFICIAL REPORT

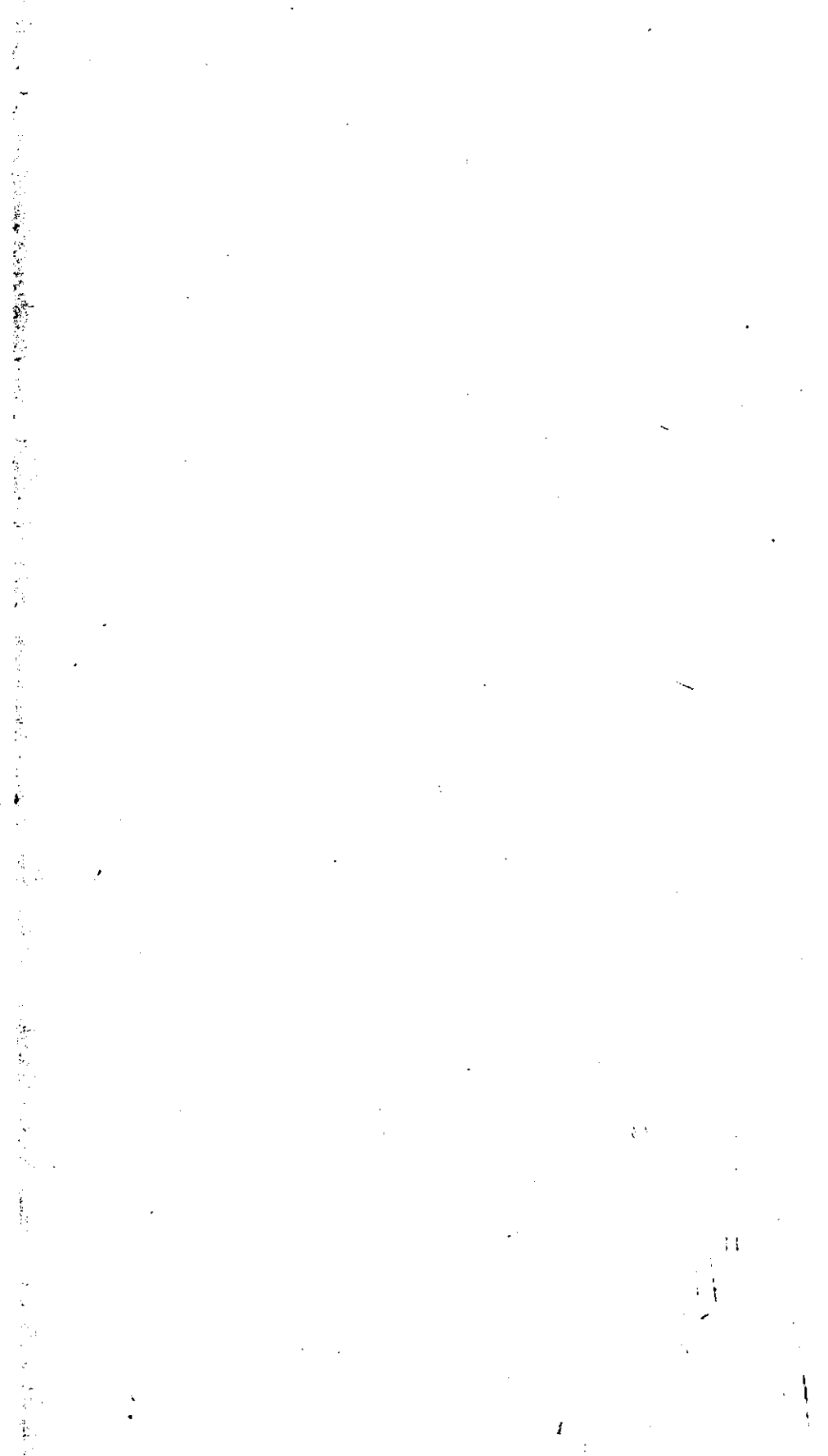


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LEGISLATIVE ASSEMBLY.

Monday, 6th February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

CONSTRUCTION OF THE AKOLA-BASIM AND YEOTMAL-DHAMANGAON RAILWAYS.

136. ***Khan Sahib Maulvi Abdul Quadir**: Will Government be pleased to state when the construction of the Akola-Basim and the Yeotmal-Dhamangaon Railways will be taken in hand, and how long their completion will take?

Colonel W. D. Waghorn: The project for a broad gauge railway from Hivarkhed to Akola and thence to Basim was estimated to pay only 3.32 per cent. and it was, therefore, decided in 1920 not to proceed with it. The Local Government have since suggested the construction of the line on the 2'—6" gauge and this suggestion will be considered. The survey of the Dhamangaon-Yeotmal Railway has been deferred for want of funds. It is not possible to say when the construction of these lines will be taken in hand.

CONCESSION TO STUDENTS FOR EDUCATIONAL EXCURSIONS AND GAMES.

137. ***Khan Sahib Maulvi Abdul Quadir**: Do Government propose to impress on the Railways the necessity of restoring the concessions to students going out on educational excursions and for playing games which obtained before the war?

- (a) Are Government aware that the Great Indian Peninsula Railway has been persistently refusing requests for such concessions to students in Berar?
- (b) If not, will they be pleased to inquire into the matter and address the Railway Company to restore such concessions?

Colonel W. D. Waghorn: The concession referred to by the Honourable Member and a number of other similar concessions were withdrawn during the war. The question of restoring them was considered at the last Railway Conference, but it was unanimously decided that sufficient progress had not been made towards the restoration of normal conditions to permit of the concessions again being allowed. The question will be periodically examined.

PURCHASE OF A PART OF THE HEDJAZ RAILWAY.

138. ***Haji Wajih-ud-Din**: Is it a fact that the proposal of purchasing a part of Hedjaz Railway is being discussed between Colonel Lawrence and Amir Abdullah, and if so,

- (a) whether half the value of said part is proposed to be paid by the Government;

- (b) whether a commission consisting of seven Engineers has been appointed to settle the problem of its present value ;
- (c) whether it is a fact that the said railway was constructed by public contributions and donations, and that it is not the property of any one ?

Mr. Denys Bray : As was stated in a communiqué issued on the 22nd January, telegraphic inquiries instituted by the Government have failed to reveal the existence of any foundation whatsoever for the mischievous rumour current in certain sections of the press that the sale of part of the Hedjaz Railway is contemplated. (a), (b) and (c) therefore do not arise.

COST OF PROFESSOR HORNE'S PROPAGANDIST TOUR IN AMERICA.

139. * **Rai G. C. Nag Bahadur :** (1) Is it true that Professor Horne of the Patna College is now in America deputed by the Government of India to lecture on Indian conditions with a view to counteracting the pernicious reports regarding India appearing in the American press ?

2) If the answer is in the affirmative, will the Government kindly inform the House, (1) whether the idea of deputing the Professor for the purpose originated with the Government of India or with the Secretary of State for India, (2) as to the estimated cost of the deputation, and (3) the head of expenditure to which the cost will be charged ?

3) Will the Government also kindly state how long the said Professor is expected to be in America on his propagandist tour, and whether copies of the lectures, if any, delivered by him in connection with his mission will be made available to the Members of this Assembly ?

The Honourable Sir William Vincent : I would invite the attention of the Honourable Member to a speech delivered by me in this Assembly on the 11th March last year. Professor Horne was placed on deputation to enable him to take up a temporary lectureship in Harvard University at the invitation of the authorities of that University. The cost of his deputation was borne by Indian revenues, as the appointment enabled the Professor to lecture on Indian conditions generally with a view to counteracting the false and mischievous reports regarding India appearing in certain sections of the American press. I am unable to state what the exact cost of the deputation was, but, approximately, the expenditure incurred has been about Rs. 18,000 plus the cost of a passage. Professor Horne is no longer in America, his deputation having terminated some months ago. If the Honourable Member so desires, I will inquire whether copies of the lectures delivered by him are available.

Rai G. C. Nag Bahadur : I want to ask a supplementary question, Sir. Last year, during the Budget debate, there was a discussion as to the desirability of bringing in an American lecturer to study Indian conditions, so that he might, on his return to America, remove the misconceptions that exist in the American mind in regard to India. There was a demand for Rs. 5,000.

Mr. President : Order, order. The Honourable Member appears to be delivering a speech, not asking a question.

Rai G. C. Nag Bahadur : I will come to the point, Sir. That demand was cut out. The Assembly felt that through the efforts of a single lecturer the misconceptions that might exist in America could not be removed. Government, I believe, accepted that decision. I want to ask whether Government have changed their mind on the subject, because this Professor has been deputed there with the very same object.

The Honourable Sir William Vincent : Government have given full effect to the Resolution of this Assembly. I believe also that at that time I informed the Assembly what the position was with regard to Professor Horne.

PROPORTION OF SUPERIOR POSTS HELD BY INDIANS.

140. * **Rai G. C. Nag Bahadur :** With reference to Home Department Resolution No. 2559 of 1st December, 1920, declaring certain posts as superior posts, of which 33 per cent. were to be recruited at once in India, will they kindly furnish a comparative statement to show, province by province, the total number of such superior posts and the number of such posts held by Indians on 1st January, 1921, and that held by them on 1st January 1922 ?

The Honourable Sir William Vincent : I am afraid, the Honourable, Member has misunderstood paragraph 12 of the Resolution that he quotes, if he takes it to mean that 33 per cent. of the superior posts are to be filled at once by officers recruited in India. What the Resolution states is, that an increasing percentage, starting from 3 per cent. of annual recruitment, will be reserved for Indians recruited from all sources, not in India only, and this is being done. The effect is of course not to place Indians in 33 per cent. of the superior posts immediately, inasmuch as many newly recruited officers are not, except in the cases of those appointed from the Provincial Civil Service or the Bar, appointed directly to superior posts; they have normally to pass two years on probation in England, to pass departmental examinations and to undergo several years' training in India before being entrusted with a superior charge.

For the numbers of Indians holding superior posts in each province in 1921 and 1922, I would refer the Honourable Member to the Provincial Civil Lists.

PROVISION OF 'LISTED' POSTS FOR PROVINCIAL SERVICE MEN IN ASSAM.

141. * **Rai G. C. Nag Bahadur :** Is it a fact that no members of the Provincial Service in Assam have yet been provided with any 'listed' posts ? If so, will the Government kindly state why the Provincial Government have not found it possible to comply with the instructions of the Central Government ?

The Honourable Sir William Vincent : The Honourable Member's attention is drawn to the answer given to him on the 14th March 1921. With reference to the latter portion of that answer, the Local Government have submitted certain proposals which are now under consideration.

DOMICILED EUROPEAN AND ANGLO-INDIAN NURSES EMPLOYED DURING THE GREAT WAR.

142. ***Lieut.-Col. H. A. J. Gidney**: Will Government be pleased to state how many domiciled European and Anglo-Indian nurses were employed during the past Great War?

Sir Godfrey Fell: During the Great War, that is, between August, 1916 and November, 1918, 520 nurses, engaged in India, were temporarily employed on military duties; of these, 80 per cent. were untrained nurses.

There are no records available to show how many of these nurses were Europeans, domiciled Europeans, or Anglo-Indians.

DOMICILED EUROPEAN AND ANGLO-INDIAN NURSES ON THE PERMANENT CADRE OF QUEEN ALEXANDRA'S NURSING SOCIETY.

143. ***Lieut.-Col. H. A. J. Gidney**: Will Government be pleased to state if there are any domiciled European and Anglo-Indian nurses (giving names) employed at present on the permanent cadre of the Queen Alexandra's Nursing Society, India? If none are on the cadre, are they eligible for employment?

Sir Godfrey Fell: I presume the Honourable Member refers to the Queen Alexandra's Military Nursing Service for India. At present no domiciled European or Anglo-Indian nurses are employed on the permanent cadre of this service.

Domiciled European and Anglo-Indian nurses are eligible for appointment as 'nursing sisters' in the Queen Alexandra's Military Nursing Service for India, provided they fulfil the necessary conditions of appointment.

CORRESPONDENCE RE: ESTABLISHMENT OF PUBLICITY BUREAUS.

144. ***Mr. T. V. Seshagiri Ayyar**: Will Government be pleased to lay on the table of the House the correspondence that passed between the Government of India and the Right Honourable the Secretary of State for India relating to the establishment of the Publicity Bureaus in Central and Provincial Governments?

The Honourable Sir William Vincent: Government do not propose to lay the papers on the table. If the Honourable Member desires information on any particular point, I will endeavour to supply it.

SECURITIES FROM NEWSPAPERS UNDER THE PRESS ACT.

145. ***Mr. T. V. Seshagiri Ayyar**: Will Government be pleased to make a statement showing:

- (a) the names and addresses of newspapers, the printers whereof have been asked to deposit fresh securities under the Press Act, giving the amount of such fresh securities and the amount of securities forfeited in each case; and
- (b) the names and addresses of newspapers and printing presses which have ceased to exist as a result of any action under the Press Act,

since the introduction of Press Act Amendment Bill in the Legislative Assembly in September, 1921 ?

The Honourable Sir William Vincent: The information is being collected and will be laid on the table when available.

COMMITTEE ON THE ABOLITION OF THE PENAL SETTLEMENT IN THE ANDAMANS.

146. * **Rai Bahadur Pandit. J. L. Bhargava:** With reference to the statement made by the Honourable the Home Member in this Assembly on the 22nd September, 1921, to the effect that he proposed to suggest the appointment of a small Committee of the Assembly to examine the report of the officer sent by the Government of India to the Andamans to see what steps could be taken in the direction of abolishing the penal settlement, will the Honourable the Home Member be pleased to state whether it is intended to appoint such Committee and, if so, when ?

The Honourable Sir William Vincent: As implied in the question, I had intended to suggest the appointment of a small Committee to examine the proposals contained in Mr. Gwynne's report. Since I made that announcement, however, the situation has appreciably changed. Owing to the stoppage of deportation to the Andamans and the inability of Local Governments to find funds at the present moment for the construction of new jails, overcrowding in existing jails in certain provinces has unfortunately become most serious. This is particularly the case in the Punjab, North-West Frontier Province and in Madras, in all of which the existing accommodation is taxed to a point which gives rise to serious apprehension. Overcrowding necessarily means deterioration in discipline and there is also serious risk of the outbreak of some epidemic disease. In the circumstances, the Government of India have very reluctantly come to the conclusion that there is no alternative except to reopen temporarily the deportation to the Andamans of prisoners sentenced to transportation from certain provinces, and this decision has been approved by the Secretary of State. It will unfortunately mean some delay in giving effect to the decision to abolish the penal settlement at Port Blair, and, in these circumstances, I am afraid it would be premature at the present time to appoint the Committee of this Assembly which I had in mind. I shall, however, be very glad to consider any suggestions or advice that may be given to me by any Member of this Assembly who takes an interest in the subjects dealt with in Mr. Gwynne's report.

COMMISSIONS FOR INDIANS AND THEIR ADMISSION TO THE ARTILLERY AND OTHER ARMS OF HIS MAJESTY'S FORCES.

147. * **Sir P. S. Sivaswamy Aiyer:** Will the Government be pleased to state what steps, if any, have been taken to carry out the Resolutions of the Assembly passed on the 28th of March, 1921, with reference to the Esher Committee's Report and specially the recommendation regarding the admission of Indians to the Artillery and other arms of His Majesty's forces, from which they have been hitherto excluded, and the recommendation regarding Commissions in the Indian Territorial and Auxiliary Forces ?

Sir Godfrey Fell: The attention of the Honourable Member is invited to the statement† laid on the table by the Honourable Dr. T. B. Sapru on the 16th

† *Vide* Legislative Assembly Debates, Volume II, pages 1607-08.

January last, which showed the action taken with regard to these Resolutions. As regards the two particular matters to which the Honourable Member refers, the Government of India have been for some time past in communication with the Secretary of State on the subject of the admission of Indians to the commissioned ranks of the Artillery and other arms of His Majesty's forces : and the question of the form of commission in the Indian Territorial and Auxiliary Forces is also the subject of correspondence with the Secretary of State. No final orders have yet been received on either subject.

COMPARATIVE COST OF MAINTENANCE OF NURSES IN INDIA.

148. * **Lieut.-Col. H. A. J. Gidney** : Will Government be pleased to state if the cost to the Indian Exchequer of maintaining the nurses in the Queen Alexandra's Nursing Society, India, is greater, nurse per nurse, than those nurses trained and enlisted in India and now doing duty in Indian station hospitals ?

Sir Godfrey Fell : The answer is in the affirmative.

EQUALITY OF TREATMENT AS BETWEEN ENGLISH AND INDIAN TRAINED ARMY NURSES.

149. * **Lieut.-Col. H. A. J. Gidney** : Will Government be pleased to state whether they make any distinction (a) in professional qualifications, (b) social recognition, and (c) salaries between English and Indian trained Army nurses ? If yes, why ? If not, will Government be pleased to state whether it is prepared to bring all nurses, trained and recruited both in England and India, on an equal footing, in every way ? If not, why not ?

Sir Godfrey Fell : With regard to the first part of the question, the attention of the Honourable Member is invited to the reply† given on the 24th January, 1922, to his starred question No 101.

As regards the latter part of the question, I would refer the Honourable Member to the reply‡ given on the 26th September last to part (b) of his Question No. 626.

INADEQUATE SCALES OF PAY OF CLERKS IN ATTACHED OFFICES.

150. * **Rai Bahadur Bakshi Sohan Lal** : With reference to the answers given by Sir William Vincent in the Legislative Assembly in September, 1921, in reply to Question No. 237 (g) to Sir P. S. Sivaswamy Aiyer and to Question No. 500 (a) (ii) to Rai Bahadur Bakshi Sohan Lal with regard to the scale of pay of attached offices, will the Government please state :

- (a) The difference between the duties and work performed by routine clerks, such as Cashiers, Despatchers, Typists, Receipt, Reference and other clerks of the attached offices and those of the Secretariat and Army Headquarters.

† *Vide* Legislative Assembly Debates, Vol. II, page 1826.

‡ *Vide* Legislative Assembly Debates, Vol. II, page 978.

- (b) The reasons for the justification of granting almost half the maximum scale of pay, *viz.*, Rs. 175 against Rs. 350 and Rs. 300 and half the annual increment, *viz.*, Rs. 4 against Rs. 8 to such routine clerks in the attached offices and to those of the Secretariat and Army Headquarters, respectively?

The Honourable Sir William Vincent: It is impossible, within the scope of an oral answer to a question, to define accurately the different classes of work done by the officials referred to in the question; but, generally speaking, it has always been held that the duties of the clerks and others in the Government of India Secretariat are more onerous, and that a higher standard of work is expected from them than from officials of the same status employed in the attached offices. This is the reason for the differentiation in the scales of pay.

DISCONTENT AMONG CLERKS IN ATTACHED OFFICES AS REGARDS SCALES OF PAY.

151. * **Rai Bahadur Bakshi Sohan Lal:** Is it a fact that there is a great discontentment among the members of the ministerial establishments of the attached offices against their present scale of pay and allowances and that several of these officers have submitted to Government memorials for the removal of their grievances? If so, will the Government please state what action they are taking to remove these grievances?

The Honourable Sir William Vincent: The Honourable Member is referred to the reply† given on the 16th January, 1922, to Lala Girdharilal Agarwala's Question No. 171 on the subject.

REVISED SCALES OF PAY IN DIRECTOR GENERAL, INDIAN MEDICAL SERVICE'S OFFICE AND THE DIRECTOR, MEDICAL SERVICES' OFFICE.

152. * **Rai Bahadur Bakshi Sohan Lal:** With reference to the answer given by Sir William Vincent to Question No. 237 (g) asked by Sir P. S. Sivaswamy Aiyer in the Legislative Assembly in September, 1921, will the Government be pleased to state if it is a fact:

- (a) (i) That before the recent revision the scale of pay of the ministerial establishment of the office of the Director General, Indian Medical Service, was higher than, or almost equal to, that of the scale of pay of the establishment of the office of the Director, Medical Services in India, *viz.*, Rs. 50—660 and Rs. 40—600, respectively?
- (ii) That after the recent revision of the scales of pay of the ministerial establishments of these two offices there has been no change in the nature and standard of work performed by them?
- (b) If the reply to (a) (i) be in the affirmative and to (a) (ii) in the negative, will the Government be pleased to state the reasons for granting in the recent revision such a lower scale of maximum pay to the establishment of the Office of the Director General, Indian Medical Service, than that granted to the establishment of office of the Director, Medical Services in India, *viz.*, Rs. 175

† *Vide* Legislative Assembly Debates, Vol. II, page 1594.

against Rs. 300 per mensem with Rs. 4 against Rs. 8 annual increment in the lower division and Rs. 350 against Rs. 440 with Rs. 8 against Rs. 12 annual increment in the upper division?

(c) If the reply to (a) (ii) be in the affirmative, will the Government please explain those differences?

Sir Godfrey Fell: (a) (i) The scale of pay of the ministerial establishment of the office of the Director General, Indian Medical Service, before the recent revision was Rs. 50 rising to Rs. 650 as compared with Rs. 40 rising to Rs. 600 of the office of the Director, Medical Services.

(ii) There has been no such change.

(b) The Honourable Member is referred to the reply† given by Mr. O'Donnell on the 1st March, 1921, to clause (b) of Question No. 337 and to that ‡ given by me on the 21st September, 1921, to clause (b) of Question No. 448. The pay of the clerical staff of the office of the Director, Medical Services, is based on the scales of pay authorised for the Army Headquarters offices, of which the former is a part; whereas the scale of pay of the office of the Director General, Indian Medical Service, which is an attached office, is based on the general rate of pay laid down for attached offices.

(c) In view of the replies given above, this question does not arise.

INELIGIBILITY FOR APPOINTMENTS IN THE SECRETARIAT OF CLERKS IN ATTACHED OFFICES.

153. * **Rai Bahadur Bakshi Sohan Lal:** Is it a fact that instructions have been issued by the Staff Selection Board to the Attached offices that members of the clerical establishment of these offices will not be allowed to take up an appointment in the Secretariat except in very exceptional circumstances? If so, will the Government please state reasons for the issue of such instructions?

The Honourable Sir William Vincent: I am informed that no such instructions have been issued by the Staff Selection Board.

FIRING WITHOUT WARNING IN THE HOWRAH AFFRAY.

154. * **Mr. K. C. Neogy:** With reference to the reply to my starred question No. 84 of the 24th January, 1922, will Government be pleased to state:

- (a) if it is a fact that warning was not given in all cases before fire was opened; and
- (b) whether it is a fact that in the Howrah affray, referred to in the reply, no one has come forward to acknowledge the responsibility of having given the order to open fire on the crowd?

The Honourable Sir William Vincent: (a) In two of the eleven cases referred to, fire appears to have been opened without orders. There is no reason to think that warning was not given in all the other cases.

(b) The Honourable Member's attention is drawn to the Resolution of the Bengal Government on this subject which was published on the 18th January.

† *Vide* Legislative Assembly Debates, Volume I, page 428.

‡ *Vide* Legislative Assembly Debates, Volume II, page 653.

Mr. K. C. Neogy : May I know what has happened to the Bill that was introduced in Simla to provide for certain safeguards in regard to firing on crowds ?

The Honourable Sir William Vincent : That Bill is still under the consideration of Government.

INDIAN SECRETARIES, DEPUTY SECRETARIES AND UNDER SECRETARIES IN THE GOVERNMENT OF INDIA SECRETARIAT.

155. * **Rai Bahadur Luchmi Prasad Sinha :** Will the Government be pleased to place before the House a statement containing the following :

- (1) Number of Secretaries in each of the Departments of the Government of India in 1922 and in 1916.
- (2) How many of them are Indians ?
- (3) Number of Deputy Secretaries in each of the Departments of the Government of India in 1922 and in 1916.
- (4) How many of them are Indians ?
- (5) Number of Under-Secretaries in each of the Departments of the Government of India in 1922 and in 1916.
- (6) How many of them are Indians ?

The Honourable Sir William Vincent : A statement, giving the figures for 1st April 1917 and 1st April 1921, is laid on the table. These will, it is hoped, serve the Honourable Member's purpose.

Statement showing the number of Indians and non-Indians holding posts of Secretaries, Deputy Secretaries and Under Secretaries in the Government of India Secretariat on the 1st April 1917 and the 1st April 1921.

Appointments.	Departments.	ON 1ST APRIL 1917.		ON 1ST APRIL 1921.	
		Indians.	Non-Indians.	Indians.	Non-Indians.
Secretaries	Home . . . . .	...	1	...	1
	Foreign and Political . . . . .	...	2	...	2
	Finance . . . . .	...	1	...	1
	Legislative . . . . .	...	1	...	1
	Army . . . . .	...	1	...	1
	Public Works . . . . .	...	1	...	1
	Revenue and Agriculture . . . . .	...	1	...	1
	Education and Health . . . . .	...	1	...	1
	Commerce . . . . .	...	1	...	1
	Industries . . . . .	...	...	1	...
	Railway Board . . . . .	...	1	...	1

Statement showing the number of Indians and non-Indians holding posts of Secretaries, Deputy Secretaries and Under Secretaries in the Government of India Secretariat on the 1st April 1917 and the 1st April 1921—contd.

Appointments.	Departments.	ON 1ST APRIL 1917.		ON 1ST APRIL 1921.	
		Indians.	Non-Indians.	Indians.	Non-Indians.
Deputy Secretaries	Home . . . . .	...	1	...	1
	Finance . . . . .	...	1	...	1
	Legislative . . . . .	...	1	1	1
	Industries . . . . .	...	...	...	2
	Education and Health . . . . .	...	...	1	...
	Public Works . . . . .	...	1	...	1
	Army . . . . .	...	1	...	1
	Foreign and Political . . . . .	...	2	...	2
Under Secretaries	Home . . . . .	...	1	...	1
	Finance . . . . .	...	1	...	1
	Revenue and Agriculture . . . . .	...	1	...	1
	Commerce . . . . .	...	2	...	1
	Foreign and Political . . . . .	...	1	...	1
	Public Works . . . . .	...	1	...	1

RATIO BETWEEN INDIAN AND EUROPEAN MEMBERS OF THE INDIAN CIVIL SERVICE.

156 *Rai Bahadur Luchmi Prasad Sinha: Will the Government be pleased to state what is the present ratio between Indian members and European members of the Indian Civil Service cadre?

The Honourable Sir William Vincent: The Government of India have no information on the subject except such as can be gathered from the Civil Lists of the various provinces. They understand, however, that on the 1st October, 1921, the percentage of Indian officers holding posts usually held by members of the Indian Civil Service was 12 per cent. They further understand that this percentage has recently been materially increased owing to the arrival in India of Indian members of the Service appointed under the Indian Civil Service (Temporary Provisions) Act, 1915, but they have no exact information as to the present percentage.

INSTRUCTIONS TO, AND DEPOSITION OF, MR. SASTRI AT THE WASHINGTON CONFERENCE.

157. *Mr. K. C. Neogy: With reference to the answer to my starred Question No. 111 of the 24th January 1922, will Government be pleased to

state whether they have any official information as to what instructions were given by the Secretary of State to the Right Honourable Mr. Sastri in regard to the Disarmament Conference at Washington, and what views were put forward by the latter at the Conference on behalf of India ?

INDIA AND THE PACIFIC COMPACT.

158. * **Mr. K. C. Neogy** : With reference to the answer to my starred Question No. 112 of the 24th January, 1922, will Government be pleased to state :

- (1) whether India is among the contracting parties to the Pacific compact ; and
- (2) whether Government have any official information as to what views were put forward by Right Honourable Mr. Sastri in that connexion on behalf of India ?

The Honourable Sir William Vincent : I invite the attention of the Honourable Member to the fact that under the first proviso to Rule 8, sub-rule (1), of the Legislative Rules, no question can be asked in this Assembly which affects the relations of His Majesty's Government with any Foreign State. Any instructions issued to Mr. Sastri or views put forward by him must, I think, be regarded as coming within that prohibition. The Government of India have, however, no information on these points. The British Empire is one of the High Contracting Parties to the Pacific compact. The British Plenipotentiaries appointed by His Majesty the King-Emperor to conclude the Treaty included the Plenipotentiary for India.

ACTION ON THE RECOMMENDATIONS OF THE INDIAN RAILWAY COMMITTEE.

159. * **Mr. K. C. Neogy** : Will Government be pleased to state whether they propose to give immediate effect to those among the unanimous recommendations of the Indian Railway Committee that do not entail any considerable expenditure, particularly the recommendations about the constitution of Central and Local Advisory Councils and the Rates Tribunal ?

Colonel W. D. Waghorn : The Railway Board are already in correspondence with Local Governments and Railway Administrations in regard to the establishment of Local Advisory Councils. The Government of India hope to be able to make shortly an announcement regarding a Central Advisory Council. The remaining recommendations of the Railway Committee are under examination.

REDUCTION IN THE NUMBER OF MEMBERS OF SOME PROVINCIAL EXECUTIVE COUNCILS.

160. * **Mr. K. C. Neogy** : (a) Have Government received any communication from the Secretary of State in regard to the question of reduction of the number of Members of the Executive Council in the provincial Governments of Madras, Bombay, Bengal, and Bihar and Orissa ?

(b) If so, will Government be pleased to state the purport of the same ?

The Honourable Sir William Vincent : The Secretary of State has not addressed the Government of India officially on the subject.

COMMITTEE ON THE STAFF SELECTION BOARD.

161. * **Mr. P. L. Misra :** (a) Will Government be pleased to state if a Committee is intended to be appointed to inquire into the working of the Staff Selection Board ?

(b) If so, will Government be pleased to appoint at least two members of the Government of India Secretariat service on the said Committee ?

The Honourable Sir William Vincent : (a) The Committee has been appointed.

(b) No.

DAILY AND CONVEYANCE ALLOWANCE FOR THE DELHI MEMBER OF THE LEGISLATIVE ASSEMBLY.

162. * **Mr. P. L. Misra :** (a) Will Government be pleased to state if the Delhi Member in the Legislative Assembly draws any daily or conveyance allowance ?

(b) If so, how much ? If not, why not ?

The Honourable Dr. T. B. Sapru : (a) and (b). The daily allowance is admissible only to those Members who are required to leave their official headquarters or usual places of residence to attend meetings of the Assembly. Honourable Members who do not reside at Raisina are not entitled to draw any conveyance allowance. The Delhi Member would be entitled to a daily allowance should he attend a Session in Simla.

ANGLO-INDIAN BOYS NOMINATED AND FINALLY SELECTED FOR THE INDIAN ARMY.

163. * **Lieut.-Col. H. A. J. Gidney :** Will Government be pleased to state (a) how many Anglo-Indian boys appeared before the various Provincial Selection Committees for nomination into the Indian Army, (b) how many of these were nominated, and (c) whether any Anglo-Indians were selected by the Final Selection Committee within the past 12 months ?

Sir Godfrey Fell : Presumably, the Honourable Member is referring to the arrangements under which Indian candidates for admission to the Royal Military College, Sandhurst, are recommended by Local Governments and Administrations, in the first instance, and, if approved, are permitted to attend the entrance examinations which are held at Simla twice a year ; if so, the reply to his question is that these arrangements apply only to Indian candidates. European and Anglo-Indian candidates, residing in India, who wish to enter the Royal Military College, Sandhurst, must attend the Army Entrance Examinations which are held in the United Kingdom. No Selection Committees are held in India to nominate Anglo-Indian candidates.

ANGLO-INDIANS IN THE SUPERIOR AND IMPERIAL SERVICES.

164. * **Lieut.-Col. H. A. J. Gidney :** Will Government be pleased to state how many Anglo-Indians have been employed, either by

nomination or by examination, in the various provinces in India, (i) since the termination of the war; (ii) since the last 12 months in the following services:

- (a) Indian Civil Service.
- (b) Imperial Police Service.
- (c) Imperial Forest Service.
- (d) Superior Railway Service?

The Honourable Sir William Vincent: (a), (b), (c) and (d). The information is being collected and will be supplied to the Honourable Member in due course; but I must warn him that it is very difficult indeed to secure accurate information, as the meaning of the term 'Anglo-Indian' is so vague.

PROVISION OF EMPLOYMENT FOR DEMOBILISED ANGLO-INDIAN OFFICERS OF THE INDIAN ARMY RESERVE.

165. * **Lieut.-Col. H. A. J. Gidney:** (a) Will Government be pleased to state (i) the total number of members of the Domiciled Community who were employed during the past war, including the Frontier war, as officers in the Indian Army Reserve of Officers? (ii) Out of this total, will Government be pleased to say how many have been granted permanent Commissions in the Army?

(b) Will Government be pleased to state what is the total number of such officers who have been demobilised up to date?

(c) Will Government be pleased to state what per cent. of these demobilised officers has received employment (i) in the various Government services and (ii) in the various mercantile and other firms in India *via* the various Resettlement Committees, etc.?

(d) Is Government aware that a large percentage of such officers are still unprovided for?

(e) Is Government aware of the fact that one of the main reasons why these officers have not been given employment is because they are 'country-born' and have received their education in India?

(f) Does Government propose to take any steps to remedy this state of affairs? If so, will Government be pleased to state what steps they propose taking?

Sir Godfrey Fell: (a) to (e). It is regretted that the information asked for cannot be furnished, as no record exists of the domicile of the candidates who were selected for appointment to the Indian Army Reserve of Officers. Provided an applicant was a British born or naturalised British subject, his selection for appointment to the Indian Army Reserve of Officers depended on the recommendation of the authorities through whom the application was submitted.

His ordinary place of residence was not taken into account.

(f) This question does not now arise.

INDIAN TRAINED LADY SUPERINTENDENTS OF INDIAN STATION HOSPITALS TO BE DIRECTLY RESPONSIBLE TO OFFICERS COMMANDING.

166. * **Lieut.-Col. H. A. J. Gidney**: With reference to the reply given on the 24th January, 1922, to my starred Question No. 116, regarding revised paragraph 62, Army Regulations, Volume VI, will Government be pleased to say whether they are prepared to consider the question of so altering it as to allow the Lady Superintendents of Indian Station Hospitals, who, by training in India, are familiar with tropical diseases, languages, habits, customs, diets, etc., of Indian troops, to be alone responsible to the Officers Commanding for the Nursing Staff of such Hospitals?

Sir Godfrey Fell: I would invite the Honourable Member's attention to the answer given on the 24th January last, to his starred Question No. 102. Indian Station Hospitals are under the charge of Matrons, and not Lady Superintendents, of whom there are only four in India. Government do not consider it advisable to remove these Matrons, who are only temporarily employed and are frequently liable to change, from the supervision of the Senior Nursing Sister of the station, who is usually a lady of considerable service and experience.

DESPATCH FROM SECRETARY OF STATE ON FURTHER REFORMS.

167. * **Dr. H. S. Gour**: Will the Government be pleased to lay on the table a copy of the despatch understood to have been received from the Secretary of State for India in reply to the Assembly's Resolution on the subject of further Reforms, of which a short summary has already appeared in the Press?

The Honourable Sir William Vincent: The Government of India have not received the despatch referred to by the Honourable Member.

RESERVED COMPARTMENTS FOR THIRD CLASS PASSENGERS.

168. * **Rai Bahadur Luchmi Prasad Sinha**: (a) Is it a fact that third class passengers are not allowed to reserve compartments even on payment of full fares for the compartments except on the Kalka-Simla Railway?

(b) If the answer is in the affirmative, will the Government be pleased to state the reasons for refusal of such concessions to third class passengers?

Colonel W. D. Waghorn: (a) There is no such rule having general application.

(b) The question does not arise in view of the reply to (a) above.

REASON FOR BIG THIRD CLASS COMPARTMENTS.

169. * **Rai Bahadur Luchmi Prasad Sinha**: Will the Government be pleased to state the reasons for the construction of big third class compartments for numbers of passengers varying from 30 to 50 to seat in each?

Colonel W. D. Waghorn: The chief advantages of large over small compartments in 3rd class carriages are that they are more economical in seating accommodation, that larger compartments are better ventilated and

airier than small, and that in large compartments certain conveniences can be provided which, for reasons of economy, it would not be possible to supply in small compartments.

EXTENSION OF PASSENGER SHED AT KIUL JUNCTION.

170. * **Rai Bahadur Luchmi Prasad Sinha**: (a) Is it a fact that the major portion of the passenger shed on the island platform of the Kiul Junction Station on the East Indian Railway is being occupied by Tea Vendors and the Parcel Godown?

(b) Is the Government aware that the remaining space available for passengers is not sufficient to protect them from sun and rain?

(c) If so, will the Government be pleased to issue instructions to the Railway Company concerned to extend the shed and thereby to remove the grievance?

Colonel W. D. Waghorn: (a) and (b). The covered shed over the island platform at Kiul Junction on the East Indian Railway is not provided solely for the use of passengers. It is used for sheltering parcels and luggage which are loaded on, or unloaded from, trains. There is also a small tea vendor's stall in the shed for the convenience of passengers, but the major portion of the shed is available for the use of passengers. There is also a separate waiting hall which is intended for the convenience of passengers waiting for trains.

(c) In the circumstances, Government do not propose to issue instructions to the Railway Company as suggested.

BETTER LIGHTING FOR KIUL JUNCTION STATION.

171. * **Rai Bahadur Luchmi Prasad Sinha**: (a) Is it a fact that at such a big and important junction station as Kiul no high power lamps are kept burning throughout the night on the platform?

(b) Is it a fact that owing to darkness on the platform some casualties occur every year by people being run over by trains?

(c) If the answer is in the affirmative, will the Government be pleased to issue necessary instructions for the burning of high power lamps on the Kiul station platform throughout the whole night?

Colonel W. D. Waghorn: (a) High power lamps are employed at this station for lighting the yard continuously during the night. Platform lamps are also kept lighted during the arrival and departure times of passenger trains practically all night.

(b) The reply is in the negative.

(c) In view of the reply to (a) above, the question does not arise.

CONSTRUCTION OF SAFE ROUTES TO THEIR QUARTERS FOR RAILWAY EMPLOYEES AT KIUL JUNCTION.

172. * **Rai Bahadur Luchmi Prasad Sinha**: Is it a fact that at Kiul Junction Station railway quarters have been built at such a place that the employees are to go by crossing 5 or 6 siding lines?

If so, will the Government be pleased to take steps for the construction of a safe route to these quarters ?

Colonel W. D. Waghorn : The information is being obtained from the East Indian Railway Administration and will be sent to the Honourable Member.

INADEQUATE MEDICAL AID IN THE CASE OF HORI LAL, BANKSMAN AT THE CRADDOCK COLLIERY.

173. * **Lient.-Col. H. A. J. Gidney :** (a) Is it a fact that Hori Lal, a Kalar by caste, working as banksman at the Craddock Colliery, Central Pench Coal Company, Limited, was seriously injured on the 9th of March while working underground, and did he sustain a compound comminuted fracture of the left side of the lower jaw? If so, was the injured man compelled to walk to Barkuhi Hospital, a distance of 5 miles, without any First Aid being rendered, and was he sent to the Main Hospital, a further distance of 23 miles, because there were no facilities for the proper treatment of such cases at the Barkuhi Hospital?

(b) Is it a fact that although the Manager received immediate information of the accident, 24 hours elapsed before he made any inquiries whatsoever as to the injured man's condition?

(c) Is it a fact that the Manager and Chief Mining Engineer received an official report from Dr. Baker regarding the seriousness of the accident; if so, did the Manager make an official report to the Chief Inspector of Mines in India as required under Rule 8 (Rules applicable to Coal Mines under section 20, Indian Mines Act, 111 of 1901); if not, why not?

INSUFFICIENT MEDICAL STAFF AT THE EKHLARA COLLIERY TO COPE WITH INFECTIOUS AND CONTAGIOUS DISEASES.

174. * **Lient.-Col. H. A. J. Gidney :** (a) Is it a fact that an epidemic of cholera broke out at the Ekhlara Colliery, Pench River Coal Company, on or about the 25th of March, 1921, and that the medical staff consisted of one unqualified Sub-Assistant Surgeon and one uncertificated Compounder; if so, was the medical staff considered adequate to cope with the requirements of the 20,000 souls who inhabit the various collieries in that district; if not, were any arrangements made to improve the then existing conditions, between the date of the outbreak of the epidemic and the end of June? If not, why not?

(b) Is it a fact that the Chief Medical Officer strongly recommended that arrangements should be made for the segregation and isolation of infectious and contagious diseases; if so, were any steps taken to meet the requirements?

(c) Is it a fact that dead bodies of cholera victims were dragged along the ground and placed in the nearest nullah, having not more than two inches of earth sprinkled over them, and that animals devoured the dead bodies?

(d) Is it a fact that no latrines nor sanitary arrangements of any kind exist on the coalfields?

MANAGERS OF COLLIERIES IN PENCH WITH CERTIFICATES OF COMPETENCY.

175. * **Lieut.-Col. H. A. J. Gidney** : Is it a fact that Messrs. Shaw, Wallace and Company are the Managing Agents of about 8 or 9 collieries in Pench ; if so, how many of the managers of the said collieries possess Certificates of Competency as prescribed by law ?

The Honourable Mr. C. A. Innes : With your permission, Sir, I propose to answer Questions Nos. 173, 174 and 175 together. The answer in all cases is the same.

The Central Provinces Government and the Chief Inspector of Mines have been requested to furnish the information asked for and a reply will be given in due course.

RULE UNDER WHICH MEMBERS QUESTIONING ARE REFERRED TO PROVINCIAL GOVERNMENTS.

176. **Mr. W. M. Hussanally** : (a) When a sufficient long notice of questions put by Members of the Assembly is given, and if any information is wanted from Provincial Governments, which rule or Standing Order authorises the Government to refer Members to Provincial Governments for such information ?

(b) Are Provincial Governments bound to answer questions by, and give information upon any point to, Members of the Assembly ?

Mr. President : The Honourable Member's question appears to be based on a misapprehension. As he is doubtless aware, section 45-A of the Government of India Act divides the function of Government into central subjects and provincial subjects which are set out in the Devolution Rules. Rule 7 of the Indian Legislative Rules empowers the President to disallow a question on the ground that it relates to a matter which does not primarily concern the Government of India, and is intended to give effect to this classification by excluding questions on provincial subjects, the control of which is an essential element in provincial self-government.

If a question relates to a central subject (or in other words, to a subject which primarily concerns the Governor-General in Council) the mere fact that the information has to be collected from or through Local Governments would not justify disallowance of the question under Rule 7 nor would it justify the Government in referring the questioner to Local Governments. But if a question relates to a provincial subject, it may be disallowed by the President under rule 7 ; or if it is admitted, the Government Member, to whom the question is addressed, would be justified in referring the questioner to Local Governments. It is open to the questioner to obtain the information from the Local Governments either direct or through some Member of the local Legislative Council.

The answer to part (b) of the question, as drafted, is ' No '.

UNSTARRED QUESTIONS AND ANSWERS.

ISSUE OF RAILWAY TICKETS IN ADVANCE.

237. **Khan Sahib Maulvi Abdul Quadir** : Do the Government propose to instruct Railways to direct booking offices to issue tickets for any train

at any time of the day to avoid the inconvenience and congestion arising from tickets being issued just a short time before the arrival of a train?

Colonel W. D. Waghorn: Government do not propose to issue such instructions. The Honourable Member is referred to the answer† given on 26th September, 1921, to Rai Bahadur Pandit Jawahar Lal Bhargava's Questions Nos. 633 and 635 on the same subject.

Railway Administrations and Government Inspectors have recently been asked to give special attention to the question of booking arrangements for passengers at railway stations and in large towns.

LISTED APPOINTMENTS FOR PROVINCIAL SERVICE MEN.

238. **Mr. W. M. Hussanally:** Will the Government please place on the table a statement showing:

- (a) The total number of listed appointments in the Executive and Judicial Departments separately in each Province in 1920?
- (b) How many in each branch were open permanently and how many acting, to Provincial Service men in each Province?
- (c) How many more have been thrown open to Provincial Service men in each branch acting or permanent in each Province, in consequence of the Resolution of the Assembly passed on 17th February, 1921?

The Honourable Sir William Vincent: (a) The attention of the Honourable Member is invited to the statement laid on the table on the 15th February, 1921, which will probably serve his purpose.

(b) The posts included in this statement are all permanent posts.

(c) The Honourable Member is referred to the reply‡ to Lala Girdharilal Agarwala's Question on the subject on the 16th January last.

STATE MANAGEMENT OF RAJPUTANA-MALWA RAILWAY.

239. **Mr. W. M. Hussanally:** What were the reasons for which the management of the Rajputana-Malwa State Railway was transferred to the Bombay, Baroda and Central India Railway Company and when?

(b) What are the terms of the said transfer?

(c) How long is that contract to last?

(d) Is it proposed to resume the management and working of the Rajputana-Malwa Railway by Government at the expiration of the lease in consequence of the widespread Indian opinion now that all Railways should as far as possible be State-owned and State-managed?

Colonel W. D. Waghorn: (a) The working of the Rajputana-Malwa Railway was transferred to the Bombay, Baroda and Central India Railway Company in 1885 with a view to securing unity of management on the line of communication between the North-West and Bombay.

† *Vide* Legislative Assembly Debates, Volume II, pages 981 and 982.

‡ *Vide* Legislative Assembly Debates, Volume II, page 1404.

(b) The terms for working are as laid down in the contract with the Company, a copy of which is available in the library of the Legislative Assembly.

(c) The contract may be determined by Government on the 31st December, 1941, or on 31st December of any succeeding fifth year by giving to the Bombay, Baroda and Central India Railway Company in England 12 calendar months' previous notice.

(d) The date of determination is so far off that it would serve no useful purpose to attempt an answer to the Honourable Member's question.

ENGAGEMENT OF MR. ALSTON AGAINST THE ALI BROTHERS AND OTHERS.

240. **Mr. W. M. Hussanally**: Is it the Government of India or the Government of Bombay who engaged the services of Mr. Alston in the case against the Ali Brothers and others at Karachi, or was it at the recommendation of the Government of the United Provinces?

The Honourable Sir William Vincent: The Government of Bombay.

CONSIDERATION OF THE REPORT OF THE INDIAN JAIL COMMITTEE, 1919-20.

241. **Maulvi Abdur Rahman**: Will the Government be pleased to state whether the Government propose to take into consideration the Report of the Indian Jail Committee, 1919-20, in near future? If so, when they propose to do so?

The Honourable Sir William Vincent: The attention of the Honourable Member is drawn to pages 253—280 of the Report of this Assembly's Debates on the 15th September, 1921. He will there find copies of the letters issued by the Government of India to the Local Governments on the subject of the recommendations of the Jails Committee. We have since addressed Local Governments regarding the creation of children's courts and other questions dealt with in Chapter XV of the Report. A copy of this letter is laid on the table. A special officer has just been appointed to discuss the various questions raised in the Report personally with Local Governments with the object of expediting their disposal.

IMPERIAL SERVICE INDIANS IN IMPERIAL SECRETARIATS.

242. **Maulvi Abdur Rahman**: Will the Government be pleased to lay on the table a statement showing the number of Indians, both Hindus and Muhammadans, in the Imperial Services in the Imperial Secretariats, stating the posts they hold mentioning their present pay as well as that of the year 1920?

The Honourable Sir William Vincent: The Honourable Member's attention is invited to the statement which has been laid on the table to-day in reply to a somewhat similar question by Rai Bahadur L. P. Sinha. I hope this will serve his purpose. Only one of the Indian officers there shown is a member of an Imperial Service. His pay on the 1st April, 1921, was Rs. 4,000 a month. The statement does not include Indian officers holding posts of Assistant Secretaries or graded as Under Secretaries.

MUHAMMADANS IN THE IMPERIAL SERVICES.

243. **Maulvi Abdur Rahman**: Will the Government be pleased to lay on the table a statement showing the number of Muhammadans promoted

or directly recruited to the Imperial Service in the Civil, Military, Medical, Educational, and other services up to the end of December, 1921 ?

The Honourable Sir William Vincent: The attention of the Honourable Member is invited to the replies given in this Assembly to questions on this subject by Khan Bahadur Mir Asad Ali on 7th March† and 19th September,‡ 1921. As was then pointed out, the information asked for is not available.

CONSTRUCTION OF PROPOSED INDO-BURMA RAILWAY.

244. **Maulvi Abdur Rahman:** Will the Government be pleased to state when the construction of the proposed Indo-Burma Railway line will begin, mentioning the route finally approved by the Government and the Railway Board ?

Colonel W. D. Waghorn: As the results of the Hukong Valley Railway Survey undertaken in this connection are still awaited, the question of the construction of an Indo-Burma connection railway has not yet been considered nor has any route been finally approved.

UNIFORM TREATMENT OF POLITICAL PRISONERS.

245. **Maulvi Abdur Rahman:** Has the attention of the Government been drawn to Provincial Governments' Press Communiqué regarding certain privileges to the political prisoners? If so, has the attention of the Government been drawn to the fact that in different provinces different arrangements have been proposed? If the answer be in the affirmative, will the Government be pleased to state whether the Indian Government propose to take any action in the matter ?

The Honourable Sir William Vincent: Yes. There are no great variations between the arrangements in force in various provinces. The whole subject is under the consideration of the Government of India.

INDIAN TERRITORIAL FORCE.

246. **Sir P. S. Sivaswamy Aiyer:** Will the Government be pleased to lay on the table a detailed report showing the progress made in the organisation of the Indian Territorial Force ?

Sir Godfrey Fell: A statement is laid on the table.

Statement showing the progress made with regard to the organisation of the Indian Territorial Force.

INDIAN TERRITORIAL FORCE.

Actual strength returns have not yet been received, but the present position, as obtained from information available, is as stated below :—

PROVINCIAL BATTALIONS.

United Provinces.

1st (Territorial Force) Battalion, 2nd Rajput Light Infantry.—Enrolment is proceeding, and about 300 men are forthcoming immediately. It may not, however, prove possible

† *Vide* Legislative Assembly Debates, Volume I, page 655.

‡ *Vide* Legislative Assembly Debates, Volume II, page 454.

to undertake training this year, *i.e.*, before the end of March. It is considered that during 1922-23 at least two more units can be formed in the area.

Punjab (E).

1st (Territorial Force) Battalion, 25th Puniabis.—Training for the year has commenced at Jullundur. The number present is about 100 and some 250 more are expected. Recruits have come principally from the south of the Ambala Division, and there is a general desire to form a separate battalion for that area, with Delhi as a training centre.

Puniab (W).

1st (Territorial Force) Battalion, 62nd Puniabis.—Progress has been delayed unavoidably owing to the difficulty experienced in obtaining a suitable adjutant. An officer has now been appointed, and some 350 applications for enrolment have been received. Expansion will be necessary in the coming year, and there is a demand for a separate unit in the North-West Frontier Province.

Burma.

1st (Territorial Force) Battalion, 70th Burma Infantry.—An adjutant has been appointed and recruitment is in progress. No figures are yet available.

Madras.

1st (Territorial Force) Battalion, 73rd Carnatic Infantry.—Applications largely exceed the establishment and proposals to form a 2nd Battalion are under consideration.

Sanction has been requested to the constitution of the 1st (Malabar) Territorial Battalion, 75th Infantry. Some 800 men have been enrolled, and training can commence forthwith.

Two other units, the 1st (Territorial Force) Battalion, 79th Carnatic Infantry, and the 1st (Territorial Force) Battalion, 83rd Wallahjabad Light Infantry, have been proposed, and it is understood that these can be completed during the coming financial year.

Bengal.

1st (Territorial Force) Battalion, 94th Russell's Infantry.—An adjutant has been appointed and enrolment is proceeding; but the number actually enrolled is at present too small to warrant the expectation of training during the current year 1921-1922.

Bombay.

1st (Territorial Force) Battalion, 103rd Mahratta Light Infantry.—Enrolment is proceeding and it is hoped that one company will be trained during the next month.

1st Territorial Force Battalion, Bombay Pioneers.—This is a newly constituted unit recruited from Parsis, and has already attained a strength of some 400 men. Training is to commence immediately.

Bihar and Orissa.

The question of a separate unit for the Province of Bihar and Orissa is under consideration.

Ajmer-Merwara.

Proposals have been made to constitute a battalion for Ajmer-Merwara, and these are under examination. It is estimated that a full battalion could be raised in the coming year.

University Training Corps.

1st (Bombay) Battalion.—This unit has a strength of some 400 of all ranks. Training is proceeding, and a successful camp was held at Deolali in October.

2nd (Calcutta) Battalion.—Over 200 have been enrolled, and training has been conducted regularly.

3rd (Allahabad) Battalion.—An adjutant has been appointed, but so far few enrolments have been reported. It is proposed to form separate companies at Lucknow and Agra. The question has been raised of forming a unit, with the initial strength of one company at Aligarh.

4th (Lahore) Company.—Training is in progress, and it is proposed to raise the establishment to three, if not four companies.

5th (Madras) Company.—No progress has yet been achieved.

6th (Rangoon) Battalion.—This is in process of formation.

7th Patna Company.—This unit has recently been sanctioned. It is proposed to have one company at Patna in the first instance, and subsequently a second at Cuttack.

8th (Benares) Company.—This also is a recently created unit, and it is expected that a full company will be obtained at once.

COST OF CONSTRUCTION OF CERTAIN RAILWAYS.

247. **Rai G. C. Nag Bahadur:** Will Government kindly lay on the table a statement showing, in connection with the Trans-Indus, the Katwa-Barharwa, the Akhaura-Tangi and the Gondia-Chanda lines,

- (i) cost of construction as completed;
- (ii) cost of construction as estimated by the Railway Administration at the time of construction;
- (iii) amount of estimate as accepted by Government when sanctioning construction;
- (iv) maximum return on capital outlay obtained during any pre-war year;
- (v) return as estimated by the Railway Administration at the time of construction; and
- (vi) return as accepted by Government when sanctioning construction?

Colonel W. D. Waghorn: The information is being collected and a statement will be furnished to the Honourable Member as soon as ready.

PLATFORM ON THE RESHIKESH ROAD STATION, OUDH AND ROHILKHAND RAILWAY.

248. **Rai Bahadur Pandit J. L. Bhargava:** (a) Is it a fact that there is no platform on the Reshikesh Road Station of the Oudh and Rohilkhand Railway?

(b) If so, will the Government be pleased to direct the Oudh and Rohilkhand Railway authorities to remove this cause of public grievance as soon as possible?

Colonel W. D. Waghorn: (a) The reply is in the affirmative.

(b) Government do not propose to take up the matter at present.

MAINTENANCE OF WATERWAYS IN INDIA.

249. **Lala Girdharilal Agarwala:** (a) Have the Government ever considered the advisability of maintaining and extending waterways in India and, if so, with what result?

(b) Will the Government be pleased to lay on the table any information on the subject that may be easily available?

Colonel Sir S. D'A. Crookshank : (a) and (b). The policy of Government was fully explained in their despatch No. 21-P. W., dated 4th September, 1919, which will be found printed in No. 2 of Volume II of the Council of State Debates.

NAVIGABILITY OF THE LARGE RIVERS OF INDIA.

250. **Lala Girdharilal Agarwala :** (a) What portions of the Ganges and the Jumna and other large rivers of India were navigable throughout the year before the introduction of railways and which parts have now ceased to be so navigable?

(b) Will the Government be pleased to lay on the table such information as may be easily available?

Colonel Sir S. D'A. Crookshank : (a) and (b). The conservation of rivers is a provincial matter and the Government of India have no information on the point raised, but there is no reason to believe that the introduction of railways has affected the navigability of rivers though it may have rendered navigation unprofitable in certain localities.

RIVER TRAFFIC TO RELIEVE RAILWAY TRAFFIC.

251. **Lala Girdharilal Agarwala :** (a) Have the Government got any information as to the present conditions of river traffic, and what proportion does it bear to railway traffic?

(b) Have the Government taken any steps or do they propose to take any steps to encourage river traffic to relieve the congestion of railway traffic in such parts of India where river traffic is possible?

Colonel Sir S. D'A. Crookshank : (a) The Honourable Member is referred to the annual reports on rail and river borne trade which are published by the Local Governments.

(b) Inland waterways and navigation being a provincial subject, the reply is in the negative in so far as the Central Government is concerned.

GOVERNMENT ACTION AGAINST THE 'ISLAMIC NEWS'.

252. **Maulvi Abdur Rahman :** Is it a fact that the Government of India stopped the entry of the '*Islamic News*' in India because it published the English translation of Madame Gaull's letter from the French paper '*L'Opinion*,' regarding the atrocities committed upon the Muslims in Asia Minor when Greeks were beaten at Ismid?

The Honourable Sir William Vincent : The entry of the '*Islamic News*' into India has been prohibited by a notification under the Sea Customs Act, but not in consequence of the article referred to in the question.

ALLEGED SECRET HELP FOR GREEKS FROM ENGLAND.

253. **Maulvi Abdur Rahman**: Has the attention of the Government been drawn to the statement, that in spite of the statements to the contrary, Britain is secretly helping the Greeks? If so, whether the Government has inquired into the accuracy of these statements?

Mr. Denys Bray: Yes. There is no truth whatever in the statement that Great Britain is secretly helping the Greeks.

THE BRITISH CABINET AND THE GRECO-TURKISH CONFLICT.

254. **Maulvi Abdur Rahman**: Has the attention of the Government been drawn to the copy of the telegram by the Aga Khan, Mr. Kidwai, and Mr. Chotani, of the Indian Muslim Delegation, to Lord Reading for pressing certain point regarding the Greco-Turkish conflicts to the British Cabinet? If so, will the Government be pleased to state what action has been taken by His Excellency Lord Reading and the Government of India in the matter, and to what effect?

The Honourable Sir William Vincent: Government have not seen the telegram referred to.

MOTION FOR ADJOURNMENT.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): Sir, I rise to ask for leave to move the adjournment of the business of the Assembly to-day for the purpose of discussing a definite matter of urgent public importance, namely, the grave position of Indians in Kenya on account of the recent pronouncement of the Right Honourable Winston Churchill at the East African Banquet in London, and the immediate action which the Government of India should take in connection therewith.

Mr. President: The Honourable Member asks leave to move the adjournment of the House in order to discuss a definite matter of urgent public importance, namely, the grave position of Indians in Kenya on account of the recent pronouncement of the Right Honourable Winston Churchill at the East African Banquet in London. The question which the Honourable Member desires to discuss has already been set down for discussion on a Resolution which has obtained the fourth place in the ballot for the ninth of this month, namely, Thursday. Under rule 12, sub-rule 4, his motion is, therefore, one which does anticipate a matter which has already been previously appointed for consideration, and with reference to which a notice of motion has been previously given. I am, therefore, unable to admit it.

Mr. N. M. Samarth: Well, Sir, that motion refers in general terms to equality of status for British subjects in all parts of South Africa, and my motion is to discuss the speech which the Right Honourable Winston Churchill has made with reference to the Kenya colony alone. I do not wish to go into the larger question of equality of status, in all parts of Africa, for Indians; I wish to confine myself to the two or three particular points which were the subject of negotiation between this Government and the Secretary of State for India and the Colonial Secretary and the British Cabinet and in regard to which the Secretary for the Colonies has made a pronouncement.

I am going to bring to the notice of the British Cabinet the indignation of this Assembly in regard to the pronouncement made by the Right Honourable Winston Churchill in respect of those matters. It has nothing to do with the larger question of equality of status for Indians in the whole of Africa.

Mr. President: The question is as to whether it has anything to do with the larger issue, which deals with the merits of a policy on which I am not called on to pronounce. But I may put this point to the Honourable Member. The speech having been delivered by the Secretary of State for the Colonies, the discussion of the position of Indians in any other part of His Majesty's Dominions will inevitably turn upon the words used by Mr. Churchill. I would, therefore, suggest to the Honourable Member to consider whether if he were delivering a speech on the Resolution standing in the name of Mr. Agnihotri, that speech would not be identical with the one he proposes to make this afternoon.

Mr. N. M. Samarth: No, Sir. It would not be identical, because I would confine myself only to the specific points relating to Kenya, on which the Government of India had sent a Despatch to the British Cabinet. The Government of India have not sent a Despatch in regard to the qualifications necessary for immigrants to the whole of Africa. This issue has been raised on a specific and separate matter, and I respectfully submit, Sir, that I should be permitted to move my motion.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): Sir, in associating myself with the Honourable Mover of this Resolution, I wish to point out that the Honourable Mr. Agnihotri's Resolution, which is set down for discussion on the 9th, has nothing whatever to do with the views expressed, by the Colonial Secretary at the East African Dinner. The subject-matter of the motion for adjournment, now before the House, relates to the views of a particular Cabinet Minister, and I submit that the discussion will centre round the views expressed in that particular pronouncement made on that day. I submit, therefore, that the larger question as to the status of Indians in the south and other parts of Africa has nothing whatever to do with their own pronouncement on the subject that the Members of this Assembly wish to transmit to the British Cabinet for the purpose of enunciating their decision with reference to the remarks which occur in the telegraphic summary of the Right Honourable Winston Churchill's speech.

The Honourable Mr. B. N. Sarma (Revenue Member): It is entirely for the Chair to give a ruling on this point and I have nothing to say as to that. But, subject to that ruling, Government are perfectly willing to have a discussion on the subject to-day or any other time.

Mr. President: I am afraid I cannot accept the statement of the Honourable Dr. Gour that the motion for adjournment and the speech delivered by Mr. Churchill have nothing to do with the Resolution which Mr. Agnihotri proposes to move on the 9th. He proposes to move :

'That this Assembly recommends to the Governor General in Council that he do represent to the Imperial Government, that the failure on the part of the Imperial Government to meet the lawful and modest claims of Indians, for equality of status of British subjects in all parts of Africa, will be regarded as serious violation of equal status promised to Indians in the British Empire.'

[Mr. President.]

Now, if you substitute the words 'Secretary of State for the Colonies' wherever the words 'Imperial Government' occur, the substance of the Resolution is identical with the present motion. My two Honourable friends are practised adepts in constitutional law and procedure and they know the doctrine of Cabinet responsibility as it prevails in the United Kingdom. Therefore, in so far as Mr. Churchill may have been speaking for the Imperial Government, I am entitled to substitute his name for the words 'Imperial Government' in Mr. Agnihotri's Resolution, and to rule the Honourable Member out of order.

But I may add—this is merely a footnote to what I have already said—that the opportunity for discussion will arise in a more effective form for an expression of the opinion of this House, on a Resolution than on a motion for adjournment. A motion for adjournment is merely a discussion in which the Government have an opportunity of expressing their views. A Resolution is an explicit statement of the considered judgment of the House in a form which is easily transmissible to the Imperial Government.

Mr. N. M. Samarth : The question is whether the Resolution will be reached on the 9th. There is no doubt that Mr. Agnihotri's Resolution is tabled for that day, but it is fourth on the list of business, and generally the fourth Resolution is not reached, unless the Members in charge of preceding Resolutions are absent. Supposing, therefore, the Resolution is not reached, what, Sir, will be the position? The Cabinet will not be in possession of the expression of the indignation of this Assembly on the pronouncement made by the Right Honourable Winston Churchill and this opportunity will be lost. I, therefore, moved for an adjournment to discuss this particular matter, this urgent matter of definite public importance. With great respect to you, Sir, I do not identify the British Cabinet with the pronouncement made by Mr. Churchill. He has made it personally as a Minister of the Crown, and I have yet to learn either that the Secretary of State for India was apprised of it or that the British Cabinet endorsed the pronouncement which Mr. Churchill made at that banquet. The Resolution which Mr. Agnihotri is moving about the policy of the Imperial Government in regard to Indians in Africa is a different thing altogether from the discussion which I wish to raise; and my difficulty is that that Resolution might not even be reached.

The Honourable Sir William Vincent (Home Member) : Sir, may I make a statement which may relieve the Honourable Member to some extent. From the information which has reached me, it seems probable that Mr. Agnihotri's Resolution will be reached on the 9th; I say this as two Resolutions which precede that Resolution in the List of Business on that day will, according to my information, not be moved. I do not know whether this is any comfort to him.

Dr. H. S. Gour : While we bow to the decision of the Chair, we only desire to convey to the British Cabinet our intense indignation at the pronouncement made by a responsible Minister in a post-prandial speech in which he has libelled the people of this country and has made a pronouncement which we on this side of the House should like to have discussed at the earliest moment. However, Sir, as the Honourable the Leader of the House has announced that Mr. Agnihotri's Resolution will in all probability

be reached on the 9th February we will abstain from discussing this motion to-day. But if it should not be reached on the 9th, then we would ask the good offices of yourself, Sir, to give us an opportunity of discussing this speech at the earliest possible date.

The Honourable Sir William Vincent : Sir, we can hardly allow to pass entirely unanswered one of the statements made by Dr. Gour, namely, the statement that the speech was a libel on India. I would suggest to this Assembly that it would be well to bide a little before accepting a charge of that kind, that they should wait until we have more complete and accurate information as to what exactly was said. It is unsafe to accept telegraphic summaries as entirely correct and I do not want the House to act precipitately, or to take any course that might court rebuke, and justifiable rebuke, at a later stage of the proceedings. But I again say that we have two Resolutions down for the 9th which will not be moved. One is Mr. Ginwala's; I think he has already given notice that he will not move it; another motion is that of Mr. Kabeer-ud-Din Ahmed regarding Mr. Mohamed Ali. Well, Sir, I have some reason to think, from past experience, that he will not appear on that date. (Laughter.) Those were my reasons for saying that Mr. Agnihotri's Resolution will probably come on second; and if it does not come on on the 9th, I will do my best to find a suitable date for this discussion.

Mr. President : In the decision I have made I took into consideration the probability that the Resolution standing in Mr. Agnihotri's name would come up for discussion; but I must point out that the terms of the rule are strict and that they preclude a discussion in anticipation, such as the Honourable Member wished to raise this afternoon.

THE CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I move :

‘That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1903, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings, be taken into consideration.’

I have explained this so often to this Assembly that I am not going to do it to-day. I believe every one must be familiar with it and we have had no objections formulated to the general principle of the Bill. What happened last Session was that the Government referred back the Bill informally to a Committee composed of eminent lawyers of this House who made certain proposals, which have now been embodied in the Bill. For that reason, I proposed to-day to move that the Bill be taken into further consideration without going through the formality of another Select Committee, because this matter has been discussed in committee already. But there are various points raised in the amendments put before us to-day, and though I know that in some quarters it is felt that it saves time to deal with a Bill of this kind, even if amendments are proposed, in the full Chamber, yet, in the present case, for various reasons which I need not explain to the Chamber, I am doubtful if that would be the case; and, if the Assembly thinks that the Bill should be referred to a Select Committee, as will be proposed, I believe, by my Honourable friend, Mr. Subrahmanayam, Government will not oppose the motion in any way and I would suggest that he should add to his motion the

[Sir William Vincent.]

following names of persons whom he might invite to sit on this Committee. I may say that I have, in anticipation, ascertained, whether they would be willing to serve. My suggestion is that the Committee should consist of Dr. Sapru, Mr. Mukherjee, Mr. Subrahmanayam, Mr. Srinivasa Rao and myself. If the proposal to refer the Bill to a Select Committee commends itself to this Assembly, I may say that I have chosen all the Members who have thought fit to put in amendments to the Bill. So I hope on this occasion at least I shall have met the objections of all my critics.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, I rise to move this amendment that the Bill be referred to a Select Committee. There are some technical points and also some points of substance, which some of us feel ought to be considered and we do not agree on those matters as the Bill at present stands. Therefore, in some manner it will be useful if it is re-considered in a Select Committee. The form the Bill has now taken is substantially different from the one that was presented to us last year. Therefore, without taking up more time, I move this amendment and hope that it will be accepted. The names have already been mentioned, and they are, the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Mr. J. N. Mukherjee, Rao Bahadur P. V. Srinivasa Rao, and myself.

Mr. President: Amendment moved:

'That the Bill be referred to a Select Committee composed of the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Mr. J. N. Mukherjee, Rao Bahadur P. V. Srinivasa Rao and Rao Bahadur C. S. Subrahmanayam.'

The Honourable Sir William Vincent: I have already explained the attitude of Government on this matter and the only request I have to make, which I may as well make now, is that the Select Committee on this Bill should sit to-morrow immediately after the proceedings of this Assembly are concluded. I do not think the business in the Assembly will take long to-morrow, and I am really anxious to get the Bill off the stocks. I have ascertained that some of the Members of the Select Committee will not object to that course. If the House thinks that the Bill should be so referred, Government will not object, though even now I am not prepared to say that I think it is entirely necessary.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban): I should like to make a few observations on the principle of this Bill. I entirely agree with my Honourable friend, Mr. Subrahmanayam, that certain new principles have been introduced into this Bill, and for that very reason it is just as well that the House should stop to consider those principles. But, apart from that question, the principle of the Bill itself is a new departure, if I may say so, from the principle which has hitherto been followed in respect of civil suits, and therefore it stands to reason that the point should be well considered before the Bill becomes an Act on the Statute Book. Generally speaking, I may say, Sir, that it is not an actionable wrong to institute civil proceedings without reasonable cause even if the plaintiff or claimant is unable to prove his case and the reason is that if a defendant is unreasonably sued, he is indemnified by a judgment in his favour which gives him his costs in the suit. Now, Sir, these costs ordinarily mean costs put down in a decree, i.e., costs on account of court fees,

process fees, etc., *plus* lawyer's fee. But what is attempted to be done by the present Bill is that costs by way of damages are to be awarded against the party failing to prove his case in Court and without any definite issue being raised as to the amount of damages which one party or the other ought to receive. The Court is now going to be authorised by the Bill in order that it may grant the suffering party a sum of money by way of compensatory damages in a summary manner. Such a procedure involves a very important principle of law. The law hitherto did not follow such a course on the ground that, if in civil suits damages were to be allowed in such manner, there would be no finality. In criminal cases, the House is aware, the Criminal Procedure Code provides for the award of damages for frivolous and vexatious cases. But in civil suits, such damages are not awarded. Sir Frederick Pollock says :

'It is common knowledge that the cost allowed in an action are hardly ever a real indemnity. The true reason is that litigation must end somewhere. If A may sue B for bringing a vexatious action, then, if A fails to persuade the Court that B's original suit was vexatious, B may again sue A for bringing this latter action, and so on *ad infinitum*.'

So, this is the first time in the history of the Indian Legislature that you are taking an important step like the one proposed by the Bill in connection with civil actions. Then, Sir, the House will notice that the right of appeal of an injured party is being limited by the present Bill. What the Bill provides is that, where a man is given a small sum by way of compensation or damages, because the case against him is a false or frivolous one, he ought to be satisfied with that sum and must not have a right of appeal. For instance, if he has been compelled to spend Rs. 1,000 or Rs. 2,000 in conducting his suit or defence and the Court thinks that it should grant him only nominal damages, say to the extent of Re. 1 or Rs. 5, he cannot appeal from such an award, though he may have suffered considerable loss.

The Bill says that he ought to be content with the small pittance granted by the Court by a summary order. All these questions will no doubt be deemed to be of great importance by this House, and the motion to refer the matter to a Select Committee seems to me to be a very proper one. At the present stage, the House cannot, to my mind, reject the Bill, but it cannot, at the same time, do without having the matter thoroughly considered by a Select Committee. By the Bill what is proposed is the award of regular costs, which should stand apart, *plus* the damages due to the falsity of a suit or defence. Then again, as regards the vexatious character of a suit, some Courts may interpret the evidence as establishing a true case while others may consider the suit or defence to be vexatious. The alternative form in which the words 'false or vexatious' have been put may also give rise to difficulty hereafter. There may be cases also where the suit may be of a trivial character though true, but where the plaintiff may consider himself entitled to damages, while some other person may consider it to be frivolous. Like the criminal law, the civil law no doubt also lays down that no reasonable man ought to take notice of very slight and petty matters; but, on this point also, there is a great difference as to legal consequences and as to procedure as between civil actions and criminal cases.

As I have already submitted to the House, civil actions, even if false and malicious, cannot, generally speaking, form the basis of a claim for damages,

[Mr. J. N. Mukherjee.]

though there are exceptions to the rule. It has been stated that there are proceedings which, though civil, are not ordinary actions, but fall within the reason of the law which allows an action to lie for the malicious prosecution of a criminal charge. There are cases, for instance, which have for these objects to have a man declared an insolvent on false allegation. These cases assume the colour of a criminal charge, and therefore in these and similar exceptional classes of cases, a civil action for damages would lie.

There are matters, I submit, which have to be very carefully considered by the House in passing a Bill like the present, specially, as I have already submitted, because it marks a departure from the ordinary course of the law.

I, therefore, support the motion for referring the Bill to a Select Committee.

The Honourable Dr. T. B. Sapru (Law Member): I believe the main object which my Honourable colleague, Sir William Vincent, had in view, when he accepted the suggestion that this Bill should be referred to a Select Committee, was to save the time of this House. Well, if that was his object, I am afraid he has failed, not due to any fault on his own part, but to the somewhat surprising speech which has been just delivered by my Honourable friend, Mr. Mukherjee. Once you accept the motion that the Bill should be referred to a Select Committee, I would respectfully venture to submit that there is no occasion just now to discuss the principles of the Bill. I may point out that we had prolonged meetings in Simla, which were composed of some very eminent lawyers, both in this House and in the other. I will mention to you the names of the gentlemen who attended those meetings: Sir Benode Mitter, Mr. Hammond, Mr. Srinivasa Rao, Mr. Khaparde, Mr. Summers, Mr. Price, Rai Bahadur Pandit J. L. Bhargava, Mr. Iswar Saran, Mr. Lyall, Mr. Moncrieff Smith, Sir William Vincent and myself. We went into the question of the policy and principle of this Bill at great length, and it was as the result of the discussions at those meetings that this Bill was drafted and is in the shape that it has come out of the hands of the draftsman.

I am aware that there are certain gentlemen, both in the legal profession and outside, who have a horror of a Bill of this character; but it will not surprise many Honourable Members of this Assembly when I tell them that even in England they have had to pass a Vexatious Suits Act, which is far more stringent in some of its provisions than any you have here.

So far as the necessity of legislative action is concerned, I think that that was clearly pointed out last year, when this matter was engaging the attention of the Assembly. That the need is very urgent, and is a real one, I submit, there can be no room for doubt. False suits are instituted almost every day in Courts, and the attention of the Government was drawn to a large number of suits of that character which sprang up in the United Provinces and in certain other parts of India.

As regards the objection which has been raised by my Honourable friend, Mr. Mukherjee, namely, that the word 'vexatious' is a word of very indefinite import, I join issue with him. The words 'vexatious suit' have a technical meaning, and no one who knows what the interpretation placed on those words in England is, can have the least doubt of the meaning of that

expression. Anyhow, these are matters which I think will be taken up by the Select Committee, of which my Honourable friend will be a Member. Therefore, I would beg the House, if it is disposed to accept the motion of my Honourable friend, Mr. Subrahmanayam, to wait until the report of the Select Committee is before them, because I have every reason to hope that the conclusions arrived at by the Committee which met in Simla, will be, if not wholly, at least in the main, endorsed by the Select Committee.

Mr. President : (On Rao Bahadur C. S. Subrahmanayam attempting to speak) I thought the Honourable Member was getting up to withdraw his amendment. The Honourable Member just made a speech five minutes ago.

The general question was :

'That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings, be taken into consideration.'

Since which an amendment has been moved :

'That the Bill be referred to a Select Committee consisting of the Honourable Sir William Vincent, the Honourable Dr. T. B. Sapru, Mr. J. N. Mukherjee, Rao Bahadur P. V. Srinivasa Rao, and Rao Bahadur C. S. Subrahmanayam.'

The question is that that amendment be made.

The motion was adopted.

The question is :

'That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings, be referred to a Select Committee, consisting of :

The Honourable Sir William Vincent,

The Honourable Dr. T. B. Sapru,

Mr. J. N. Mukherjee,

Rao Bahadur P. V. Srinivasa Rao, and

Rao Bahadur C. S. Subrahmanayam.'

The motion was adopted.

THE BENARES HINDU UNIVERSITY (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I
12 Noon. move :

'That the Bill to amend the Benares Hindu University Act, 1915, as passed by the Council of State, be taken into consideration.'

The Assembly may be a little surprised at seeing me engaged in proposing a Bill of this character—one which relates to what are called the beneficent and nation-building branches of the administration, but I only do so owing to the unavoidable absence of Mr. Sharp who has been called away. The Bill is also of a very simple character. If Honourable Members will look at section 9(2) of the Benares Hindu University Act, they will see that it prescribes that :

'Save in the case of the first Court, no person not being a Hindu shall become, or be appointed, a member of the Court.'

[Sir William Vincent.]

Now, under the provisions of the Act and rules, those who are now members of the Court will cease to hold office at a comparatively early date, and I understand that there is one member of the Court who is not a Hindu. The University have themselves asked us to modify the law so as to allow this person to continue to be a member of the Court, as she has been hitherto. In view of the expressed wish of the University themselves, I have no doubt that this Assembly will accept this proposal.

The motion was adopted.

The Honourable Sir William Vincent: Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE INDIAN EMIGRATION BILL.

Mr. J. Hullah (Revenue Secretary) : Sir, I move :

'That the Report of the Select Committee on the Bill to amend the law relating to emigration be taken into consideration.'

The motion was adopted.

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, I beg to move :

'In sub-clause (2) of clause 1 of the Bill, after the word 'India' add the following, *viz.*: 'and shall remain in force for a period of five years since the date of its passing'.'

Sir, my object in putting forward this amendment is to make the Bill a temporary one and prevent its being put on the Statute Book permanently. The Members of this Assembly will admit that, after all, it is a legitimate thing for any labourer to try to go out of the country if he thinks his economic, social and material condition will be improved thereby. By going out of the country he commits no offence; he is in no way a criminal. Therefore, as far as possible, we should not interfere with such a man when he tries to go out of the country. He goes out to improve his economic condition, and we have no right to come in the way of his doing it. Again, sometimes, people go out when they feel that they are not properly treated in this country.

Mr. President: The Honourable Member is discussing the whole merits of the Bill on clause 1 which says :

(1) This Act may be called the Indian Emigration Act, 1922.

(2) It extends to the whole of British India'.

The Honourable Member's amendment is to limit it to five years. He must confine himself to the time limit.

Mr. N. M. Joshi: May I point out, Sir, that I want the Bill to be made temporary. Unless I explain the objects of the Bill, I think it will be very difficult for me to make out a case for the Bill being made a temporary one. I certainly bow to your decision, if you say I cannot discuss the general question, but I should like to have your decision on this point.

Mr. President: I will let the Honourable Member go a little further, but he seemed to me to have already gone far enough.

Mr. N. M. Joshi: My objection to the Bill being put permanently on the Statute Book is this. This Bill is being passed, in my humble opinion, on account of political considerations, such as that our countrymen, when they go abroad, are not given equal political status in those countries. It is also pointed out that, when we send our labourers abroad, we get a prejudice created against ourselves as being a country of coolies or labourers. Now, I do not want to go into the whole question at this stage, as there is going to be another amendment regarding this point; but what I urge is this, that this reason is, after all, but a temporary one. Our status in the Colonies or in the whole Empire is not going to remain what it is to-day. It is improving day by day, and I am quite sure it will soon improve. We hope, at least, that our status of equality will be recognised very soon. Therefore, there is no reason why we should put this clause permanently on the Statute Book. There is another reason why I urge this amendment, and it is this. It is the peculiarity of all Legislatures, and not only of this Legislature, that they are unwilling to repeal a measure which is once put on the Statute Book. I find this unwillingness in several other cases. Only last Session, I requested the Government of India to repeal the Workmen's Breach of Contract Act which was passed in the year 1859. I am quite sure that, if the Government of India comes before this Assembly to pass a similar measure to-day, they will not receive the sanction of this House; but, at the same time, we all see how difficult it is for any one to secure the repeal of this measure. In the same way, if you once put this measure permanently upon the Statute Book, it will be difficult to get it repealed after five years or after ten years. The difficulty is not only due to the natural disinclination of the Legislature to repeal a measure which it has once passed; but there is another danger in putting this legislation permanently on the Statute Book. This legislation is in restriction of the rights of labourers to go abroad to better their condition, and a time may come when employers in India, the landlords or the manufacturers, may find it to their advantage to keep labourers in this country and to prevent their going out in order that wages in this country should not go up. And if the Legislature at that particular time is very strongly dominated by these two classes—I mean the landlords and the manufacturers—it will certainly be very difficult indeed to secure the repeal of that measure. At the same time, it will not be easy for them, if this piece of legislation comes automatically to an end, to get it passed again. There is a great difference between new legislation being passed and allowing legislation to remain on the Statute Book. From that point of view, it is dangerous to the interests of the working classes that this measure should be allowed to remain on the Statute Book permanently.

Sir, it may be said that, when I ask this Legislature to make this legislation a temporary one, I am showing a want of confidence in the Legislature that may be in existence after five years. It is nothing of the sort. I have referred to the disinclination of Legislatures generally all over the world to repeal a measure which may be found very useful to some classes. Then, Sir, if I am showing want of confidence in the Legislature that may come into existence after five years, the Government which tries to put this legislation on the Statute Book permanently is also equally showing want of confidence in the Legislature that will come into existence after five years. If they feel that this measure is absolutely necessary after five years, the Legislature itself

[Mr. N. M. Joshi.]

will give consent to Government to continue this Bill after that period. So, if there is want of confidence, it is want of confidence on both sides. Personally I do not admit that I have any want of confidence in the Legislature that will be in existence after five years. But I feel that it is not right that we should put these restrictions upon the liberty of the working classes permanently on the Statute Book. I admit that there is a strong public opinion in the country at present in favour of these restrictions, but I am quite sure that public opinion will veer round to the right point, namely, to give freedom to the labouring classes to go out of the country if they choose to do so to better their conditions. This change in public opinion will come about when the public see that it is in the interests of the labourers that they should go out, and this change in public opinion, in my judgment, is sure to come very soon. Therefore, there will be no pressure from public opinion upon Government to have such restrictions upon the liberty of the working classes after five years. I, therefore, move my amendment and I strongly hope that the House will accept it.

The Honourable Mr. B. N. Sarma (Revenue Member) : I beg to oppose this amendment. The Honourable Mr. Joshi proceeds on an entirely wrong conception of the object of this Bill and the purpose which it is intended to serve. He has assumed that the Government have introduced this legislation more with the object of satisfying the political craving in the country than for any other purpose, and, inasmuch as he hopes that Indians will be able to secure a better status abroad within the space of five years, he thinks that the ordinary liberty of the subject to migrate freely to any country where he may seek to earn his living should not be curtailed by means of this legislation. I deny that the object of this legislation is based upon any political grounds whatsoever in the way that it suggested. The fundamental object with which the Government has been legislating for over 50 years is to safeguard the interests of the working classes, of the illiterate masses who may have to seek, and who legitimately seek, to earn a living abroad, and not with a view to achieve any political object. It is true that the two Houses—the Legislative Assembly and the Council of State—are empowered by certain clauses in this Bill to determine to what countries emigration may be lawful or may be permitted ; but the main provisions of the Bill do not prohibit the emigration either of unskilled or skilled labour. They provide that the necessary safeguards may be forthcoming and that the labourers who may emigrate (skilled or unskilled, to other countries should be properly treated while they are proceeding, and during their stay there, and that their health and security may be safeguarded and that they may not be cajoled or manoeuvred into leaving this country on false pretences. I have said that emigration legislation has been on the Statute Book for more than 50 years, and I do not think that the state of the masses is going to change fundamentally within the next five years and that they are going to become literate, vocal and able to safeguard their own interests, bargaining with those who may try to secure their labour in foreign countries for the purpose of improving the resources of those countries. No one objects to labour seeking a livelihood abroad on fair, free and equal terms. What we do intend by this piece of legislation is to safeguard their interests, and I submit, therefore, that I am right in saying the Honourable Mr. Joshi proceeded on an entirely wrong conception of the

fundamental basis on which this legislation is framed. He admits that public opinion is against him ; that the Select Committee was against him . . .

Mr. N. M. Joshi : The Select Committee did not consider my point at all.

The Honourable Mr. B. N. Sarma : I am sorry my Honourable friend's memory is so short : he did raise the point in Select Committee.

Mr. N. M. Joshi : It was ruled out by the Chairman.

The Honourable Mr. B. N. Sarma : It was raised and considered as to whether in its ultimate stages it was ruled out, I am not in a position to state ; but it *was* considered.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I rise to a point of order, Sir ? Is it permissible for any Honourable Member of this House to refer to what transpired in the Select Committee ? I understood, Sir, that the Honourable Sir Malcolm Hailey once pointed out, on a reference being made to the proceedings in Select Committee . . .

Mr. President : Order, order. The Select Committee is a legislative body. The Honourable Member is confusing the proceedings of the Select Committee with the Standing Finance Committee.

The Honourable Mr. B. N. Sarma : I may say, Sir, that I wish jealously to guard the secrets of the Select Committee. I am not going into what has taken place there ; but I have every right to state that the point was taken up by the Select Committee because a Minute of Dissent has been recorded by Mr. Joshi—by him and by him alone—on that point. Therefore, I am not disclosing any secrets of the Select Committee when I refer to a matter which has already appeared in the report of the Select Committee. However, public opinion is against him, and the basis, therefore, on which he proceeds is that we shall be cruelly attempting to cripple the freedom of the labourer, and that the interests of the capitalist classes, whether landholders or commercial men, may in future imperil the interests of the labouring population if this Statute be made a permanent piece of legislation.

I submit, there is no ground for any such suspicion or fear ; we are democratising rapidly and, therefore, we can safely trust the Legislature to provide against any such contingency as my Honourable friend contemplates. I further state that it is perfectly competent for any State to fix for itself the conditions under which emigrants may proceed to other countries ; it might prohibit emigration altogether ; there is no such thing as a right of emigration to every individual or a natural right to emigrate from his own State . . .

Mr. N. M. Joshi : You are referring to immigration.

The Honourable Mr. B. N. Sarma : I am talking of emigration, not of immigration. Therefore, while the Government of India are as solicitous as my Honourable friend in securing the freedom of the subject, in securing the freedom of the agricultural labourers as well as other labourers, and do not in any way desire to keep him here as a serf to serve the purposes of the capitalist classes, whether commercial or landed, there is an imperative duty that they should safeguard their interests and protect them, possibly sometimes against themselves, against their foolishly embarking upon emigration when

[Mr. B. N. Sarma.]

their interests are not safe in foreign countries. I hope, therefore, that the House will reject this amendment.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, I oppose this amendment. I should have better understood Mr. Joshi if he was speaking to or against amendment No. 3 on the paper, which may or may not be moved. Sir, I yield to none, not even to my friend, Mr. Joshi, in the desire to see that the fullest possible opportunity should be afforded to those who want to go out of the country and better their prospects. I do not regard this Bill, which has come in obedience to an insistent and long public demand, with the fear that has filled my friend quite unnecessarily. If he was objecting to any particular section in the Bill, that it ought not to have a longer life than five years or any other stated period, one could have understood it, because it is possible to pick out clauses and sections where such circumspection might be useful or necessary. Would he object, however, to the continuance of safeguards like this, at any time, even when would-be emigrants are enlightened and educated and capable of taking care of themselves, as they are expected to become within the span of Mr. Joshi's five years? To protect them and aid them with his advice is one of the objects with which the Protector of Emigrants is appointed. One of his duties is to inquire into the treatment received by return emigrants both during the period of their residence in the country to which they emigrated, and also during the return voyage and report thereon to the Local Government, and to aid and advise return emigrants so far as he reasonably can. I need not take up the time of the House by detailing the various healthy measures of safeguard that the Bill provides. As I say, if we take the Bill, clause by clause, there may be objections from certain points of view and it may be said that the life of certain clauses should be circumscribed.

Then, Sir, in clause 13 and other clauses, we have safeguards which will enable this House as well as the other House to declare from time to time how emigration to particular countries should proceed. That does not necessarily mean retaliation but means protection.

From all these points of view it strikes me that this Bill cannot be contemplated as one which is meant to prejudice the rights of emigrants, but is really one that is intended to, and I am sure, will be able to help the emigrant, and help and not retard emigration.

Sir, the apprehension was expressed that, owing to the attitude of capitalists and the landholding classes, people willing and anxious to go away and better their prospects will be handicapped. I shall not look forward to the day when such a contingency arises, for it would mean serfdom. Nor can there be occasion, for there will never be lack of workers willing to work. The latest census figures, I am afraid, will be all against my friend. There is difficulty of labour, undoubtedly, with regard to various avocations of life; but I am afraid, if we were to look closely into the matter, we must recognise that there are worked-up difficulties which ought not to exist here or in any country, and which are preventing people from getting employment. If people are honestly and genuinely anxious to secure employment and if the capitalist and landlord were actuated by similar motives and were prepared to employ all that could be found ready and willing to work, I do not think even

Mr. Joshi will want them to go away elsewhere and improve their prospects if they get here all that they want. That, however, is not likely to be. It all depends on who gives the better pay and better terms and no power, either in this Legislature or in the Government, will be able to prevent people who have good reasons to go away from doing so. Therefore, I do not have any of the apprehensions that unnecessarily fill my friend and I think the House ought to reject this amendment.

Bhai Man Singh (East Punjab: Sikh): Sir, I rise to support the amendment. The law is desired under special circumstances. Why are we bringing forward this law? Why do we want that certain rules should be framed by the Governor General in Council deciding whether emigration should or should not be allowed to such and such countries? Why are we so very particular, specially in the case of this Act, that those notifications should be placed on the table of the two Legislative Chambers and should be amended according to the vote of the two Houses? Because we find certain circumstances in existence in certain other countries, and we see that, when our men go to those countries, they are not meted out the same treatment as they ought to be, and our experience has shown that in certain countries when our men go as labourers they are treated as slaves and sometimes worse than slaves. The existence of such circumstances make it compulsory for us to pass such sort of legislation with a view to safeguard the interests of our men who emigrate to those foreign countries. Again, as the Honourable Mr. Sarma has just said, this is also to safeguard the interests of the illiterate masses. Why do we safeguard their interests? Because they are in a state of illiteracy; they are not well-informed about the circumstances of other countries, and, therefore, we have to safeguard their interests because they are ignorant. Now, Sir, I submit that both these circumstances are temporary circumstances. They are not necessarily to remain permanent. It is the existence of special circumstances that forces us to pass this Bill. Sir, when those circumstances are removed, we shall have to consider whether this Bill should or should not remain. I shall put it just the other way. Something that is required only under special circumstances should be made a special Act for a special period, so that we may be able to consider about it after that period whether that special Act is or is not needed at all. The State has a right to stop emigration of its subjects only under certain circumstances. I can be stopped from leaving my mother country only under circumstances that the State could justify, for some valid reasons. Therefore, Sir, we cannot say that such a measure should exist for all time. Some time after we may find that the circumstances in the Colonies are changed. We may find the so-called state of illiteracy among the masses is also changed. If we find that the restrictions we are now putting on their action are no more needed, if we find that they are capable enough to understand their own interests, there is no reason why we should give any power to any authority by legislation to stop their emigration. I do say, and I am firmly convinced, that this measure is adopted in the interests of the emigrants. I have not the least doubt about that; but, at the same time, I submit that it does place restrictions over emigration and that a man is not free to go out, if he finds favourable circumstances for himself, unless there are certain provisions fulfilled by him.

Under section 10, we can decide to what countries an emigrant should or should not go. Section 17 is so very wide, though it refers only to

[Bhai Man Singh.]

skilled labour, that the Local Government has every right to withhold permission to the emigrant or to the employer to take him out. This shows, Sir, that we are giving a power to the Local Governments to stop the free right of emigration and when we are giving them those powers, when we are placing those restrictions, I respectfully submit that we should give them these powers only for a certain period. If we find that those circumstances exist and the restrictions are still needed, the life of the Act may be extended or a new Act may be passed to suit the changed circumstances. Again I would draw the attention of the House to another fact. We are depending on the Local Governments for certain things in the Act. Section 17 is so wide that it gives the Local Governments power to withhold permission, and, if we see that the Local Governments have not used the power vested in them in the interests of the emigrants, we may have to withdraw that power. If we find that sufficient safeguards are not provided in the Act, we will have to make the Act sufficiently stringent. On the other hand, if we find that undue restrictions have actually been placed on emigration, we may have to make it, more liberal. Therefore, I would most strongly request that the amendment placed by my Honourable friend, Mr. Joshi, should be adopted by the House.

Dr. H. S. Gour : Sir, I fear the Honourable Mover in moving his amendment is trying to frustrate the very purpose he has in view, namely, of safeguarding and protecting the best interests of the community of which he is a worthy representative. He tells us that his amendment is intended in the interests of labour, and that while there is an insistent demand in the country for a restrictive legislation of the nature before this House, its life should be limited to five years. Now, Sir, I ask the Honourable Mover if he seriously thinks that, after five years, the labour conditions in this country would so improve as to call for no legislative protection. Has he adverted, for instance, to the salutary provisions of section 26, which says :

'Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.'

Does my Honourable friend think that the offenders who kidnap people from this country by coercion and fraud will entirely disappear after five years? My Honourable friend, Bhai Man Singh, is, I am afraid, too sanguine if he thinks that in five years' time illiteracy shall have been banished from this land and the labourer in this country would be able to take care of himself so as to need no legislative protection. I ask, Sir, the Honourable Mover further to reflect upon the mischief which the repeal of this Act after five years will work upon the emigrants who have already left this country under the salutary protection of that measure. If Honourable Members will refer to section 24, they will find that it is the duty of the Governor General in Council to make rules to provide for accommodation for the transport of emigrants, for the reception and the despatch to their homes of return emigrants and generally the security, well-being and protection of emigrants on their return to India. Let us assume, Sir, that a large number of emigrants leave this country during the next five years, and after these five years this Act *ipso facto* ceases to operate, and after the lapse of that period the emigrants desire to return to this country. Does my friend think that the Governor

General in Council, after the expiration of that period, should do nothing to assist the emigrants, who have left during this period, for the purpose of helping them to return home? That would be the inevitable consequence if this measure ceases to operate after the expiration of five years. My friend referred to the Workmen's Breach of Contract Act and lamented the attitude of this Assembly which refused to repeal that measure, but my friend could not have forgotten that the Honourable the Home Member had assured this House that the question would be referred to the Provincial Governments and adequate measures taken after consulting them. I think, Sir, the Honourable Mover is wrong when he says that, if there is a necessity for the repeal of a measure, this House is slow to act. I further submit, Sir, that, if it is the intention of the Mover of this amendment that this Act should cease to exist on the betterment of the condition of the labouring population of this country, he should not ensure the life of this measure in the manner he desires to do. If my friend is so sanguine as to expect that public opinion in this country will veer round and desire free and unassisted and unprotected emigration from this land, I submit, Sir, it is open to him to move a small Amending or Repealing Bill and give his reasons therefor, which the Assembly will consider, and, if found satisfactory, pass it. I submit that the measure, as it is proposed to be enacted, is in the interests of the would-be emigrants of this country, and I ask, Sir, that this House should reject his amendment.

Mr. Harchandrai Vishindas (Sind: Non-Muhammadan Rural): Sir, it is really a surprise to me that my Honourable friend, Mr. Joshi, who is a distinguished labour Member, should lend himself to holding a brief for merchants and manufacturers and work in the long run against labour itself. Now it is quite obvious that the interpretation which has been put upon this measure by the Honourable Mr. Sarma, Dr. Sarvadhikary and Dr. Gour is the correct one, that this measure is intended for the protection of the labouring classes.

The argument that has been urged both by Mr. Joshi and by Bhai Man Singh that it is in the interests of the community that such legislation should cease when literacy has obtained a hold upon the country has been sufficiently answered by Dr. Gour. I may add one thing more. I may show how far from realisation is the expectation that, within the next 5, 10, 15, 20 or 25 years, illiteracy will be removed from this country. Three years ago—or probably five years ago—a Bill for the introduction of compulsory education was passed by the Bombay Legislative Council. That Bill permitted municipalities to introduce compulsory education as they thought fit. A month or two after that, the President of the Karachi Municipality, who was a Member of the Legislative Council, got a Resolution passed by the Karachi Municipality that compulsory education should be introduced. Five years have elapsed and still the preliminaries could not possibly be settled. Perhaps five years more will elapse before funds are found to introduce compulsory education. So, it will be ten years before the Karachi Municipality will be able to have compulsory education in Karachi. Other municipalities will take years. I can predict that, within the next 50 years, illiteracy will not be removed from this country to the extent contemplated either by Bhai Man Singh or by Mr. Joshi. That being so, is it right on the part of Members of the Assembly to take away the protection which this Bill affords for the illiterate poor labourers who will be

[Mr. Harchandrai Vishindas.]

migrating? As far as one can see, the tendency of the present times, and especially of the representatives of Indians on Assemblies and Councils, is to promote liberty and freedom of action. Therefore, I wonder at Bhai Man Singh or Mr. Joshi saying that Government should provide more restrictions upon the free movement of labour than they have done in certain clauses of the present Bill itself. My answer to that is this. Those restrictions upon their freedom are in the interests of the labourers themselves. After all, such restrictions as appear in the draft Bill are in the nature of exceptions rather than rules. Suppose this Bill were to last only for five years. Of course a very crushing argument has been used by Dr. Gour. But add to that another. Supposing this Bill were repealed after five years, or expires by this clause after five years. What will be the result? Can you possibly prevent people from going outside this country? No. And people going outside this country will go without the protection that is afforded by this Bill. So the condition of the labourers is not at all bettered, but is made worse, and that by the action of a gentleman whom we all honour as being a representative of labour. Therefore, Sir, I would seriously and earnestly request the House to reflect for a moment on this particular question, *viz.*, whether they are going to serve the interests of the labourers and those of the country by supporting this amendment or defeating them. With these few words, Sir, I strongly oppose the amendment.

Mr. Pyari Lal (Meerut Division: Non-Muhammadan Rural): Sir, I feel that in proposing this amendment, the Honourable Mr. Joshi has lost sight of certain facts. I do not think that for another 50 years illiteracy could disappear from this country, nor do I think that people in foreign countries will give up the race prejudice which prevails in those countries. The object of the Bill is two-fold: first, to come to the help of those who cannot protect themselves, and secondly, to maintain our national self-respect in foreign countries. As regards the first point, Government helps these men who migrate simply because they are not able to take care of themselves. As Government comes to the help of minors, idiots, lunatics and persons of weak mind who cannot see the effect of their actions on themselves, so, in the same way, it comes to the help of those persons, who are unskilled labourers, who are utterly unable to realise the effect of their step in going to foreign countries, and who do not know the conditions prevailing there. In the case of minors, the action of Government is direct. It appoints guardians. In the case of lunatics, the action of Government is to appoint curators, and in the case of persons of weak mind, Government comes to their help in the course of the law by cancelling any arrangement or any contract that they may make. So, in the same way, when persons of weak intellect are induced, by coercion or undue influence or by other objectionable means, to enter into any contract to go abroad, Government, before they go out of the country, examines the contract and sees if any such influence has been used on them. I think that this state of things cannot possibly be cured in five years or ten years or 15 years, and in this sense I think the amendment suggested by my Honourable friend is not right. As regards the second point, *viz.*, our national self-respect, we know, as a matter of fact, that this question has been agitating us for the last many years. It is a sore point with us. We have made attempts again and again, here, there and everywhere, that this state of things should not prevail, but it is prevailing. Consequently, when

our people go to those countries, they entail on us a loss of national self-respect. To prevent that sort of thing, Government, by the provisions of this Bill, is prepared to see that these people shall not go there so as to save us the ignominy which otherwise might arise.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I rise to support the amendment of Mr. Joshi. I do not question the object of the introduction of the Bill but admit that the object of the Bill is to safeguard and protect the interest of our labourers in foreign countries and the colonies. But, such a purpose can not be served by passing such Bills in this country and by not allowing the labourers to migrate, but their interest can only be protected by sending out our men into those countries and letting them fight it out with them for the rights of equality. The difficulties could be overcome only by braving, and not by avoiding them. If we were to look to the reason for the treatment accorded to us in foreign countries, we find that it is not on account of the illiteracy or the inferiority of our labour that our men are so treated, but is due to the selfishness of the employers and other classes of labourers and to the race prejudice of the white settlers who deny us our rights. Such causes can not be removed by a legislation of this nature. Free migration of labour should not therefore be restricted. It is true that the public opinion in this country has been insistent for such a legislation, believing that the avoidance of those Colonies was the only remedy, and, having regard to this opinion—which we should respect—we may agree to this Bill being passed. But the time will shortly come when public opinion will veer round to this point that, being an economic question, it can only be solved by sending out our labourers freely to those countries.

Now, imagine what would be the result of the passing of this Bill. Under this Bill, the emigration will be regulated and will be permissible in certain number and on certain conditions. The Bill will thus restrict emigration to an appreciable extent, moreover the emigration will be permitted to such countries as accept our terms. We know that the Colonies and other foreign countries do not want Indian labour to migrate into the country, and they will be too glad to refuse the terms and would, in all probability, welcome the restrictions placed by this Bill on the emigration of Indian labour. We will, on the contrary, indirectly help, protect and safeguard the selfish interest of those Colonies by this legislation. This will also have the effect of putting a stop to emigration of our labourers. No country can maintain the sons of the soil in that country for all time to come and a day will come when she will have to send out her sons to other countries.

It is thus probable that the public opinion may change and we may have to do away with such a legislation. In these circumstances, I submit, that the amendment moved by Mr. Joshi should be accepted, and we would again decide, after five years, whether or not we should keep this Bill on the Statute Book. If the Indian Legislature after five years finds it unsuitable, the law may be changed. It is very difficult to repeal a law once it is on the Statute Book. By accepting this amendment the Bill will automatically come before the Legislature for consideration after five years and we may then again decide whether to continue it or not.

Bai D. C. Barua Bahadur (Assam Valley : Non-Muhammadan) : Sir, I beg to submit that I do not see my way to accept this amendment. Our

[Rai D. C. Barua Bahadur.]

laws are not like the laws of the ancient Medes and Persians. If this Bill is passed as it is, without any time-limit, then there is nothing to be found in the body of this Act or any other Act why this law cannot be amended after five years or two years or at any time whatsoever. I am for keeping our hands free. If the provisions of this Bill, when it becomes an Act, are not suitable, they may be changed to-morrow. It is in our hands. We shall not have to go to any other body asking for its repeal or amendment. We can repeal it ourselves or our successors will repeal them. There is, therefore, no use in spending any energy whatsoever in regard to the time-limit that is sought to be imposed in regard to this law. Surely, Sir, if the provisions of this Act are not found suitable, we can take it up at the next Session or, if it should suit us, we may continue them for any number of years. So it is meaningless to put any sort of time-limit whatsoever in regard to this Act. With these few words, I oppose the amendment.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I regret that I cannot support the amendment, as it is, because it says 'shall remain in force'. That is fettering the powers of the Legislature. On the face of it, this House should not support it. That is all I have to say.

Mr. N. M. Joshi: May I point out that, when the Bill regarding income-tax was being discussed, Members of this Assembly who moved amendments were allowed to reply, and on this question particularly several personal references were made to me and I want to have the right of reply.

Mr. President: The Honourable Member can make his reply when I put the question that the clause stand part.

Amendment moved:

'In sub-clause (2) of clause 1 of the Bill, after the word 'India' add the following,
viz:

'and shall remain in force for a period of five years since the date of its passing.'

The question is that that amendment be made.

The motion was negatived.

Clauses 1, 2, 3, 4, 5, 6, 7, 8 and 9 were added to the Bill.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): The amendment which I propose to move to clause 10 reads as follows:

'That in clause 10, the following be inserted as sub-clause (2) and existing sub-clause (2) be re-numbered (3):

'(2) Emigration for the purpose of unskilled work shall ordinarily be permitted to countries only in which:

- (a) Indians when not naturalised are subjected to no disabilities to which nationals of European countries are not subjected;
- (b) Indians can be naturalised on the same essential conditions on which nationals of European countries can be naturalised;
- (c) Indians if naturalised enjoy full rights of citizenship; and
- (d) in the opinion of the Governor General in Council Indians enjoy substantially the same political rights as other classes of His Majesty's subjects.'

The object of this amendment is to lay as much emphasis as lies in the power of this Assembly in telling those whom it may concern what our ideas and what our feelings are in regard to the treatment and the status which emigrants from this country receive in the countries to which they emigrate. Now the clause as it stands is general in its terms. It says :

‘Emigration, for the purpose of unskilled work, shall not be lawful except to such countries and on such terms and conditions as the Governor General in Council, by notification in the Gazette of India, may specify in this behalf.’

It might be said that the Governor General in Council may be trusted to make rules which would practically bring in all those conditions and all those terms which we desire to embody, but my point is that the terms shall be made clear and that they shall take a place permanently on the Statute Book, that is, the terms which we wish to impose upon other countries which desire our labour. In the first place, in regard to unskilled work, there are one or two ideas with which I cannot agree. Unskilled work in this country is at a premium. It is in great demand. Now, everywhere works are springing up, works undertaken by Government; for instance, irrigation works, building works, Town Improvement works, and so on. Industrial works are also undertaken on a large scale and agricultural work also is in great demand and wages have risen considerably. It cannot be said that unskilled work in India is under-paid or that it does not get what it ought to. I may say from my own personal experience in the Madras Presidency that in municipal towns labour is very dear. In agricultural areas, of which also I have experience, labour is very dear and, in that part of the country from which I come, the emigration of unskilled work is playing moral havoc among the emigrants.

The men who emigrate are tempted, are seduced, to sign, and, practically, they are prisoners. They are taken away to Natal, to Mauritius, to Zanzibar and several other places. We know some of these young men are unruly in their own homes, and in a fit of anger or huff they run away. They are caught hold of by the touts, and the result is that after they go to these countries they feel that they have been deceived. But there is no one there to whom they can go for help. They cannot take care of themselves. They are illiterate. They are also very ignorant. The result is that they have to remain there for years,—and then what happens? In their own homes, the ordinary illiterate man, whatever the social reformers may say, is restrained by social conventions, social restrictions, that keep him in the straight path. But, unfortunately, the people who emigrate are thrown into a condition in which all the old moorings are lost, and the result is that their moral fibre is completely loosened. I will not dilate upon the causes of this loosening. The fact is that the number of women, the percentage of the women in these areas, is very small. Naturally, young men, able-bodied adults, are placed in situations of very great difficulty, however good it may be for cultured men to liberalize their own social conventions, illiterate and ignorant persons who were under the restraint of their homes and their communities are here brought into contact pell-mell with miscellaneous sets of castes and races,—well, they are obliged to fall into habits which are utterly detrimental to their health and morals. Therefore, so far as we have heard of the condition of these unskilled labourers in these countries, it shows us that it is not to the advantage of unskilled labourers to leave their homes and go to these regions.

1 P. M.

[Rao Bahadur C. S. Subrahmanayam.]

There is another aspect. From the point of view of these countries which want our men to emigrate, they want our labour ; they want our work ; but they do not want our company. They do not want to give us, in return, anything which any civilized, cultured man would value. They want to treat these men simply like cattle, beasts of burden, and nothing more : and, therefore, for us, sitting in this Assembly, to encourage unskilled labour to go away in large numbers and to form out-posts, thus proclaiming in various countries of the world that the Indians are of this low type, because of the sample which goes forth to those countries is not right. The better class of people from here are not known. It is only the lowest type of the people that go to these countries. Naturally, they judge us, Indians, by the types they see there. Therefore, on any view, the amendments which I propose in this clause are necessary. In the first place, our men need not go, for their own self-respect or for our own self-respect, to those countries which do not recognize us as their equals. On that strong ground, I say, it should be made a condition of the emigration of unskilled labour that, unless they are treated on equal terms, let not our men go there. Now, we were just a little while ago discussing what was happening in Kenya. That is, our men go there, do all the spade work, improve the country, enable the colonials to make money, put them on the way of living in comfort. Then, after the work is done, we are spurned. They want us just as long as we help them in such work, as they themselves cannot have it done, and then treat us worse than they treat their own cattle. Now, Sir, I have heard my friend, Mr. Joshi, speaking about the liberty of unskilled labour. What is the meaning of the liberty of unskilled labour ? (Laughter.) Does he really mean that the unskilled labourer, when he leaves the protection which he has in this country under the Government and under his own community, should forfeit that protection, with nothing to take its place ? Is it not necessary that we should see that these men, who cannot take care of themselves, should not be landed amongst surroundings of a practically hostile character ? And, therefore, this liberty, of which he speaks, we find it to be inconsistent with any clamours for protection under the Factories Act and other legislation of a protective character. It is commonly seen now that labour *has* to be protected. That needs no proof. But if you do not want protection under this Act, you should also abandon the idea of protection under the various other enactments where this question comes in. Sir, from the Report of the Select Committee and also from Sir George Barnes' speech in the Legislative Assembly last year, it is clear that unskilled labour requires protection. My amendment carries the matter a little further. What is the nature of the protection, what are the places to which unskilled labour should be sent ? I amplify and strengthen and emphasise the points which I consider to be essential in governing the emigration of unskilled labour. Therefore, Sir, I hope that the Assembly will calmly consider the two main points which I put forward ; namely, that the unskilled labourer should not be sent adrift to those countries where he is considered no better than cattle, and also that we owe a duty to ourselves ; our own self-respect and all the agitation that we are making in regard to the claim for equality of treatment, here or elsewhere, should also be borne in mind, and we should not be sending out numbers of these men to these countries to further lessen our reputation and our claim to be treated as a civilized community. It is these unskilled men, who have gone to these countries, that have done a vast amount of mischief ; having gone there, and

those people taking them to be the ordinary, the average type of this country, well, no wonder that those Colonials probably have a certain amount of contempt for the people of this country. I do not mean to say that they are justified in this, but you must remember that the Colonial is a hardened man, a man in whom the ordinary graces of life do not exist. His conditions of life, his environment, make him less than a man and something of a beast. Every moment of his life he has to protect himself not only from wild beasts but also from indigenous and aggressive populations. Therefore, you must also recognize that you cannot compare the sentiments, the feelings and the humanity of the Colonial with the standards of the European you find in this country, especially those Europeans in the Services with whom we come into contact. They are a cultured race; they know their obligations; they know that, after all, the Indians are a civilized community and a civilized people. Also they have obligations, by virtue of their being a part of the Government of the country. But what are the obligations which determine the course of conduct of the Colonial?

By nature, he is, I may say

The Honourable Mr. B. N. Sarma : I think the Honourable Member is speaking, not to his amendment but to the Colonial policy generally.

Rao Bahadur C. S. Subrahmanayam : The unskilled labourer should not be sent to those countries where you find a type of men who are simply going to work him and harass him; who are not the type to which you are accustomed here. You can only object to my amendment if you say that the Colonial has the same standard which the European has in this country. But, if I am able to show that the Colonial is not of as good a type as the European you find here, that is a strong reason why you should impose certain conditions upon the emigration of unskilled labourers to the Colonies. No doubt, I have said things which are a little bit harsh. I have drawn an inference from the difference between the Colonials and the Europeans who sit here. But that is a fact. The evolution of the Colonial has been quite different, and, therefore, with all deference to my Honourable friend, Mr. Sarma, that is the plain fact and I have said it. The Assembly ought to recognize these points and accord its support to my amendment.

Mr. N. M. Joshi : Sir, I rise to oppose this amendment. In the first place, when the Honourable Member moved this amendment, he referred to the fact that labour in India is already very dear, and, therefore, it is wrong for us to encourage the working classes to go out of the country. Then he also said further on that, while we supply the labour to other countries we get nothing in return. The whole assumption underlying this statement is that labour is a commodity which, if it is very dear in this country, should not be exported; labour is a commodity which, if we supply it to the Colonies, must bring us some reward in return. Sir, I ask the Members of this Assembly, is that a right kind of assumption? Is the liberty—I say again the liberty—of the unskilled labourer the same thing as the export of wheat or the import of wheat? The Members of this Assembly should very seriously consider whether we should treat the working classes of this country as mere commodities, and discuss this problem on that assumption. I feel that this point of view has not yet received serious consideration from the Members of this Assembly. If it had received that consideration, an amendment like the one which my Honourable friend has moved would not have been moved

[Mr. N. M. Joshi.]

at all. In the first place, what does he ask for? He asks that we should not send labourers to those countries where our political equality of status is not recognized. Now, my first question is this: Is the political status of the labourer in India itself recognized? Does the labourer enjoy the same political status in which my Honourable friend finds himself? My Honourable friend has a vote for the election of Members of the Assembly. Has the labourer got a vote? It may be said that, if the labourer begins to pay income-tax, then certainly he will have a vote, and in that sense he has got an equal status. But I should like to ask my Honourable friend how many labourers, out of many thousands, hope in their life-time to be able to pay income-tax and to get that status? One man out of a thousand may secure that right; but 999 can never hope to arrive at that equality of status in this country. Although, theoretically, it may be said that the labourer in one sense has got an equal political status with the educated classes of this country, for practical purposes labourers in India have not the same political status as the educated classes and the land-owning classes have. And, Sir, when the labourer considers this question of equality of status, he considers it from the practical and not from the theoretical point of view. Sir, two years back, I went to the United States and I studied the condition of the Negroes in the United States, where also all people are supposed to be equal. But I was surprised to find that, out of the ten million Negroes in the country, there was not a single representative of their community either in the House of Representatives or in the Senate. I made inquiries. They said, politically every one is equal. How is it, then, that they have no representatives in the Legislatures? By the operation of practical devices. So, it is quite possible that my Honourable friend may insist upon theoretical equality with Europeans in the Colonies for our labourers, but is it possible that even this theoretical equality will be conceded in the near future, and even if it be conceded, will it be considered worth having by the working classes if measures are devised to deprive him of it in practice? Is the labourer who does not have a vote here in his own country likely to get a vote in another country?

Then Sir, there is another matter. My friend referred to the protection that we ought to give to our labourers. But what he is giving is not protection. He wants to stop the labourer going out altogether. If he had meant that we should give them protection, I would certainly have supported him. But he did not ask for that; if he had asked for that, he would have said: 'Let our people go and we will certainly protect them with all the resources of this country'; and we are prepared to place all the resources of this country at the disposal of those labourers. But he has not done that. He has not given them protection. He told them: 'We will not allow you to go out.' Is that protection? Is that making the Colonies recognize your equal status? You are, on the contrary, shirking the battle. The Colonies do not recognise your equal status. You ought to fight them; instead of fighting, you shirk the fight. I think, Sir, this Assembly should not accept this attitude at all.

Then, Sir, the Honourable Mover of this amendment referred to the fact that when we send these unskilled labourers out, our country gets a bad reputation. I referred to that in my first speech. Now, what I would like to say is this. If you want to prevent other countries taking you as a nation of coolies, you must take measures to see that there are no coolies in this

country. As long as there are coolies in this country, is it possible for you to prevent the people of other countries seeing those coolies in India? Are you going to keep a wall round the whole of India to prevent these people seeing the coolies here? How will you prevent them considering you to be a nation of coolies as long as coolies exist in this country? Therefore, this is not a right way of preventing your country being considered a nation of coolies, a nation of unskilled labourers. If you want to prevent your country being called a nation of coolies, give them education, give them better wages and make them look as well-dressed as my Honourable friend is. Then, no outsider will regard this country as a nation of coolies. Sir, I feel that this method of restricting the liberty of labourers is a wrong method of securing equal status in the Colonies. By this method you will not succeed. You try through the labourers to secure equal status for Indians. Is it really right that that burden of fighting for equal status should be thrown on the labouring classes and we, the educated classes, should not take up that responsibility? If you feel indignant against Colonies for treating your people badly, why prevent only the labourers going there? Why don't you prevent merchants and pleaders going there? Merchants and pleaders should equally feel ashamed to go to a Colony which does not give them equal status. Sir, my friend referred to Kenya. I ask him whether Kenya contains labourers or merchants. As far as my information goes, Kenya is a Colony where Indians go as merchants and not as coolies, and the equal status of merchants is not recognised, the equal status of barristers and pleaders is not recognised. Why does he not bring forward a Bill here to say that no merchant of India and no barrister from India should go to Kenya? If he brings forward such a Bill, the Kenyan Europeans will send him a letter of thanks. They want to prohibit your people going there. The situation which exists to-day is not rightly understood. Does the Honourable Mover of this amendment believe that countries all over the world are anxious to get Indian labour in as large a number as possible? On the contrary, as far as my information goes, in Fiji our people are not wanted to-day. They are willing to send back your men. Go to other Colonies. South Africa does not want your men. They are willing to repatriate those who are already there. Mr. Andrews is against repatriation. If my Honourable friend prohibits labourers going to South Africa, Indians going to Kenya Colony, he will be doing what the Colonies want themselves. Is it really right that we should take up that attitude? Whose interests are you serving? You are not serving the interests of the labourers. You are doing what the Colonies want. Of course, you are serving the interests of one body, viz., the employers of labour in this country. That I admit. When you prevent labourers going out of your country, naturally the wages in this country will tend to go down. That is what my Honourable friend wants at heart and he spoke it frankly also in the beginning. But is it really right that, in order that we should get cheap labour in this country, we should prevent labour going out? Is it really fair to the labourers? Is the labourer a commodity like wheat that, in order that it may not become dear, we should not export it? I ask my Honourable friend to consider this question very carefully from the labourers' point of view. With these remarks, I oppose this amendment. //

The Honourable Mr. B. N. Sarma: I feel sure that, on reconsideration, my Honourable friend, Mr. Subrahmanayam, will see his way not to press his

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amendment. If he does, I shall have to oppose it. He recognises that the Bill, as it stands, does duly safeguard the interest of the labourers and enables the Legislature to prescribe the conditions under which alone assisted labour (not free labour—free emigration is permitted and no conditions whatever have been imposed upon it), described in the Bill, can be permitted to go to other countries. The Government of India have to be satisfied, first of all, that it is desirable that emigration should be permitted. But they cannot, whatever may be their view, enforce it upon the country, because both the Houses will have a chance of prescribing the conditions and the terms on which emigration should be permitted and the countries to which emigration should be permitted. The Mover regards this as fairly satisfactory, but what he further says is: 'I want our views about equality to be definitely recorded a little more clearly, by amending section 10 as proposed by me.' I submit, Sir, that it is a case of clear confusion of ideas. He is mixing up the question of naturalisation laws with the laws under which emigration ought to be permitted to countries. Emigration does not necessarily mean that the man should be settled down for good in the country to which he is emigrating.

Rao Bahadur C. S. Subrahmanayam : No.

The Honourable Mr. B. N. Sarma : It may be for a short time. He says that no emigration shall be permitted to any country unless the emigrant is naturalised on certain conditions and in certain defined ways.

Rao Bahadur C. S. Subrahmanayam : Indians, not he.

The Honourable Mr. B. N. Sarma : Yes, unless Indians can be naturalised on the same essential conditions on which the nationals of European countries can be naturalised, and, if naturalised, they should enjoy full rights of citizenship, and so on. So he does contemplate that they should be in a position to be naturalised on certain conditions, and, if naturalised, they should possess certain rights, and, when not naturalised, they should have certain rights.

Rao Bahadur C. S. Subrahmanayam : Not necessarily the moment they are naturalised. Indians as a class.

The Honourable Mr. B. N. Sarma : I would ask him not to mix up this question of naturalisation laws with an Emigration Bill, because, even to the most expert international lawyer, I think naturalisation laws are somewhat perplexing. It is sometimes a question of double nationality, no nationality, or mixed nationality, and I think, therefore, we shall be travelling in a wilderness if we undertake to prescribe the conditions under which emigration shall be permitted to other countries by mixing up our emigration laws with naturalisation laws.

Before I proceed to examine this question in detail, I may say that all that the Mover really wants has been provided for, and it is open to the Government, in determining the conditions under which migration should be permitted, to consider the question of naturalisation laws. It is also perfectly open to them to further examine the point, and to the Legislative Assembly and the Council of State to consider whether this question of naturalisation laws need be mixed up with the matter at all; and, if they then deliberately think that these points should also be taken into consideration,

I would submit that there is ample provision in the existing Bill to meet such a contingency. I, therefore, do not think that we should embark on exploring this vast field now, and limiting our discretion to a certain extent with regard to the exact position which we may have to take up in respect of any territory or country, foreign or within the empire, when we have to treat a request for migration on the merits of any particular scheme which may be placed before us.

The amendment further would be absolutely useless because it says :

' Emigration for the purpose of unskilled work shall ordinarily be permitted to countries only.'

Who is to determine what the exception should be? I think the word 'ordinarily' there practically gives the discretion either to the Government or the Legislature, a discretion already given to them in being allowed to prescribe the conditions under section 10, and is therefore meaningless.

But what I would like to point out, in connection with the naturalisation laws is that the Government of India has been following, since 1852, a policy under which a restricted certificate may be given by the Government when aliens are naturalised in this country. I would just refer to Act XXX of 1852, which ordains that a petition should be presented by an alien if he wishes to be naturalised, and then proceeds to say :

' The Government may, if they shall think fit, issue a certificate in writing reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges and capacities of naturalisation under this Act, except such rights, privileges or capacities, if any, as may be specially excepted in such certificate.'

Later on it is presented :

' Rights, etc., derived from certificate. Upon obtaining such certificate, and taking and subscribing the oath as hereinafter prescribed, the memorialist, shall within the said territories under the Government of the East India Company, be deemed a natural-born subject of His Majesty, as if he had been born within the said territories, and shall be entitled within the said territories to all the rights, privileges and capacities, of a subject of His Majesty born within the said territories, except such rights, privileges and capacities, if any, as may be specially excepted in such certificate.'

And it is generally recognised that each country may make its own naturalisation laws, and it is hardly fair that we should, in enacting our emigration laws, prescribe what the naturalisation laws of foreign countries are to be before we permit migration to such countries.

I will just quote a passage from a work on International Law recently published by Oppenheim :

' It is left to the discretion of the naturalisation State to grant naturalisation under any conditions it likes, . . . and it must be specially mentioned that naturalisation need not give an alien absolutely the same right as are possessed by natural-born citizens. Thus, according to article 2 of the Constitution of the United States of America, a naturalised alien can never be elected President.'

According to the English Law, there are some restrictions in regard to the ownership of a ship. Therefore, what I would submit to the House is that we should steer clear of this intricate problem of naturalisation laws when we proceed to consider section 10.

Further, the amendment presents limitation as it were, and why should we limit the discretion of the Legislative Council of the Government of India in the manner proposed to be done. There is no question of large

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principle raised because the limitation operates only in respect of unskilled labour. As Mr. Joshi rightly put it, if you want to secure certain rights and don't want to send your people abroad otherwise, the proper thing would be to prohibit all labour to those countries which do not permit naturalisation on the same terms as in the case of other Europeans; but that is not proposed to be done. I do not see any reason whatsoever why this limit should come in only in the case of unskilled labour.

A further point that has been raised is, that we should not ordinarily encourage unskilled labour to foreign countries, and consequently we might do well, inasmuch as our policy ought to be to discourage emigration of unskilled labourers, to take advantage of this opportunity to prescribe the conditions under which foreign countries should enact the naturalisation laws, if Indian settlers wish to settle down there; and I fear I shall have to take exception to many of the propositions laid down by Mr. Subrahmanayam. They are not relevant to the amendment, but I would say that no Government can be a party to discouraging emigration of labour on the ground that labour may become costly. Each case would have to be adjudged on its merits. No Government can settle its policy rigidly in anticipation of and without regard to the actual requirements of the situation; but they should welcome labour becoming enterprising, seeking foreign markets in order to better its condition. I do not think that any enlightened Government can embark on a policy of restricting the freedom of unskilled labourers to better their lot in foreign countries, if they may do so with safety to themselves and safety to the country from which they migrate.

Another unfortunate controversial point introduced into this subject is the treatment of unskilled labourers in foreign countries. It is not necessary for me at this stage to dilate on that point; but my only regret is that it should have been introduced into the discussion of this amendment in the manner it has been done and we only invite the Colonial's retort that the upper classes in India might well search their hearts and see as to whether their treatment of the depressed classes is not all that they attribute to the most perverse Colonial. I am not justifying either, but I may say that it would be a complete retort. They could point out to similar happenings in our own unfortunate country. Therefore, there is not much gained by undue importance being attached to this unfortunate aspect of the problem, and I would leave it at that.

Khan Bahadur Zahiruddin Ahmed (Dacca Division : Muhammadan Rural) : Two injustices never make a justice.

The Honourable Mr. B. N. Sarma : I may, however, state, Sir, that the policy of the Government has been steadily to set its face against emigration—not free emigration, but assisted emigration—to countries which do not recognise the equality of status of Indians in those countries. When we were asked to send labourers to Fiji, British Guiana and other places, we stipulated that we could not contemplate any such measure unless and until the Governments concerned issued Ordinances which distinctly proclaimed the perfect equality of status of Indians with the other classes of His Majesty's subjects in those countries. To that policy the Government of India adhere now and propose to adhere to-morrow, and it is because they follow that policy that they have readily and willingly sought the co-operation of the Legislature and have introduced this Bill, and are further seeking the assistance of the Legislature

in finding a solution of the emigration problem on sound and satisfactory lines. The Government have taken as coadjutors, as advisers, as guides, both the Assembly and the Council of State and in respect of many matters provided for in the Bill with regard to administration also, they propose to have a Committee of this House and of the other House to assist them. Therefore, while readily acknowledging the propriety of the motive which actuated my Honourable friend, Mr. Subrahmanayam, in bringing forward this amendment, namely, his desire to have the equality of status of Indians with Europeans recognised in all countries, I think he has gone further than the requirements of the case dictate and has introduced complications by bringing foreign countries within the purview of his amendment. Indians are all British subjects, and, therefore, his amendment cannot touch the other parts of the British Empire, as far as we are advised by our legal experts; this amendment, therefore, will not be of any very great use in determining our policy with regard to the countries within the British Empire. Many of the countries which restrict the rights of Indians do not want Indian labour there. Therefore the problem does not arise there. In the case of other countries, which do require Indian labour, the Government of India have already distinctly proclaimed their policy and mean to adhere to it; and it is, therefore, unnecessary to bring in any complication by specific allusion to foreign countries with regard to whom our policy may have to readjust itself in the near future, and encumber this Act with provisions intended to secure a solution of problems which are not really pertinent to the immediate problem we are trying to solve.

I, therefore, ask my friend to reconsider as to whether he cannot withdraw his amendment. If he does not, the Government will have to oppose it.

The Assembly then adjourned for Lunch till a Quarter to Three of the Clock.

The Assembly re-assembled after Lunch at a Quarter to Three of the Clock. Mr. President was in the Chair.

Rai G. C. Nag Bahadur (Surma Valley *cum* Shillong : Non-Muhamadan) : Sir, I rise to oppose this amendment. The object of the Mover is no doubt a very laudable one. We all desire that our fellow-countrymen going abroad to work as labourers should be under no disabilities, but enjoy the full rights of citizenship along with other classes of His Majesty's subjects. But, looking at the matter from a practical point of view, do we in this country enjoy the full rights of British citizenship? Do we not live under various disabilities? Let me give concrete cases. We know that few of us can keep arms for the protection of life and property because the rules are so stringent. We know that there are distinctions in the Criminal Code based on racial considerations which the Racial Distinctions Committee are trying to remove. Then, there are compartments in railway carriages specially labelled as reserved for Europeans

Mr. President : Order, order. The Honourable Member is not entitled to go into the entire social, political and economic condition of the country in dealing with this amendment.

Rai G. C. Nag Bahadur : Sir, I mention these cases only to show that we in India do not yet enjoy the full rights of British citizenship. Now, I

[Rai G. C. Nag Bahadur.]

ask, does it not seem an extravagant demand to require that the labourers going to the Colonies should be under no disabilities such as these when we have got to put up with them in our own country? I think it is nothing short of a mockery to stipulate that Indian labourers going to the Colonies to work for wages should be treated on terms of equality with their employers at once and should be under no disabilities whatsoever when we do not enjoy the rights of freemen yet in our own country. Now take the case of the tea-garden labourer. How many Honourable Members here have cared to acquaint themselves with the conditions of their life? Do they live under ideal conditions? The average wage earned by an able-bodied man is not more than Rs. 6 a month. We do not get domestic servants for less than Rs. 10 to Rs. 15 per mensem. In Assam, the planters coerce the labourers to work in the gardens for which they are recruited. They have entered into an agreement among themselves not to admit a labourer if he wants to leave one garden and go to another. This is certainly a disability. The other day I pointed out that the coolies are without any law to recognise their matrimonial alliances and legalise their issues. I could easily multiply instances of disability under which the labourers on the tea-gardens suffer. The conditions being such in our own country, I do not think we should by stringent rules prevent labourers from going out of their own free will to other countries in the hope of earning higher wages than they can expect here and of bettering their condition. All that we have to see is that they are not recruited on false pretences. When we have acquired the rights of citizenship in our own country, it will then be time, and our duty, to see that our fellow-countrymen do not go abroad to work unless they are placed under no disabilities of any sort. Sir, I oppose this amendment.

The Honourable Dr. T. B. Sapru (Law Member) : Sir, I shall occupy the time of the House very briefly, but I think it is necessary that I should address the House with respect to some lurking legal dangers which are to be found in these amendments which stand in the name of Mr. Subrahmanayam. The whole basis of these clauses, excepting clause (d), is that Indians should be naturalised in the Colonies where they emigrate. Now it is a matter which is known to every lawyer who has studied the law with regard to naturalisation that you cannot be naturalised in your own Empire. A British Indian subject, therefore, if he goes to any of the British Colonies, cannot be naturalised for the simple reason that he is not a foreigner for the purposes of the law of naturalisation. If that is borne in mind, the whole basis of these amendments which are to be found in clauses (a) to (c) disappears.

Then I would invite the attention of the House to an Act passed by the Parliament of the Union of South Africa in 1910. It is an Act which was passed to consolidate and amend the laws in force in the Union relating to naturalisation of aliens, and in section 2 of this Act the word 'alien' is defined as meaning a person who is not a British subject. It would, therefore, follow that a person who is a British subject cannot be naturalised in South Africa. Then, again, I would invite attention to section 3 of this Act which runs as follows :

' Any alien of the age of 21 years and upwards who intends when naturalised to reside in the Union or to serve under the Crown in the Union may, subject to the provisions contained in the succeeding section, apply for a certificate of naturalisation in the Union if at any time within 5 years immediately preceding the date of the application he has resided for

a period of not less than 2 years in the Union or in any Colony or territory included in the Union, or if he has been in the service of the Crown.'

It will thus appear that the process of naturalisation is hemmed in by so many conditions even assuming that it was necessary for an Indian to be naturalised, he would have to comply with so many conditions. Besides, it seems to me that it has been assumed by the Mover of these amendments, and I may also say by the framer of these amendments, that naturalisation and franchise go together.

Now, there is nothing more incorrect in point of law than that proposition. I shall only invite the attention of the House to the statement of the subject in a well-known book on Foreign and Colonial Laws by Burgess, where he sums up the law very briefly in two or three sentences. Dealing with this question he says :

'In most systems the grant of naturalisation will assimilate the recipient to the native in all respects as regards civil rights, and in many countries also as regards political rights; but in certain States full political rights are not thereby conferred on him at once. In France, Belgium and Hungary, two modes of naturalisation are recognised for this reason, the greater and the lesser naturalisation, the former meaning that which incorporates a foreigner without any restriction and this in France can only be obtained by a special law.'

I do not propose to read the rest of this paragraph as it goes into minute details. Now, it may be that you may have a vote in your own country; but it does not follow that because you have a vote in your country, if you migrate to any other part of the British Empire, you will necessarily have a vote there. You must qualify yourself for the exercise of the right of vote according to the law of the country where you are. Therefore, I am afraid, my Honourable friend, Mr. Subrahmanayam, in moving this amendment has overlooked the fact that, even though all facilities may be granted in respect of naturalisation—which I think I have already said are entirely impossible having regard to the fact that an Indian who goes to South Africa or Canada goes from one part of the British Empire to another,—even though all that may be done, the mere fact that he will be naturalised will give him no right to vote. If he wishes to exercise the franchise, he must conform to the requirements of the law of that particular country. For all these reasons I think that these amendments are based on a total misconception of the legal position, and I venture to hope that the House will not accept them.

Dr. H. S. Gour: Sir, when I heard the Honourable the Law Member I was wondering whether his reply was intended to be directed against the Mover of this amendment or against his colleague the Honourable Mr. Sarma, who replied to him. I do not wish, Sir, to be pedantic on this subject. The Honourable Mover of the amendment intended to mean and imply that, whenever an Indian is not treated as an equal citizen of the Empire by being given the right to municipal franchise, the right to acquire land in a Colony, or is restricted as regards his residence to a limited location known as the 'Asiatic Location' and other galling and discriminating rights, this emigration should be restricted; and it is in that sense, I understand, that the Honourable Mover of this amendment termed his clauses. But, Sir, the question of naturalisation is entirely wide of the mark. My friend, the Honourable the Law Member, is perfectly right in saying that there can be no such thing as naturalisation in the British Empire. By an Act of the British Parliament every person born within

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the British Empire is as of right entitled to British citizenship. He has, under the Act of Parliament, equal rights and all the citizen rights wherever he goes; but these Colonial Statutes, to one of which the Honourable the Law Member referred, have made certain local laws restricting the full enjoyment of that right in the manner I have indicated; and the Honourable the Mover of the amendment intended to mean that, if emigration to any of these countries is to be made, it should be made on condition that the Indians in those Colonies are treated as equal citizens with the other European settlers there. It is in that sense that the amendment was moved and

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I think the Honourable the Law Member was perhaps a little too technical in reading the amendment in its too literal sense. But, Sir, having said so much, it must not be understood that I am going to support his amendment. On the other hand, I feel strongly that this amendment must be thrown out if the Honourable Mover of the amendment does not withdraw it; and I shall give my reasons for it. Sir, the first and primary object of this Emigration Bill is to provide salutary safeguards for the emigration of our labour population when it goes beyond the Empire. It is for the benefit of the labourers that this enactment is proposed to be placed on the Statute Book. My friend is diverting the sole and primary purpose of this enactment for what I cannot help thinking an ulterior political aim. He desires to exploit the coolie for the purpose of equalising or enhancing the right of the Indian settlers in Overseas Colonies of His Majesty. That, I submit, is not a fair way of treating this question. If we have a grievance against the Colonies, we shall ventilate them on another occasion; but this is not the time, nor is this the Bill in connection with which we can fairly move this amendment. Our sole object should be to see that the labourers who go beyond the seas to the Colonies of Africa, Australia, Fiji or other parts of the Empire are fairly well treated, adequately paid, and are not deserted on the completion of their terms. If these conditions are fulfilled, I do think that the Government of India shall have discharged their duties to the labourers. Now, Sir, if this amendment is accepted, the labouring classes of this country might be most unjustly hit. Conceive the case of a vast devastating famine in this country. Conceive the case that the labourers in this country are not able to find adequate employment. This amendment, if placed on the Statute Book, will bar the right of the Government of India to export these labourers to countries where they may find congenial and remunerative employment. I, therefore, submit that the amendment, if carried, would be disastrous to the very interests it seeks to protect. I further think that it ill becomes my friend, the Honourable Mover, to champion the case of the coolie and say that he can go if the Colonies treat us, the people of India, the gentlemen of India, better in the Colonies. While the remarks of the Honourable Mr. Sarma were directed to the citizenship of the coolies themselves, the Honourable Mover interjected a remark and said: 'I do not want equal rights for the coolies; my amendment implies that I am prepared to export the coolies to the Colonies if they give us, the citizens of India, including himself and me, better rights in the Colonies'. Now, I beg to submit, that is not a fair bargain. You are sacrificing the best interests of the labourer for your own advantage. Is that fair? Is that right? Is it just? That, I submit, is the crux of the question. The clause, as it is drafted, amply meets the requirements of the case.

It is sufficiently elastic and you must trust the Government of India and this Legislature to see that, as time and occasion demand, it shall be put in force in conformity with, and with due advertence to, the circumstances which may arise from time to time. I, therefore, submit that you shall gain nothing and are likely to lose a good deal if this clause is inserted in the Statute Book of this country. Sir, I know what is passing through my friend's mind. He is anxious to proclaim to the Colonies at large the deliberate will of this Assembly that they are maltreating the people of this country, and that, by way of retaliation, the Indian Legislature have registered a will that they shall not export their labouring population to any part of the Colonies of the British Empire unless the Indians in this country and the settlers in those Colonies are better treated. That, I submit, is what is passing through my friend's mind. That being the case, I say now, what I have said before, that we shall be twisting the Statute for a purpose for which it was never intended. Sir, on these grounds I oppose this amendment, and I hope, my friend will feel convinced and withdraw it, because I think that, if this amendment is carried, of which I see very little chance, it will be disastrous to the vast labouring population of this country, who shall suffer most by it.

Mr. R. A. Spence (Bombay : European) : I move, Sir, that the question be now put.

The motion was adopted.

Mr. President : Amendment moved :

' That in clause 10, the following be inserted as sub-clause (2) and existing sub-clause (2) be re-numbered (3) :

' (2) Emigration for the purpose of unskilled work shall ordinarily be permitted to countries only in which :

- (a) Indians when not naturalised are subjected to no disabilities to which nationals of European countries are not subjected ;
- (b) Indians can be naturalised on the same essential conditions on which nationals of European countries can be naturalised ;
- (c) Indians if naturalised enjoy full rights of citizenship ; and
- (d) in the opinion of the Governor General in Council Indians enjoy substantially the same political rights as other classes of His Majesty's subjects'.

The question is that that amendment be made.

The motion was negatived.

Clause 10 was added to the Bill.

Bai G. C. Nag Bahadur : Sir, the amendment that I wish to move runs thus :

' In clause 11 (2) of the Bill, as amended by the Select Committee, for the words ' shall cease to be lawful pending a reference to the Governor General in Council ' substitute the words ' shall, subject to confirmation by the Governor General in Council, cease to be lawful.'

Sir, it is merely a verbal alteration that I propose to make, and I have no remarks whatever to offer to commend my amendment to the House. If the House thinks that my amendment will improve the form of the clause, they may adopt it.

The motion was negatived.

Clauses 11 and 12 were added to the Bill.

Bhai Man Singh : Sir, the amendment which I propose to move is :

'At the end of clause 13 (2), add the following :

'And such notification shall be amended or cancelled if a vote to that effect is passed by both the Chambers of the Indian Legislature.'

With respect to my amendmnt, Sir, I submit that in clause 10, the principle of my amendment has been accepted. In clause 10, we have that :

'(1) Emigration for the purpose of unskilled work shall not be lawful except to such countries and on such terms and conditions as the Governor General in Council by notification in the Gazette of India may specify in this behalf.

(2) No notification shall be made, under sub-section (1) unless it has been laid in draft before both Chambers of the Indian Legislature and has been approved by a Resolution of each Chamber, either without modification or addition, or with modifications and additions to which both Chambers agree, but, upon such approval being given, the notification may be issued in the form in which it has been so approved'.

Section 10 deals with the case where the Governor General in Council is to decide as to what countries emigration should be allowed to and both the Chambers have power to make any additions or modifications to that draft notification. Section 13 deals with the powers of the Governor General in Council to prohibit emigration to certain countries. Now sub-section (2) of section 13 says that :

'Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.'

What I submit is that such notification when laid on the table of the two Chambers should be subject to their vote as well. If the two Chambers by a Resolution decide that certain modifications should be made in the draft notification, their wish should be carried out. If, under section 10, the Indian Legislature has got the right to add to the list of the countries to which the Governor General in Council think proper emigration should be allowed, and if we can add another country to this list, there is no reason why we should not have the same control in the case when the Governor General in Council decides that emigration should not be allowed to such country. If we can provide that such and such people should be allowed to such and such countries, we should have the same power as the Governor General in Council. If he prohibits, we should be able to raise our voice against it. There is no meaning in giving us the power to make any additions to this notification if we can have no voice to reject a notification which prohibits people from going to such countries. I need not say anything more in respect of this amendment, because I see the principle has been accepted, and my amendment does not go as far as what is laid down in section 10. Section 10 says that the draft notification should be laid before both Chambers and they are to modify or make additions to it. My amendment simply requires that the draft notification shall be laid on the table, and, if we choose to pass any Resolution about it, we may pass it, otherwise it remains as passed by the Governor General in Council. I submit, Sir, that in section 10, the principle was admitted even by Sir George Barnes in introducing this Bill, and, I think, there will be no opposition to my asking the Honourable Members to apply the same principle to clause 13 as it is.

The Honourable Mr. B. N. Sarma : Sir, I have listened carefully to the Honourable Mover of this amendment, and I see clearly that the

amendment has been moved under a misconception as to the object of this section. The principles underlying section 10 are in no way in conflict with the procedure that is prescribed in section 13. Section 10 says that in respect of emigration generally from India to foreign countries the conditions and terms shall be laid down by the Government of India in conjunction with the two Houses and the countries also shall be specified. But it has been felt that there may be certain specified local areas under the administration of Provincial Governments which may have to be protected, having regard to the peculiar circumstances in those areas and localities, and power has been given as long back as 1863, and even earlier, to Local Governments with the sanction of the Governor General in Council to notify that emigration is prohibited from those areas, in respect of particular classes, to particular countries specified therein, the reason being that it is only the Local Governments that are in a position to judge as to the merits of individual cases far more than the Government of India or anybody else. It is not a question of general policy governing the whole of India. The Local Government may know that, in district A, artisans of a particular class or labourers of a particular denomination are wanted badly and are being depleted unduly or are going to certain particular adjoining localities where there is a congestion. Therefore, power was given to them to move in the matter, the necessary safeguard being that it should be subject to the sanction of the Governor General in Council. That was the previous legislation. Section 8 of the Act of 1908 provided for that. It runs as follows :

‘The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, prohibit, from a day specified in the notification, all natives of India or any specified class of such natives from emigrating from the whole or any specified part of the territories under its administration to any specified country.’

When the Select Committee came to consider this enactment, it was suggested that inasmuch as Emigration is a central subject, the power may be directly conferred upon the Governor General in Council to issue the notification, and in deference to the wishes of the Members, it has been decided that section 8, as it originally stood, should be modified in the form in which it stands here. It was also suggested that the reasons for such exclusion should not be kept a secret but should be mentioned to the Legislature which is responsible originally for the emigration policy of the Government. Therefore, the Government have agreed to this clause 2 being added which states that :

‘Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.’

The rest is treated as a question of detail of administration. There are two things which you will have to distinguish, namely, the detailed manner in which the emigration policy is carried out by Government or by a delegated body, the Local Government, and the main principles on which that administration shall be carried on. Where there is a question of main principle, the Government has already stated that it would not proceed in prohibiting emigration or prescribing conditions except with the consent of the Legislature. But where there is a question of detail which can be gone into only by a Local Government in respect of a specified locality, I think the Legislature ought not to move in the matter or ask for more powers. It is perfectly open to any Member here to move a Resolution that the notification shall be modified or cancelled, and the Governor General in Council will show every

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respect that is due to a Resolution of this House or of the Council of State. But I do not think that a Resolution in respect of any emigration subject should be given greater legal power or a higher sanction than a Resolution on any other subject, and especially for this reason. There is Ceylon, for instance, adjoining the Madras Presidency. It is only labour from some adjoining districts there that goes to Ceylon. The same is the case with regard to the Straits. Complaints are sometimes heard that there is a depopulation of certain districts and agricultural labour is scarce. I am not saying that this is correct. But, supposing that, on a proper inquiry, the Local Government should find that either the labourers require protection or that at any rate a certain specified class of persons should not be allowed to go, then it is they that can take the initiative. I mean they can make recommendations having regard to the specified local conditions of that locality. The Local Government has to come to the Government of India and the Government of India issues the notification. It may be that the local Legislature would have its say. If a Local Government were to recommend such a notification, if it really is not in consonance with the wishes of the people there, the local Legislature would immediately call to account the action of the Local Government and it is they that are in a position really to say as to whether any particular locality justifies this special treatment which is provided for in section 13, and it won't do for us to come into conflict with the views of a Local Government as supported by the local Legislature by giving legislative force to the wishes of the Legislative Assembly or the Council of State in matters of everyday administration. I, therefore, suggest that the matter need not be pursued further. All that has to be done for publicity's sake is being provided for here. The Local Government cannot and will not in the interests of any particular section, commercial or agricultural, overlook the interests of the labourers and the position is further safe-guarded because the Government of India is here to protect the interests of the labourers and to see that proper consideration governs the decision, and then the Legislature here has got full power to pass Resolutions on the subject, and I would suggest that the appetite should not grow by what it feeds on and that the Legislature should not ask for power to interfere in matters of administrative detail. This section has stood for about 40 years without any complaint whatsoever against its administration and the Select Committee have done all they could to anticipate and meet the legitimate wishes of this Assembly in modifying the provisions of section 8 as it originally stood in the Act of 1908 and clause 13 as it stood in the original Bill. In view of this explanation, I hope the Mover will not press his amendment.

Mr. N. M. Joshi: I am glad that the Honourable Mr. Sarma has made an admission just now in his speech that there is just a possibility that the Local Governments may try to make use of this Act to stop labour going out when there is a scarcity of labour. It is on account of that that I consider this Bill to be dangerous.

Mr. President: Amendment moved :

'That at the end of clause 13 (2) the following words be added :

'and such notification shall be amended or cancelled if a vote to that effect is passed by both the Chambers of the Indian Legislature.'

The question is that that amendment be made.

The motion was negatived.

Clauses 13 and 14 were added to the Bill.

Bhai Man Singh : The amendment which I propose to move is :

‘After clause 15, add the following sub-clauses :

‘The Governor General in Council shall make rules as to the terms and the conditions about which a person making an application under section 16 should satisfy the Local Government about the following matters :—

- (1) The payment of wages to the emigrant ;
- (2) The safety of his person, property and his dependants at the hands of the employer ;
- (3) The limit of time of work ;
- (4) The kind of works which the emigrant will be required to do ;
- (5) Accommodation and sanitary arrangements of the emigrant and his dependants ;
- (6) The freedom and general treatment of the emigrant and his dependants ;
- (7) Any other matter that the Governor General in Council should think necessary to safeguard the interests of the emigrant ;

‘Such rules shall be published in the Gazette of India and placed before both the Chambers of the Indian Legislature and shall be liable to be amended or cancelled according to a vote of the two Chambers of the Indian Legislature.’

My only object in proposing this amendment is this. I find that under section 16 :

‘Whoever desires to engage or to assist any person to emigrate for the purpose of skilled work shall apply for the permission of the Local Government having jurisdiction at the port from which such person is to depart, and shall state in his application the number of persons whom he proposes so to engage or assist . . .’

Section 17 says :

‘On receiving an application under section 16, the Local Government may, after such inquiry as it may deem necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees if any; as it thinks fit, or withhold such permission, and the decision of the Local Government shall be final.’

When an application is to be made to the Local Government, the Local Government has the right to refuse or grant that permission. It is admitted on all hands that the Act is meant to safeguard the interests of the emigrants. But I do not find anything in section 17 or section 16 to show that the Local Governments, in arriving at a decision under section 17, are to be guided by that principle. No doubt I do find certain particulars to be required to be put in in the application by the employer. But, I submit, Sir, they do not give a definite guidance as to what are the requisites that the employer should satisfy before he can be given permission. I wish that certain rules should be framed by the Governor General in Council for the guidance of the Local Governments in this respect. And, if the Local Governments find that the applicants cannot satisfy those conditions, they must reject the permission, they should not grant permission, and if they find that those conditions are satisfied, then they may grant permission, unless they find that it is against the interests of the emigrant otherwise. There being absolutely no dispute about the principle of the Bill, that it is to safeguard the interests of the emigrant,

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why should we not use definite words, and why should we not lay down that rules should be framed for the guidance of the Local Governments for safeguarding the interests of the emigrants and the Local Governments should see that those rules are satisfied ?

The Honourable Mr. B. N. Sarma : I feel sure, Sir, that the Honourable Bhai Man Singh has put in this amending clause without realizing clearly that it is a task which it is impossible for any Government of India to satisfactorily discharge, and that the Government have done all that can possibly be done to safeguard the interests of skilled labourers by providing the specific matters in respect of which the Local Government should be satisfied before emigration is permitted. Now, there are numerous countries, to which labour may emigrate ; and skilled labour is of various kinds, and the provinces differ widely from one another. The Government of India are asked to make rules regarding the payment of wages to the emigrant. That is, they have to make rules with regard to the payment of wages applicable to labour emigrating from all the provinces in India in respect of clerical labour, in respect of artizan labour of one kind or another,—in respect of all the kinds of skilled labour, not merely in respect of one country but of various countries differing widely from one another in respect of area, in respect of distance, and so on, and that is an undertaking, I think, which no Government can embark upon ; and the conditions vary from day to day, from month to month, consequently I think Honourable Members will realize that it is not possible to lay down any rule which would be of any practical use, in respect of the payment of wages to the emigrant. We must remember here that in respect of skilled labour we are not worried with the same difficulty as with unskilled labour. We are dealing here with a type of man who can protect himself. He knows what he is about. He knows what job he is accepting and what he is going to get there. They are a comparatively intelligent class of people stipulating for a fairly higher rate of wages, which wages depend upon the skill of the particular individual, or the skill necessary for a particular trade, whose value may vary from time to time. I, therefore, hope that the Honourable Mover will see that it is impossible for Government to comply with his request in regard to the payment of wages.

Now, as regards the safety of his person, property, etc. We have asked for that already in 16 (1) (c) and 16 (2) (a) :

' the accommodation to be provided for each such person and his dependents until their departure out of India and during the voyage ' and

' the provision to be made for the health and well-being of such person and his dependents during the period of the proposed engagement and for his repatriation at the end of such period.'

We have therefore provided for that.

Then, again, he asks for rules to be made regarding the limit of the time of work. That again would depend on the nature of the work and the salary. One man might be willing to work longer than another. Then the League of Nations have laid down certain conditions about the hours of work of different kinds of labour. They have fixed certain maximum hours of labour and every civilized country will have to comply with the rule if they should accept them. Consequently, there would be no difficulty about that and I do not see

any reason why we should lay down any rules about the limit of hours of work; which may conflict with an existing rule in the Colony concerned.

Then, as regards the 'kind of work which the emigrant will be required to do'—that is altogether too wide in scope for any provision to be usefully made.

As regards 'accommodation and sanitary arrangements of the emigrant and his dependants'—that is a very elastic phraseology. We have provided here in 16 (2) (b) for

'the terms of the agreement under which such person is to be engaged.'

That is a very wide provision embracing many of the points which cannot be brought within the strict limits of any rule. They would vary from province to province and from trade to trade; and the officer to whom the matter will be referred will be in a position to judge when a case comes before him as to whether the conditions are fair and emigration ought to be permitted. Consequently, Sir, I think that this amendment is absolutely unnecessary and its requirements cannot be carried out, although we may sympathise with the object which the Mover has in view. Later on, he suggests we are going too far and does not want the Local Government to have power to change the terms of an agreement except under strict supervision. I submit that the elasticity which section 16 provides is more to be commended than rigid adherence to rules which may be out of date and which must vary from place to place; and to ask Local Governments to adhere rigidly to rules would mean that skilled labour would suffer, and it is the rights of skilled labour which we are trying to protect.

Mr. Harchandrai Vishindas: Sir, I rise to a point of order. Am I right in saying that this amendment is not germane to the clause itself and is it not within the province of the Chair to reject any amendment which does not fit in with the subject of the substantive part of the clause? I am of opinion that this amendment should have been the subject of a separate clause altogether, or it should have been moved with reference to clause 16. I want a ruling from the Chair.

Mr. President: That may be, but I think we can dispose of the amendment without a ruling.

Amendment moved:

'After clause 15, add the following sub-clauses:

'The Governor General in Council shall make rules as to the terms and the conditions about which a person making an application under section 16 should satisfy the Local Government about the following matters:

- (1) The payment of wages to the emigrant;
- (2) The safety of his person, property and his dependants at the hands of the employer;
- (3) The limit of time of work;
- (4) The kind of work which the emigrant will be required to do;
- (5) Accommodation and sanitary arrangements of the emigrant and his dependants;
- (6) The freedom and general treatment of the emigrant and his dependants;
- (7) Any other matter that the Governor General in Council should think necessary to safeguard the interests of the emigrant;

'Such rules shall be published in the Gazette of India and placed before both the Chambers of the Indian Legislature and shall be liable to be amended or cancelled according to a vote of the two Chambers of the Indian Legislature.'

[Mr. President.]

The question is that that amendment be made.

The motion was negatived.

Clause 15 was added to the Bill.

Mr. J. Hullah (Revenue Secretary) : Sir, I have to move the following amendment :

'In sub-clause (2) (a) of clause 16, for the word 'his' where it occurs before the word 'repatriation', substitute the word 'their'.'

This amendment restores the wording of the present Act and corrects an error, which, I gather, is due to inadvertence.

The motion was adopted.

Mr. J. K. N. Kabraji (Bombay : Nominated Official) : There is just one little point about which I would like to have information from the Honourable Member in charge of the Bill. In sub-clause (2) the words are 'to engage any person' whereas in sub-clause (1) the words are 'to engage, or to assist any person to emigrate.' Have the words 'or to assist' been omitted from sub-clause (2) with any purpose? If so, I would like to understand the difference between the two clauses. I cannot find any information on the subject in the Select Committee's Report.

The Honourable Mr. B. N. Sarma : The clause deals with two classes, viz., persons who merely assist labour to emigrate and persons who engage labour directly for employment. A here in India may assist B to emigrate to a foreign country and pay him his fare, and so on. That is assisted emigration. The law lays down certain restrictions and rules in regard to persons who assist people to emigrate. The other clause relates to men who engage the labour themselves and are directly responsible for the treatment of those skilled labourers they are employing. Now, the duties that are cast upon persons who engage or assist are common up to a certain point and those are provided for in clause 1. But, evidently, the persons who engage labourers directly have got a greater responsibility cast upon them than those who merely assist labourers to go out, and consequently in their case they are asked to specify certain other matters and those are dealt with in clause 2. Originally, the whole thing was clubbed together and, for the sake of clearness, in the Select Committee the clauses have been re-drafted making provision, distinct provision, for each class of cases. So, the duty that is cast upon persons who merely assist labour is laid down in sub-clauses (a), (b) and (c) of clause 1. That is not so very extensive as that cast upon a person who engages it. The man who engages labour has to state what provision he has made or is going to make for the health, etc., of the labourer, whereas such duty is not cast upon a man who merely assists labour. I think this explanation will satisfy the Honourable Member.

Clause 16, as amended, was added to the Bill.

Bhai Man Singh : I do not press my amendment* :

* To clause 17, add the following proviso :

'Provided that the Local Government will not order for any change in the terms of the contract or refuse permission under this section unless the terms of the contract or any other circumstances are against the rules framed under section 16, sub-section (2), or any

Clauses 17, 18, 19 and 20 were added to the Bill.

Bhai Man Singh : I beg to move the following amendment :

'At the end of clause 21 (2), add the following :

'and such notification shall be amended or cancelled if a vote to that effect is passed by the two Chambers of the Indian Legislature.'

My reasons for moving this amendment are just the same as I gave for my amendment to clause 13.

The motion was negatived.

Clauses 21, 22 and 23 were added to the Bill.

Bhai Man Singh : I do not press my amendment :

Clause 24 was added to the Bill.

Mr. N. M. Joshi : I beg to move the following amendment :

'Omit sub-clause (1) of clause 25 and re-number sub-clauses (2) and (3) as (1) and (2).'

Sub-clause (1) of clause 25 prescribes a penalty of Rs. 50 on those people who 'except in conformity with the provisions of this Act or of the rules made under this Act, emigrate or attempt to emigrate.'

Sir, the reason for which I move this amendment is this. As I said in my first speech, it is the legitimate right of everyone to go out of the country, if he thinks by going out his prospects will be bettered. If such a man attempts to go out of the country, even against your rules, he certainly commits no offence. He cannot be considered to be a criminal; and I therefore object to any fine being imposed upon any individual who tries to do a legitimate thing. Sir, in holding this view I am not without support even from some Government officers. I find, in the opinions which have been circulated to the Members on this point, at least two Commissioners of Divisions supporting my view. The first is Mr. Slocock, Commissioner, Jubbulpore Division, who says :

'This brings me to the consideration of penalty clause 25 (1) (a) which provides for punishing the emigrant or intending emigrant himself. As the Deputy Commissioner, Jubbulpore, says, this seems rather drastic and is hardly in consonance with what Sir George Barnes said in Council. The object of the Legislature is, I take it, to protect Indian labour and to prevent agents and exploiters from taking advantage of the ignorance and gullibility of their less fortunate countrymen from whom the indentured emigrants chiefly come. The penalty clauses should therefore be aimed at the exploiter and not at his unfortunate victims. It is hard to see in what case the punishment of an emigrant himself is ever likely to be enforced, and the retention of this sub-clause may result in hard cases.'

The second quotation that I propose to make is from the letter of the Commissioner, Surma Valley. He says :

'The punishment provided in section 25 (1) (a) for a person who attempts to emigrate otherwise than in accordance with the rules is difficult to justify.'

other provision under this Act, or for any other reasons to safeguard the interests of the emigrant and his dependents and in such cases the Local Government will state such reasons in writing.'

† At the end of clause 24 add the following sub-clause :

'(3) All such notifications made under this section shall be placed before both the Chambers of the Indian Legislature and shall be cancelled or amended if a vote to that effect is passed by both the Chambers of the Indian Legislature.'

[Mr. N. M. Joshi.]

I fail to understand, Sir, why we should punish a man with a fine, and a heavy fine of this kind, for doing quite a legitimate thing. If you like, you may detain him in the country, but to give him punishment is, in my opinion, going beyond our rights and is a restriction of ordinary human liberty.

Then, Sir, the fine that is proposed to be imposed is not also a little fine but a very heavy fine, considering the condition of the people who emigrate. A man emigrates from his country simply because he is poor and hopes to get money when he goes there. Naturally, if you put a heavy fine of Rs. 50 on him, how is he going to pay? If you had placed a fine on a man who has to go and who will be allowed to go, the employer may pay the sum of Rs. 50; but, if the man is not allowed to go, the employer is not going to pay, the man himself must pay. Take the case of a man from the United Provinces who goes to Bombay with the intention of emigrating. He will be arrested and fined Rs. 50. In Bombay, how is he to get Rs. 50? He must go to a Kabuli moneylender. No other man will give him a loan. The Kabuli will charge him 4 annas on every rupee per mensem, which means 300 per cent.; so, that man will have to pay for these Rs. 50, Rs. 150. I want the Government to take this matter into their serious consideration. They have been professing themselves the friends of the labourer. Is this being a friend to the labourer?

The Honourable Mr. B. N. Sarma : Sir, this question was very carefully considered in the Select Committee, and the original provision, which fixed the fine at Rs. 500, was reduced to Rs. 50. That is the maximum limit, the discretion being entirely with the person administering justice as to whether it should be Rs. 50, Rs. 5, Rs. 2, or one rupee, in each particular case. The essential point here, which my Honourable friend overlooks, is that he does not provide any sanction whatsoever for what the law prohibits. Now, suppose the Government of India, backed up by the two Houses, considers it to be unwise, dangerous or foolish to allow emigration to country A on terms B and C, and says no citizen of India shall depart to that country on those terms or on any terms whatsoever. Now, a person wants to defy that prohibition. Is the law to be maintained? Can you say that it is a law which carries no sanction behind it? It may be that the sanction should be light, having regard to the offence. That is the reason why nobody suggests that the person in this case should be punished with imprisonment, even simple imprisonment. That is the reason why the Select Committee went the length of reducing the fine from Rs. 500 to Rs. 50 and distinguished between the labourer who wants to defy the law and the person who induces him to do so, because they have retained the maximum of Rs. 500 in the case of a person who induces him to emigrate. But I would respectfully suggest that it is a mockery to enact a law which does not provide for some sanction by which that law can be enforced. There is no meaning in saying that a man shall not go and, if he says 'I will go' meekly submitting to him and saying, 'Oh! yes, you are a poor fellow and, therefore, in your case the law is no law; it does not require a sanction'. To me the thing seems to be absolutely impossible. I quite appreciate, and readily understand and sympathise with the object which my Honourable friend has in view, namely, that we should not make it hard for these labourers, who are really poor and wish to better their conditions if they commit a technical offence, but I am sure the Magistrates who administer the law know perfectly well as to whether

the transgression is deliberate or not. Supposing that a man repeats it a second time or a third time; or supposing that the man wants to set an example to another man; or supposing that the man is really not so poor. Cases vary, and we must in these individual cases leave it to the discretion of the Magistrate. I cannot see how my Honourable friend can get out of the position that, if we prohibit a thing, how we can enforce it without some sort of sanction behind it. It is for this reason that I regret that Government cannot agree to this amendment.

Mr. President : Amendment moved :

'Omit sub-clause (1) of clause 25 and re-number, sub-clauses (2) and (3) as (1) and (2).'

The question is that that amendment be made.

The motion was negatived.

Bhai Man Singh : Sir, my amendment :

'In clause 25 (1), for the words 'shall be punished with fine rupees' substitute 'shall not be allowed to emigrate unless he satisfies that he is a free emigrant.'

is covered by Mr. Joshi's, so I do not propose to move it.

Mr. J. Chaudhuri : Sir, I beg to move :

'In the last line of clause 25 (1), substitute the word 'ten' for 'fifty'.'

In the speech which was just made by the Honourable Mr. Sarma he said he saw the difficulty of accepting Mr. Joshi's amendment, because if there is a law there must be a sanction. But the scope of the Bill is chiefly to protect unskilled labour. The Honourable Mr. Sarma has just now said that so far as skilled labour is concerned, such persons are quite capable of taking care of themselves. But if that be so, then under section 25, the offending persons are likely to be poor ignorant people who may be the dupes of other people and whom we want to protect under this Act. As such persons are likely to be brought up before the Courts for attempting to emigrate under the pinch of poverty, I suggest in my amendment that the penalty should not be fixed at Rs. 50 but that it should be reduced to Rs. 10. That is in short the object of my amendment. The Magistrates will have ample discretion in the matter : in suitable cases they can impose a suitable fine, which will never be too high and will meet the objections raised by my Honourable friend Mr. Joshi. With these few words I commend my amendment to the acceptance of the House.

The Honourable Mr. B. N. Sarma : Sir, this is a matter of detail which was gone into carefully, and it was after much consideration that the maximum fine was reduced from Rs. 500 to Rs. 50. But I submit here again that this Rs. 50 is only a maximum limit to which the Magistrate need not go, and it is only in extremely contumacious cases, or in the case of people who are in a position to pay and who defy the law deliberately, that this maximum penalty will be imposed. But you cannot make light of a law by making the sanction ridiculously light, or by omitting to provide a sanction altogether. That is why we decided on a medium limit and the medium limit was fixed by the Select Committee at Rs. 50. I do not think it is necessary to reduce the limit below that or to fix it at Rs. 10. I regret therefore that I cannot accept the amendment.

Mr. N. M. Joshi : I do not agree with the Honourable Mr. Sarma that a penalty of Rs. 10 is a light one to an ordinary labourer. The penalty may be light to some other persons, but it certainly is not light to labourers who seek to go out of their country to make a living. I am sure that if a man is once fined Rs. 10 he is not likely to commit that offence again. He will find it very difficult to get another sum of Rs. 10 even if, in the first instance, he gets the sum.

Mr. J. K. N. Kabraji : Sir, I should like to draw the attention of the Honourable Member for Government to Rai Saheb Lakshmi Narayan Lal's remark on this clause where he objects to it and adds :

'In no case the dependents [who are included in the definition of emigrant under clauses 2 (1) (b)] should be made to suffer.'

I should like to know whether, under this clause 25 (1), dependents are also to be punished. If so, I should think it would be rather a harsh measure, and probably in that case a fine of Rs. 10 would be more suitable.

Mr. President : The question of dependents is raised by an amendment.

Mr. Pyari Lal : Sir, I have not been able to understand Mr. Joshi when he spoke of human liberty and of the liberty of the subject. He seems to think that every man may commit any offence and yet should not be checked. Let him be a murderer and go about the country; let him be any offender and no restraint should be placed upon his liberty. We find in this particular case a man violating the rules made under this Bill; he transgresses them; he is detected and Mr. Joshi invokes the sympathy of this Assembly to let him off with a fine or to reduce the punishment. I do not see on what reason he makes the suggestion to this House.

Mr. President : Amendment moved :

'In the last line of clause 25 (1) substitute the word 'ten' for 'fifty'.'

The question is that that amendment be made.

The motion was negatived.

Bhai Man Singh : I move :

'That at the end of clause 25 (1), the following proviso be added :

'Provided that the dependents of such emigrant shall not be liable to any punishment.'

Sir, my reasons are very clear. A man may commit the offence by going against the provisions of the Act; it might be said that he was defying the law; but why should his family be punished? The Act as it stands, so far as I can understand it, makes the dependents of an emigrant, or rather a would-be emigrant, also liable to a fine, because it simply says :

'Whoever, except in conformity with the provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate.'

A man who is trying to emigrate is taking his wife with him; naturally in that case it may be said that the wife also was attempting to emigrate. I do not see the *rationale* of laying down why those dependents also should be held liable under the law. I therefore propose this amendment.

The Honourable Mr. B. N. Sarma : Sir, I think this amendment has been brought forward under a misconception. Dependents are not intended to be included within this clause and are not included in clause 25. The clause reads thus :

‘Whoever, except in conformity with the provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate, etc., etc.’

Now, what is the definition of ‘emigrate’? ‘Emigrate’ and ‘emigration’ mean ‘the departure of any person who departs under an agreement to work for hire in any country beyond the limits of India and any person who is assisted to depart if he departs with the intention of working for hire or engaging in agriculture in any country beyond the limits of India’. So it is only those persons who engage themselves to work for hire or to engage in certain occupation or on certain terms that are said to emigrate within the meaning of section 25. Dependents are for certain purposes included amongst the class of emigrants; but they cannot be said to emigrate because they do not engage themselves to work for hire, etc., and do not bring themselves within the scope of section 25. Honourable Members will see that ‘emigrant’ means any person who emigrates or has emigrated or who has been registered as an emigrant under this Act, and includes any dependent of an emigrant, but does not include any person emigrating to a country in which he has resided for not less than five years or the wife or child of such person, or the wife or child of any person who has lawfully emigrated when such wife or child departs for the purpose of joining such person. Therefore, it is only for the purposes of definition of emigrant that these dependents are brought in in order to give them the necessary protection and so on; but in enacting the penal clause we have taken care to see that it is only persons who emigrate or attempt to emigrate as defined above that are brought within its scope. I, therefore, think that the class of persons to which my Honourable friend alludes does not come in for any penalty, and I think, therefore, the amendment is unnecessary.

Bhai Man Singh : I withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clauses 25, 26, 27, 28, 29, 30, 31, 32 and 33, the Preamble and the Title were added to the Bill.

Mr. J. Hullah : I move, Sir, that the Bill, as amended, be passed.

The motion was adopted.

The Honourable Sir William Vincent (Home Member) : Sir, I have another motion down in the list for to-day, but it is already four o'clock. The business for to-morrow is only one Bill and, although it was a non-official day, Government have cancelled the allotment of the day to non-official business and allotted it to official business. If it suits Honourable Members equally well, we will take this matter up to-morrow or, if not, we can discuss it to-day, exactly as they like. (*Cries of ‘To-morrow, to-morrow’.*) There will then be for to-morrow only this Resolution and Mr. Girdharilal Agarwala's Bill, if he turns up.

Mr. Harchandrai Vishindas: He is coming to-morrow.

The Honourable Sir William Vincent: We will allow him to introduce
4 P.M. his Bill on an official day.

Mr. R. A. Spence: Will there be any official business to-morrow, Sir ?

The Honourable Sir William Vincent: Only this Resolution.

Mr. R. A. Spence: Why not take up the Resolution now ?

The Honourable Sir William Vincent: It depends on the Honourable Member and his colleagues.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 7th February, 1922.

LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 7th FEBRUARY, 1922

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OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Tuesday, 7th February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

THE INDIAN LIMITATION (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Limitation Act, 1908.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member): Sir, the Government agreed to give time to Lala Girdharilal Agarwala to introduce his Bill to-day, but I do not know if he is here? I am quite prepared to allow him to move his Bill if he is and I was told that he will attend to-day.

Mr. President: He can move it later on.

RESOLUTION *RE*: SUPPRESSION OF TRAFFIC IN WOMEN AND CHILDREN.

The Honourable Sir William Vincent (Home Member): Sir, I move that:

'This Assembly recommends to the Governor General in Council that India do sign the International Convention for the Suppression of the Traffic in Women and Children accepted by the Assembly of the League of Nations at its second Session subject to the reservation that in applying Article 5 of the Convention, India will consider that 'sixteen completed years of age' is substituted for 'twenty-one completed years of age'.'

If the Assembly will permit me, I should like to substitute for the words 'will consider' down to the end of the Resolution the following:

'may, at its discretion, substitute the words 'sixteen completed years of age' for the words 'twenty-one completed years of age'.'

To explain the effect of this Resolution I will have to take the Assembly very briefly through the main features of some important documents which I believe have been circulated to all Members. The first of these documents is the International Agreement for the suppression of what was then called the White Slave Traffic. It was signed in Paris on the 18th of May, 1904. The agreement may be summarised very shortly. Its main provisions were for the appointment of a co-ordinating authority to collect information regarding the procuring of women and girls for immoral purposes abroad; arrangements for the maintenance of a watch, particularly at ports and railway stations, for persons in charge of such girls; inquiries amongst prostitutes in order to facilitate their voluntary repatriation and finally the supervision of offices and agencies engaged in finding employment for women or girls abroad. This was followed by the International Convention of 1910 signed on May 4th. That also has been circulated to

[Sir William Vincent.]

all Members of this Assembly. The important point in this document is that it binds the parties concerned to penal legislation for the punishment of persons who have committed the acts defined in Articles 1 and 2 of the Convention. As they are of first importance, I will read them. Article 1 says:

'Whoever, in order to gratify the passions of another person, has procured, enticed, or led away, even with her consent, a woman or girl under age, for immoral purposes, shall be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.'

Article 2 runs:

'Whoever, in order to gratify the passions of another person, has, by fraud, or by means of violence, threats, abuse of authority or any other method of compulsion, procured, enticed or led away a woman or girl over age for immoral purposes shall also be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.'

The *Final Protocol* of this Convention indicates that the stipulations of these two articles are to be considered as a *minimum* and defines the meaning of the terms 'woman' and 'girl'. It is made clear that in using the term 'woman' the Conference refer to a female over twenty completed years of age, a female under that age being termed a 'girl'. The connection also provides that the offences contemplated in Articles 1 and 2 of the Convention should be included in the list of extraditable offences.

The question of the adherence of India to this Agreement and Convention was considered in 1914 and in 1919. In 1914, it was decided to accede to the agreement of 1904 only, and the Commissioners of Police in Madras, Calcutta and Rangoon, and an officer at Bombay were appointed as the authorities to undertake certain duties referred to in that agreement. The next stage that followed was after the meeting of the League of Nations. Honourable Members will remember that India was one of the original signatories to the Covenant of the League of Nations. Article 23 of the Covenant entrusts the League with the general supervision of the execution of agreements with regard to the traffic in women and children. The Assembly then requested the Council to invite the various countries to an International Conference which was to be held before the next Assembly. At that Conference India was represented by a retired member of the Indian Civil Service, Mr. S. M. Edwardes, who was for many years Commissioner of Police in Bombay, and had some experience of the subject under discussion. Members of this Assembly probably know, that many of the prostitutes are foreigners and some have to be expelled by the police from the country. Moreover, various police regulations have to be enforced in all our large cities in the public interest.

Mr. Edwardes pointed out that the proposal to make the age twenty years was not in accordance with the provisions of sections 372 and 373 of the Indian Penal Code and he said:

'As matters stand now, a proposal to enhance the limit from 16 to 20 years (a) would, in all probability, be found to be in advance of the general body of orthodox and conservative Indian opinion; (b) would be in conflict with established physical facts, it being well known that the climatic conditions of India result in maturity being reached at an earlier age than in Europe, and (c) might involve impolitic interference by the State with religious and social customs, which are observed and followed by certain tribes, castes and communities in various parts of the Indian Continent.'

This proposal was never specifically put to the vote, but I understand that it commended itself to many members of the Conference. The final conclusions of that Conference are embodied in the paper which is the last of those sent to Honourable Members. The principal features of that document are—the recommendation of the Conference, to all Members of the League who have not yet adhered to the agreement of 1904 and the Convention of 1910, of the importance of early adherence. I may say, that up till now, we are only parties to the agreement of 1904. They also recommended the extension of the age-limit for minors making it 21 instead of 20. These were accepted at the second Session of the Assembly of the League and all the conclusions are embodied in the draft International Convention for the suppression of traffic, not white slave traffic, but a general, a much more general proposition to which I desire to draw attention, traffic in women and children. The Resolution that I have moved proposes to give assent to the Convention, subject to the reservation that in applying Article 5, the Government of India may have to consider whether 16 years should be substituted for 21 years. The reasons for this are, I think, in part those given by Mr. Edwardes in his statement which I have just read out to you. It is rather interesting to know that both Japan and Siam supported the reservations which were made by the representative of the Government of India. The Government of France, with regard to the tropical portions of that State, also accepted those reservations, and we understand that the Colonial Office, in so far as the Crown Colonies in tropical parts are concerned, also approves of them. If the Assembly approves of the course which I have proposed to them, and which has, I think I may say, been accepted by the Council of State, then it will be possible for India to become an original signatory of the Convention which is what we hope will be the case. It will be seen, and I want to make this clear, that in any case the acceptance of this Resolution will involve the passing of legislation providing sanction in case of violation of the acts which are specified in Articles 1 and 2 of the Convention of 1910. Sections 366, 372 and 373 cover the ground to some extent, but not completely. So, if this motion is accepted, we shall have to bring in separate legislation for the amendment of the Penal Code.

I know that there is a considerable volume of opinion in this Assembly that thinks that the Government of India have been too timid or cautious in this matter and that they should at once proceed to extend the age-limit to 21. I can assure the Assembly, that in taking this line, the Government of India are in no sense actuated by any wish to minimise the importance of the measure; they are as alive as any one here to the necessity for taking the most stringent measures to protect girls up to a reasonable age against any inducements to immorality. But what I ask this Assembly to-day is not to bind itself finally to legislate on a subject of such importance penalising the offences mentioned in the articles in the case of girls over 16 without consulting public opinion. When the legislation comes before this Assembly, it will be quite open to any Member, if the Government of India have not accepted 21 as the proper age, to propose that 21 should be fixed as the age-limit. Up to now, however, we have not been able to consult public opinion on this matter at all. Therefore, I suggest that the Assembly would be acting wisely if it gave its adherence now and prescribed later the age, whether it be 16 or 21 or any other age, which it thinks fit. I may add that curious results will follow if the procuring of a girl to gratify the lust of another man is to be made punishable and the action of the man who enjoys that girl is not to be made punishable. Indeed, I have myself little doubt that legislation which penalises the

[Sir William Vincent.]

procuring of girls under the age of 21 for unlawful sexual intercourse must lead to legislation penalising such intercourse itself. I ask the Members of this Assembly, as practical members of the world, to consider whether such a law would not be dangerous in the present circumstances, at any rate whether it would not be wise for the Members of this Assembly to ascertain what the opinion of India, particularly of the conservative classes of India, is on this proposal before they accept it. There are also practical difficulties which deserve consideration. I do not want to enter into any discussion of Hindu religious customs, a subject on which I am really not competent to speak, but I have heard of girls being procured for temples or for other purposes in some parts of India—I do not know, whether there is any truth in such statements, but they are current and, therefore, in a matter of this kind, I want this Assembly to act with reasonable caution and not precipitately, and the amended proposal I have made to the Assembly is made to meet the amendments that have been put forward. It will enable every Member of this Assembly, when the legislation comes up, after inquiries have been made, after public opinion has been ascertained and the practical difficulties are known, to say: 'No, we desire to fix the age at 21, and not 16.' But I ask the Assembly not to say lightly now, before any inquiry has been made, that the age should necessarily be extended to 21, until we know exactly what the difficulties are and what public opinion on this subject is. I hope, therefore, that the Resolution in the amended form in which I have put it forward in order to meet the various Members of this Assembly will commend itself to Members of this House.

Mr. N. M. Joshi (Nominated: Labour Interests): Sir, after the change in the Resolution which the Honourable the Home Member has proposed, the attitude of Government towards this question has been somewhat modified, but I am still unconvinced, after listening very carefully to the speech of the Honourable the Home Member, that there are any insuperable difficulties in accepting the Convention as it is without any reservation. The grounds which the Honourable the Home Member gave for making this reservation are various. In the first place, he pleaded that we must respect the general orthodox opinion on this matter.

The Honourable Sir William Vincent: I said 'consult'.

Mr. N. M. Joshi: Sir, I do not know whether there is any very large orthodox opinion in this country that will favour the traffic in women and girls in this country. At least, I cannot see any representative of that orthodox opinion in this Assembly. Then the second point which he brought to the notice of the Assembly was that in India girls attain maturity earlier. Sir, not being a doctor myself, I do not know how much truth there is in that statement.

The Honourable Sir William Vincent: I merely cited the evidence of a witness before the Conference. I did not put it forward as my own opinion.

Mr. N. M. Joshi: I do not say that the Government has accepted the view that in India girls attain maturity earlier than elsewhere. But this is one of the arguments used for being more cautious in this matter. Sir, although I do not believe that the girls in India attain maturity earlier than elsewhere, still I can understand the point of view urged by some people, but I cannot understand the connection between the age of maturity

and the traffic in women. The real point to consider in connection with the traffic of women is whether the girls or women become unfit objects of that trade at the age of 16. Personally, I believe that they may be better objects of that trade between the ages of 16 and 21. I, therefore, think that there is not much force in the argument that girls in India attain maturity a little earlier. Then, Sir, there was the argument that Japan and Siam are willing to accept this reservation. I do not want to say anything as regards Japan or Siam, but I do feel that we in India are not anxious to take advantage of that reservation. Then, Sir, the Honourable the Home Member brought forward another question, namely, that it may not be just to be harsh on those who trade in women, while we may leave free those who make use of those women. He wants perhaps to treat both these sections of people equally. I can very well understand his point of view and even agree with him, but what I say is this. To a wrongful act there are two parties. To-day we are considering how one of those parties may be prevented from doing that wrongful act. Is it, therefore, right for us to say, simply because we do not touch the other party, we should not also touch the one party whom we are asked to touch by this Resolution. To a theft there may be two parties. You catch one man, and is it a good argument to say that because you cannot catch the other man, you should let free the man whom you have caught. I, therefore, feel that, although we may be anxious to punish both the man who trades in women as well as those who make use of that trade, still there is nothing wrong in our taking action against at least the one party, namely, those who trade in women. Sir, there is an advantage in passing this Resolution without the reservation. The Honourable the Home Member said that, when the question of legislation comes forward, it is open to any Member of this Assembly to bring an amendment, but, with my experience of the working of this Legislative Assembly, I feel that there is not so much chance for the amendment of a private Member to be carried as there is a chance of any proposal which the Government itself puts forward for the consideration of this Assembly. If the proposal is put forward by the Government of India, there are greater chances of its being approved by the Assembly than if they are put forward by a private Member. If we pass my amendment, the hands of the Government will also be strengthened. They will know the opinion of this Assembly and, when they bring forward their Bill, they can boldly put forward the age of 21 instead of the age of 16. With these remarks, I commend my amendment for the support of this House, viz. :

'That the words from 'subject to the reservation' occurring in lines 3 and 4 to the end of the Resolution be omitted.'

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): While I generally sympathise with the object of this Resolution, I wish to offer a few remarks for the consideration of the Honourable Mover of it. The object of this Convention of the League of Nations is to make the abduction of women an international offence, extraditable and punishable in all countries. That is a commendable object and Articles 1 and 2, printed at page 5 of the proceedings of the League of Nations, create two offences which, in the present state of the penal law, are not known in this country in the form in which they are stated in the Convention. Article 1 says :

'Whoever, in order to gratify the passion of another person, has procured, enticed or led away, even with her consent, a woman or girl under age, for immoral purposes, shall be punishable notwithstanding that the various acts constituting the offences may have been committed in different countries.'

[Dr. H. S. Gour.]

Article 2 says :

'Whoever, in order to gratify the passion of another person, has, by fraud, or by means of violence, force, abuse of authority or any other method of compulsion, procured, enticed or led away a woman or girl under age for immoral purposes shall also be punished notwithstanding that the various acts constituting the offence may have been committed in different countries.'

Honourable Members will see that the procuring of women, whether under or above the age of maturity, is made punishable by these two articles. Now, if we turn to the Indian Penal Code, we will find, as the Honourable Mover of this Resolution has pointed out, that the sections germane to the discussion are sections 372 and 373. (A voice: '362 also.' *Another Voice*: '363 also.') Now, the Honourable Members will find that section 362 says :

'Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.'

Section 363 says :

'Whoever kidnaps any person from British India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.'

Then section 372 says :

'Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.'

Then section 373 says :

'Whoever buys, hires or otherwise obtains possession of any minor under the age of sixteen years with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.'

Honourable Members will thus see that articles 1 and 2 create offences somewhat different to the offences at present penalised by the Indian Penal Code.

The Honourable Sir William Vincent: Will the Honourable Member read section 366, which very nearly covers article 2 ?

Dr. H. S. Gour: The Honourable the Home Member draws my attention to article 366. It runs as follows :

'Whoever kidnaps (*that is to say, kidnaps in the sense it is defined in the Penal Code, sections 365 and 360 and so on*) or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.'

And section 366 runs :

'Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.'

I admit that this section very roughly corresponds to the proposed articles of the League of Nations.

The Honourable Sir William Vincent: Article No. 1.

Dr. H. S. Gour: Article No. 2. Now my submission is that, if we are to adhere to articles 1 and 2 of the Convention which the Governor General in Council is called upon to ratify, we must beforehand consider the legislation, or the draft of the proposed legislation which this Assembly would accept, and thereafter ask the Governor General in Council to sign the Convention. That, I submit, will place this House in possession of the exact law which would be made applicable to the country and in pursuance of which we shall ask the Governor General in Council to sign the Convention of the League of Nations.

My next submission is, that the Honourable the Mover of this Resolution fixes the age at 16 years. The Honourable Mr. Joshi would adhere to the age of 21. I submit, that in the country in which this article was drawn up, the age of majority is the completion of 21 years. In India, as we all know, the age of majority is reached on the completion of 18 years. (*A Voice: '16'*) 18 not 16. (*Cries of 'No, no'*. *A Voice: 'For guardianship 16'*. *Another Voice: 'For guardianship 21'*.)

The age of majority is reached on the completion of 18 years. I think it would be a very fair compromise between the Mover of the Resolution and the Mover of the amendment, and I think it would be a more substantial compliance with the intention of the League of Nations, if we fixed 18 years rather than 16 or 21, and thus bring our law into conformity with the Indian Majority Act.

Lastly, Sir, I deal with a very delicate question. The Honourable the Mover of this Resolution has alluded to the question of *Devadasis*—a custom which is very prevalent in certain parts of this country. The Honourable the Mover of this Resolution is aware that some years back it was intended to legislate on this subject. The provinces concerned were consulted, but I do not know why the legislation was not further proceeded with. I may assure the Honourable the Mover of this Resolution that if we are to go along the line of social progress, some legislation upon the lines then contemplated will be necessary to put down this system of legalized immorality in the guise of religion. I submit, the time has come when this measure of necessary social reform should be the subject of legislation, and on that ground I heartily welcome the proposal, which I support, subject to the qualification which I have just now mentioned. I am perfectly certain, Sir, that, before this Resolution is given effect to by the Governor General in Council, due weight will be given to the fact that the law with reference to *Devadasis* should be placed on a satisfactory footing. It is a scandal, a national scandal, that young girls are decoyed in large numbers and taken to places, sacred for religious purposes, and that there they are utilised and used for grossly immoral purposes.

I submit, that it is the primary duty of the State to purge the country of this perpetual source of contamination, and it is, I submit, the bounden duty of lawyers to support the Government in this measure of social reform. With these few words, Sir, I support the Resolution moved by the Honourable the Home Member, and request him to consider the question of age, the question about the settlement of law and the question of *Devadasis*, which came up before this Assembly, or rather before the late Imperial Council, as to which further legislation has not been proceeded with.

The Honourable Sir William Vincent: Sir, may I speak on Mr. Joshi's amendment and incidentally deal with the very important question raised by Dr. Gour. It is quite true that we had before the predecessor of this Assembly a Bill designed for the protection of minors who were being brought up for immoral purposes. I do not want to renew an ancient quarrel, but the difficulty over that Bill was that several orthodox members of the community thought that Government was out to proselytise these minors, though the facts were far otherwise; we only sought to reclaim them from a life of vice. I asked Mr. Srinivasa Sastri—I trust he will forgive me for referring to him—afterwards if he would move a Resolution in this Assembly or in the old Council which would enable me to re-open that question, because I was always anxious to deal with it—and he was going to do it; but unfortunately he was called away on more important Imperial work. If he had been in a position to move that Resolution, we should have taken up the question. But I would remind the Honourable Member that it is not such a simple matter as it looks. There still exists a great deal of opposition to legislation of this character, as the opinions received from Local Governments bear witness. Indeed I would go further than that and say that in no measure promoted by Government, in which they have advocated such a moral reform as the raising of the age of consent, has the Government failed to meet with pretty strenuous opposition from orthodox Hindus. But that was in the last Council and I am glad to receive an assurance that, if I now bring forward a Bill dealing with this question, I can count on the support of the Leader of the Democratic Party in this House.

Mr. N. M. Joshi: Self-constituted.

The Honourable Sir William Vincent: I trust that on that occasion he will be more successful in carrying the opinions of this Assembly against orthodox opinion than he was on the last occasion when he brought forward a measure himself.

Then, Sir, Mr. Joshi suggested that my proposal, my amended Resolution, was not really suitable, because I left it to some non-official to propose an amendment in any legislation we introduce. I want to point out that that is not the position. The Resolution leaves it open to the Government to introduce a Bill prescribing an increased age, either 16, 18 or 21 years, or any other age it likes. The Government has no bias in this matter; Government is anxious to protect these young girls from a life of shame. We are as anxious as any one else to protect them. But we do—and very rightly—seek to ascertain what the difficulties are and what the facts are before we make a rash promise to protect all women up to the age of 21. We are quite willing to do that. Dr. Gour then says: 'Do not sign this Convention until you have enacted the legislation.' On the other hand, we want India to become an original signatory, and that is the object of this Resolution. Once we pledge ourselves to introduce legislation, then we shall have to do it and we will do so at the earliest opportunity and a great work of reform of this character will not be delayed. Mr. Joshi, or some other speaker, suggested that I had said that the Government intended to adhere to the age of 16. Now, that is not our point of view, but perhaps I have not made it clear. We have a perfectly open mind on the question. We merely retain the right, the discretion, to limit the age to 16, if circumstances and the evidence of the country prove that to be necessary. If the feeling of the country is in favour of putting up the age, and if we are assured that that is a practical course, Government will have no objection to taking it. But, to suggest that Government is anxious to limit its protection to

girls up to 16 is, I think, not dealing justly with the proposition which the Government is putting forward in the Resolution in its modified form. Dr. Gour has suggested that 18 would be a more suitable age. Well, Sir, it is a matter for some regret that he did not put forward an amendment to that effect; then we would have had an opportunity of discussing it; but there is no amendment of that kind before the Government. I submit, however, that my proposal gives him what he wants, because it enables Government at a later date to substitute 18 for 16, or if it likes to make 21 the age of consent and I was very glad to receive an assurance that he was supporting my Resolution as amended and here, Sir, I want to get rid of another impression which, to my mind, has confused this discussion. It seems to be assumed that the terms of this Convention relate only to traffic in prostitutes. It did begin with that idea, or rather in connection with the white slave traffic. But that has been abandoned and the terms of this Convention are now very wide; they cover even a single act of intercourse. It is not merely a question of prostitution; that is, why I read out the article (article 1) and I will read it again:

'Whoever, in order to gratify the passions of another person, has procured, enticed or led away, even with her consent, a woman or girl under age, for immoral purposes, shall be punished notwithstanding that the various acts constituting the offence may have been committed in different countries.'

I submit that, without any inquiry, this Assembly should not extend the age of consent in such cases to 21 or make it a penal offence for any person to take a girl below that age to another person, even if it is for immoral purposes. At any rate, I maintain that it would be well to consult the country on this point, before reaching such a decision. If Members are so sure that the country will take their view—I hope it will—why not wait and give them an opportunity of expressing their opinion. But, at the moment, the point I want to make clear is, that this Convention does not deal solely with the traffic in prostitutes. It goes very much further than that. It prohibits the procuring of any girl for a single act of intercourse and it is on this account particularly that this question of age becomes so important.

There are also disadvantages in accepting this amendment of Mr. Joshi's of a practical character. We have got this Resolution through the Council of State prescribing 16 as the age, and the question now is whether we are to keep 16 as the age or put it up to 21. But, if we get a Resolution of this Assembly varying completely the Resolution passed by the Council of State, we shall have great practical difficulty in dealing with the case on the part of Government. If you adopt my Resolution, as now put forward,

Mr. N. M. Joshi: It can go back to the Council of State.

The Honourable Sir William Vincent: If you will adopt my Resolution, as amended, it will enable the Government to join this Convention at once and it ought to be a matter of honour for India to take this course.

I maintain that, so far as article 2 of the Convention is concerned, it is largely covered by the Penal Code. Dr. Gour, after reading one or two other sections which did not apply, finally did read section 366. I think he has been so occupied with a Select Committee in another room that he had not got his papers ready in this case. There is very little difficulty over article 2, however. The only difficulty arises in the case of girls over 16 who go wrong and have sexual intercourse with their own consent. If this motion is given effect to, any man who allows a prostitute under 21 to be brought to him with his knowledge by another will come within the penal law. I am not discussing whether such a change in the law is right.

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or not. I do not want you to think that for one moment, but I do say, that before you undertake to enact legislation of this character, you will be well advised if you ascertain what the wishes of the general public are, and it is for that reason and that reason only—not because we are not anxious to protect the purity of women in this country, not because Government will not give every support to Members of this Assembly in that direction—that I am anxious this Assembly should not enter into an agreement before it has had an opportunity of ascertaining public opinion. I, therefore, oppose the amendment of Mr. Joshi.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, I support Mr. Joshi's amendment. I am not convinced, Sir, of the seriousness of the practical difficulty that Sir William Vincent has mentioned. The only difficulty he has mentioned ought not to stand in our way. If, on every occasion that the Council of State takes another and a prior view, it is, on the ground of practical difficulty, to be accepted by the Assembly, even if there are good and valid reasons for not accepting the decision, I am afraid we shall come to a state of things which the Reforms did not contemplate. If there is room for reasonable difference of opinion, that difference will have to be expressed in this Assembly and the Government will be left to take such further action as may be necessary. Fully agreeing with all that Sir William and his new-found ally, the Leader of the Democratic Party (*A Voice*: 'So-called')—whatever that may mean—have said and, following their arguments and reasoning completely, I fail to understand how they could arrive at their conclusion. Sir, this is frankly an international measure and we are to take it or leave it as we may desire without necessarily suggesting any amendment, such as has been put forward. I admit, it shows a very fine spirit for the Government of India, in which the amendment has been put forward, for it properly seeks to be in touch with public opinion. But, as it happens, the occasion is mistaken. Social legislation and social evil legislation must not be mistaken for one another. May I remind the House that not long ago there was a strong movement in England for raising the age of consent? That failed within the last few months, and it had to be abandoned for extraordinary reasons, because the framers of that proposal were not prepared at the moment to bring in what was called the offences between women themselves. Did that interfere with the acceptance of this age-limit of 21 years by Great Britain so far as this particular Convention is concerned? Whatever the law on the subject for the time being in the country itself might be (and Dr. Gour is an authority on the Penal Code as well as all other Codes that India knows of—he has given us chapter and verse though the Home Member, who has given out charnel house secrets, does not accept him), is there any reason why, while accepting the principles of higher ideals of social purity involved in this international arrangement, we should say that we prefer that the age-limit in our case should be different because we mature quicker or our marriage laws are different? Sir, reference has been made to the *Devadasi* or bride of the Church and other more or less extraneous questions. If, in view of prevailing abuse in these cases, there is good reason for legislation, the Assembly will, in the light of advancing public opinion, proceed to do its duty without waiting for any international agreement. If there is real and strong orthodox objection, which will have to be listened to, no international agreement for higher and purer social ideal generally will prevent it. Reference has been made again to the question of maturity. I am fairly orthodox myself, but would say that, whatever the question of maturity of age and *sastric* injunction

may have to do with the question in case of matrimony, it can have no application to prostitution or, what Sir William Vincent called illicit single intercourse, for here the indiscreet and misguided young woman has to be protected against herself for her and society's good. These considerations point to one inevitable conclusion, and that is, if we accept the principles of this international agreement, which are those of gradual raising of the ideal, we ought not to be out for negotiation and picking and choosing, because of exceptional purely social usages in certain communities, but ought to give our whole-hearted support to what has been arrived at from the larger point of view, provided that no real practical difficulty arises if the measure does not defeat itself. I do not think, Sir, in a matter like this, questions of orthodoxy of communal matrimonial usage ought to be brought in, for it would be an insult to real orthodoxy. The most orthodox representatives of orthodox opinion will not claim that any such exemption or immunity is necessary in the matter of prostitution or anything allied to it.

Mr. Pyari Lal (Meerut Division: Non-Muhammadan Rural): Sir, in this matter I feel that we ought to welcome the draft Convention of the International Conference. The object is to prevent our women going out of the country for purposes of prostitution. They should not be enticed away from here to any other country as far as possible.

The Honourable Sir William Vincent: No, no, certain acts, whether committed within or without the country, are penalized.

Mr. Pyari Lal: But, as regards offences committed within the country, we have provisions to that effect in the Penal Code, which have just been read out, which lay down the age of majority for girls, and also there is section 366 in the case of women. But in the case of women being taken out of the country, I submit that women between the ages of 16 and 21 require protection of the State to no small degree. That is a period of life when women are much sought after, and it will be opening a very wide field indeed to persons to carry on this shameful trade, to come to this country and ply their trade. I submit, the question of minority does not enter into the consideration of this question at all, because the object of the Convention is to prevent the prostitution of girls and women alike whether they give their consent or do not. The object of the Convention is to extend protection equally to women who have passed the age of 16, up to the age of 21. I do think that the age question has been very wisely considered and that the same has been raised to 21. Therefore, I support Mr. Joshi's amendment.

Mr. J. Chaudhuri: (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I quite agree with the Honourable the Home Member that, whatever we may do with regard to this Convention, we shall have to resort to fresh legislation. As a great confusion has been created by reference to the law on the subject, I should like to explain to the Assembly in as few words as possible what this Convention proposes to do and what the state of the law is at present in our country. I may tell you at the very outset that the interest that I take in law is more that of a citizen than that of a lawyer, and that I would not refer to any annotations or elaborate arguments which are likely to confuse people more than anything else.

The Convention simply wants to raise the age of girls, who are procured for illicit intercourse or prostitution, to the age of completed 21 years. The difference between age fixed at the Convention of 1910 and the age as agreed

[Mr. J. Chaudhuri.]

upon at the last Geneva Convention consists only in this, that in 1910 they fixed the age at 20. They have now recommended that the age should be completed 21 and not 20. Now the whole question before us is confined to article 1. As the Home Member has pointed out, article 2 is already covered by the existing provisions of the Indian Penal Code. I shall read to this House article 1:

'Whoever, in order to gratify the passions of another person, has procured, enticed or led away, even with her consent.....'

The whole crux of the thing consists in this, 'even with her consent.'

'a woman or girl under age, for immoral purposes, shall be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.'

The two expressions which are material are 'even with her consent' and 'under age.' Now, I shall refer to the sections of the Indian Penal Code which require no comment: they are absolutely clear. The Penal Code provides punishment for kidnapping. With regard to kidnapping, section 359 of the Indian Penal Code says, it is of two kinds, kidnapping from British India, and kidnapping from lawful guardianship. We understand, this Convention is confined to kidnapping outside British India, because we take it that the Geneva Convention did not intend to interfere with our internal legislation. So what it means is that, if we accept the International Convention, the scope of this article will be confined to traffic in women between India and other parts of the world.

The Honourable Sir William Vincent: Not at all. Read the article.

Mr. J. Chaudhuri: I am willing to concede that it might raise the protected age to 21 and I would not be sorry if it did. In this country, so far as legislation goes, if we adopt the same principle as that of the Convention, and raise the age from 16 to 21, the material difference between the law of kidnapping and the provision in article 1 will consist in this. If we refer to section 360, we will find that:

'Whoever conveys any person beyond the limits of British India without the consent of that person, or of some person legally authorized to consent on behalf of that person.....commits the offence of kidnapping.'

It would not be applicable in cases where the person taken out gives her consent or the guardian gives the consent. In cases of minors, male, the age is 14 and, females, it is 16 in section 261. But this section relates to taking out of lawful guardianship and does not refer to taking out of British India. It further says merely 'takes or entices' and is silent about 'consent.' Section 363, which specifies the punishment for kidnapping, says:

'Whoever kidnaps any person from British India or from lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.'

Thus, we find, with reference to kidnapping out of British India, there is absolutely no age-limit mentioned, and that, if the party taken away consents, then the person taking him or her away cannot be punished under the provisions of the Indian Penal Code.

What the Convention proposes to do is that, even if the party is a consenting party, and has given her consent to be taken away and led into a life of shame, the person who decoys her for immoral purposes should be punished. Now, with regard to that, we don't find that there is any provision in the Indian Penal Code which will cover either the spirit or the letter of article 1.

Next, I shall refer to abduction, section 362. This may apply to article 2, which says :

'By fraud, violence, threats, abuse of authority, etc.'

So article 2 is covered by section 362 of the Indian Penal Code which says :

'Whoever, by force compels, or by any deceitful means induces any person to go from any place, is said to abduct that person.'

That is, the section says, in order to commit an offence, force must be used, or unlawful means must be used. As the Honourable Home Member pointed out, 366 also contemplates abducting women for immoral purposes, but this does not also give any limit of age; it only signifies that, if any woman is taken away, by force, fraud or by other unlawful means, the procurer will be punished. So only article 2 of the Convention may be said to be covered by it. But with regard to article 1, there is absolutely no provision in the Indian Penal Code. My learned friend, Dr. Gour, referred to 372, but that has absolutely nothing to do with this question. It says :

'Whoever sells, lets for hire, or otherwise disposes of a minor under the age of 16.'

It has no reference to the person procuring. Section 373 refers to :

'Selling a minor for purposes of prostitution',

That is, if the guardian does that, then he is punishable. So here the question is not that of a minor and her guardian, but of people who carry on this nefarious trade in young women. It is not the object of article 1 of the Convention to punish either the woman or the guardian under this article, but its object is to punish the man who carries on a traffic in such women. Section 373 has, however, a bearing on it :

'Whoever buys, hires or otherwise obtains possession of any minor under the age of 16 years with the intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful or immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punishable with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine.'

This is the only section relevant to article 1, but it has a limitation. 373 puts a limitation, and the limitation is this that the section is confined to traffic in girls up to the age of 16, further, even in the case of such minors, it refers to cases of 'buying,' 'hiring' or 'otherwise obtaining possession.' The last words imply transaction between the procurer and the guardian. It excludes by implication widows and orphans and other unprotected minor girls, if they be consenting parties to their being led into a life of infamy by designing men or women for purposes of personal gain. Even assuming, that section 373 is sufficient to protect friendless minor girls, may I ask: 'Why should women between the ages of 16 and 21 be left unprotected?' Now that the unscrupulous people engaged in this despicable trade will find it difficult to hunt for victims in Europe, these human harpies will transfer their activities to the East and try to take away say, either Japanese, Chinese or Indian women. When I say Indian, I mean Muhammadans, Hindus, Christians, Jews, Anglo-Indians as also pure Europeans of the poorer class. If the prohibition in 373 remains where it is, then India will be the hunting ground for this nefarious trade. So I say that we should enter our protest in this matter and we should accept the age of 21 fixed by the Convention and for this reason. It has been put to us, that the Indian woman reaches maturity at an earlier age: but there is no question of physical maturity involved here: it is mental maturity with which we are concerned. I say that an Indian woman wants

[Mr. J. Chaudhuri.]

greater protection than an European woman. European women have all some education; there is a system of universal education all over Europe; European girls go about in public, and they can take more care of themselves than Indian women. So, when European women are being protected up to the age of 21, I say that that applies with greater force to this country, where the women, owing to their seclusion and their absence of education, are liable to be more easily misled by these designing persons more than their European sisters. So I say that to accept the reservation will be to deny protection which is being given to European girls of the same age. I, therefore, urge that we should adopt the Convention as it is, for the further reason that those who ply this despicable trade try to secure victims of maturer age rather than minors below 16. Although I gave notice of an amendment independently of my friend, Mr. Joshi's, I would not press it if the Honourable the Home Member would give us—as in fact he has given us—an assurance that when legislation is undertaken with regard to this matter, the whole question will be gone into by the Legislature and it will be competent for us to decide whether we should accept the age of 21 or 16 or any intermediate age. Disparity of age in different countries may land us into the complications of international law. I do not, however, wish to press my amendment to a division, but I hope the Honourable the Home Member will give us an assurance that what I have said will receive due consideration from him and that we shall be given every opportunity of going into the question more fully when legislation is undertaken.

Mr. Harchandrai Vishindas (Sind: Non-Muhammadan Rural): Sir, I wish to offer a few observations in reply to the Honourable the Home Member and with rather the object of conveying to him an assurance that he will not be in any way offending orthodox susceptibilities in accepting the amendment of Mr. Joshi.

Now the greatest argument that the Government are using is that they, the Government, are not in any way opposed to the age-limit being put higher, but that they feel it desirable to follow the opinion of the country. *Prima facie* that argument is quite valid, but I would put to them this consideration: What public opinion are they going to consult—the opinion of officials or of other people? Now, I think, so far as official opinion is concerned, that would also convey to the Government or to this Assembly what they think the opinion of the public will be; and so far as the opinion of the public is concerned, the apprehension seems to be entertained by the Honourable the Home Member that orthodox opinion will range itself against the amendment and in favour of the Resolution.

Now, in the first place, I think I am quite safe in saying that I am laying down a very reasonable proposition when I say that, if orthodox opinion becomes so unreasonable as to want the lower age-limit, we can very easily disregard it, although I am very much of opinion that orthodox opinion will not be in favour of the lower age-limit. I remember distinctly the agitation that was raised at the time of the raising of the age of consent, to which the Honourable Sir William Vincent has referred. But he ought to remember that the conditions then and the object of the opposition were quite different to what can be expected in the present case. There it was intended to raise the age in the Penal Code which made intercourse punishable. That particular raising of age affected legitimate intercourse of husband and wife, and that is why orthodox opinion strongly objected to it and the *Bangabasi* of Calcutta was prosecuted because it expressed its opposition in very violent language. But, here, it is illicit procuring of other

girls for the purpose of gratifying passion that will be penalized. Now, I think that even those people who objected to the raising of the age of consent would certainly not object to this provision. But, as I said, if they do object, then it is much better to disregard that objection than to regard it. There is another consideration, which, I think, I had better point out to the Home Member, for accepting Mr. Joshi's amendment, and that is this. He is very anxious that the matter should not be subjected to any delay in order that India should take the lead in being one of the leading signatories. Quite so. But, then, there is another point of honour involved, which also he should bear in mind, and that is this : that, if we in any way lower the age-limit, we lower ourselves in the estimation of other nations, who will have reason to think that we are not quite capable of rising to the height to which other nations are capable of rising. (Hear, hear.) I think, that is a very great consideration which, consistently with the principle which the Honourable the Home Member has in view of keeping up the honour of this country and bring it into line with the other nations, should be borne in mind, that is a consideration, I say, which deserves much greater weight than the Honourable the Home Member has probably given to it. And, although I admit that the Honourable the Home Member is quite right in saying that the Government are in no way actuated by any consideration of minimising the importance of the evil or that if they were left to themselves, they would be a party to the reduction of age, I say, and I say with all confidence and earnestness, that the apprehensions which the Government entertains on this subject are entirely groundless. Therefore, I would earnestly appeal to the House to support Mr. Joshi's amendment.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor : Non-Muhammudan Rural) : Sir, I oppose the amendment which my Honourable friend, Mr. Joshi, has put before the House. To-day he is for restricting the liberty of the individual, yesterday he was for enlarging the liberty of the individual; liberty to do directly a wrong thing one day, and liberty to do indirectly a thing which is wrong to the individual as well as to the community to which he belongs. Therefore, it is after all liberty to do wrong in either case. But, apart from that, what is this discussion ? Does this discussion lead to the alteration of the law as it stands to-day ? Does the conclusion of this House lead to the amendment of any of the sections of the Penal Code ? The Penal Code will stand firm, whatever the decision of this House may be; but if the decision of this House on this point is going to alter the penal law at once, it is another matter. After all, it is more or less an academic discussion. Now, as a practising lawyer of many years' standing, I think the discussion of the sections of the Penal Code is a matter which can only be carried on if your audience is in possession each of a copy of the Act. I heard the very learned argument of my friend, Mr. Chaudhuri, but I did not follow any portion of it, for the very simple reason that I had not a copy of the Act before me and I could not, therefore, follow any of his arguments. The Home Member said :

'We will take it at 16 because it is the recognised age at which we for all practical purposes consider a person to be or likely to be mature, to have attained the age of discretion'.

That is one of the expressions used in matters of adoption and other matters in Hindu Law, *viz.*, the age of discretion—that is 16; and 16, apart from the Statute, is the received age of majority in this country. Kings in the ancient days have been installed at the age of 16. No doubt the Indian Majority Act has made it 18. Well, if you want to alter the law, if

[Rao Bahadur C. S. Subrahmanayam.]

you want to make penal what is not now penal, there is the broad and straight course of moving for the alteration of the law. I do not think there can be any difficulty in a private Member introducing a Bill to amend the law. We see so many Bills from private Members put before this Assembly, and therefore it cannot be said as my friend, Mr. Joshi, said, that it is very difficult for a private Member to introduce a Bill.

Mr. N. M. Joshi: I said to carry a Bill.

Rao Bahadur C. S. Subrahmanayam: Carry? If you carry public opinion with you, you can carry a Bill; it is the same with Government. Government can carry a Bill in this Assembly if it is backed up by a majority. If you are talking of the pre-reform period, you may be justified in saying that the Government could carry any Bill it chose to; but now, even Government cannot carry a Bill through the Assembly if it does not get the support of the majority of the Assembly. Therefore, if we cannot carry the whole Assembly or the public opinion outside it, no doubt we cannot carry a Bill in this Assembly. There was another argument, that Members here individually and collectively should support morality and enhance the reputation of this Assembly for morality or social reform or other kinds of reform. I do not think so at all. Unless this Assembly carried with it—the ignorant, it may be—public opinion outside, it would be no use. What is it after all? I heard my friend, Mr. Vishindas, speaking about orthodox opinion and I also understood him to say that he stood for it. To look at him, I think no orthodox Hindu would own him as a representative. As for the orthodox opinion that you talk of here, I do not suppose most of us will be recognised by the orthodox Hindus or the orthodox Mussalmans as their accredited spokesmen in matters of this sort. Therefore, the point simply is, why should we commit ourselves to a position which is far in advance of public opinion, far in advance of the penal law of the country? That is the simple position. Why, by a side issue as it were, should we commit this Assembly, thin as it is now—probably most of the Members thought that this was not a matter of very great importance or a matter in which any serious results would be reached now on this occasion—why should we commit the Assembly to such a far-reaching step? After all, the offer that was made by the Home Member was that this matter would be considered later; he also gave us a tip, that if any Members so want to effect reforms in the penal law, in a couple of days a Resolution could be sent up to that effect.

Mr. N. M. Joshi: This is a Resolution.

Rao Bahadur C. S. Subrahmanayam: This is not a direct definite Resolution calling for a decision by a straightforward issue

Mr. N. M. Joshi: It is.

Rao Bahadur C. S. Subrahmanayam: That is a matter of opinion, whether it is a definite straightforward issue or not. Another point, that it involved the question of *Devadasis*, was raised. Now, the question of *Devadasis* is all right to talk of from the high moral point of view. But if you look at the vested interests, that is, the *inams*, the incomes and various other things which are connected with the question and the opposition it will raise, Government as a Government should no doubt be unwilling to put its hand to it. It is open to us, private Members, to introduce Bills or Resolutions to meet the evil which we say underlies the system of *Devadasis*. It is one thing to say that certain customs

or certain practices are immoral. It is another thing to find out the means to eradicate those customs or practices. It is no doubt easy to speak and pass Resolutions to the effect that a certain practice or custom is wrong, but if we seriously think of putting an end to it and suggest the necessary remedies, then we should be faced with real difficulties, because then only we should be doing a service to the country and not by merely passing platitudinous Resolutions with high-sounding words about social reform and so forth.

The Honourable Sir Malcolm Hailey (Finance Member): Sir, I merely wish to correct what seems to me a slight misapprehension into which some Members have fallen in the course of this discussion and further very briefly to indicate the view which, were I not a Member of Government, I think I should have adopted in this House as a result of this discussion. Now, Sir, it is not correct to assume that the only object of this Convention is to deal with the export or import of women for immoral purposes. I should be very unwilling if any Member of this House were to give his vote under the impression that this Convention in itself would primarily affect what was called the traffic in women into or out of India.

Mr. J. Chaudhuri: You call it the White Slave Traffic? Is it not so now?

The Honourable Sir Malcolm Hailey: We used to call it the White Slave Traffic. As my Honourable colleague, Sir William Vincent, said, this Convention goes very far beyond that, and I feel that it is unfortunate that Mr. Pyari Lal, in discussing the question, fell into the error of supposing that we were dealing only with a question of that type. I think it is also unfortunate that Mr. Chaudhuri, if I may say so, in discussing the question said that, if we granted no protection to girls between the ages of 16 and 21, we would be rendering Indian women of that age liable to enticement from abroad. Sir, as far as we know, there never has been any traffic in Indian women from India. It is certainly not a problem that we have ever had to consider, and I see no reason whatever why we should have to consider that problem in the future. In any case, this Convention is really of a different nature. Honourable Members here will remember the Resolutions that we put forward last Session in respect of the Geneva Convention; that is to say, we undertook, after ratifying that Convention, to introduce certain legislation in our own Assemblies in order to give effect to that ratification. The Convention, therefore, in itself affected the course of our internal social legislation. That is precisely the result which would follow from our ratifying the present Convention. Let me leave alone entirely, if I may, article II, because, as has already been pointed out to us, many of these offences, that is to say, enticing women by fraud, violence, abuse of authority, threat and the like, are already dealt with in the Penal Code, and I merely want to put this point of view to the House, that, if we accept this Convention, then we shall practically be bound to legislate in the sense of article I. That is to say, we shall be introducing a new form of legislation which will apply to all offences in this country of the nature described in article I—not merely to the regular procurement of women (even with their consent) for immoral purposes, but to the procurement of a single woman in an isolated case for this purpose. Now before Government commits itself to such legislation, it is, I think, only reasonable that we should take into consideration the question of age. I perfectly admit the arguments used by some Honourable Members here that Indian women are entitled to as full a protection as European women. There can be no gainsaying that, but, if I may say

[Sir Malcolm Hailey.]

so, some of the arguments that have been used in this respect would lead one to the conclusion that all offences of this nature should be rendered penal without any regard to age at all. Now, Sir, is that a practical point of view? From my point of view, the question whether orthodox opinion will be offended does not, for the present moment, arise. It is merely a question of the amount of prudence that a Government should exercise in putting social legislation of this nature on the Statute Book. It must be remembered that we have to deal with questions affecting very large classes of ignorant people, large numbers of low caste people, and some who can properly be described as aboriginal. Now, would it be safe for us, without further inquiry, to fix the age at 21, and apply this throughout India, remembering that it will be our duty to try and make it effective among these varied elements of the population? That is the sole reason why we have desired to take up an attitude of prudence in this respect. It is perfectly open to us afterwards, when we come to put legislation in the sense of article I on the Statute Book, to insert the age which the general sense of the country may decide to be a reasonable one. All we say is this; we desire to ratify this Convention, but before we have consulted public opinion, do not let us tie our hands and bind ourselves in advance to put before the Legislature a Bill which would have the effect of rendering all offences of this nature penal between the ages of 16 and 21. We merely wish to take a very proper precaution of consulting public opinion on a matter of social legislation of this kind. Our previous experience has been, and it is not confined to Government only, that, when legislation in regard to sexual matters is put forward, we at once find that there are large numbers of people of a very conservative frame of mind who are opposed to anything like a rapid advance; they can point out to us the many practical dangers that arise in dealing with the more ignorant and backward part of the population, and claim that it is very dangerous to place additional powers of what is called persecution in the hands of the Police. It is for that reason that we have always been very cautious in matters of social legislation, and I do not think that the House will remember a single case in which Government has put forward legislation of this kind without a very wide resort, in the first instance, to public opinion. Now, Sir, that is the reason which my Honourable friend has given here for precaution in this respect, and I think the House will be well advised to wait until the country at large has given its opinion on this question before it seeks to tie the hands of Government, forcing it to put forward a Bill making the offences described in article 1 penal when applied to the ages between 16 and 21.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): Sir, I beg to support the amendment of my Honourable friend, Mr. Joshi. If Honourable Members will look at page 5 of the papers, they will find that the title is: 'The International Convention for the Suppression of the White Slave Traffic' and the Preamble says:

'The Sovereigns, Heads of States, and Governments of the Powers hereinafter designated;

Being equally desirous of taking the most effective steps for the suppression of the traffic known as the 'White Slave Traffic', have resolved to conclude a Convention with this object and, a draft thereof having been drawn up at a first Conference, which met at Paris from the 15th to the 25th July, 1902, they have appointed their Plenipotentiaries, who met at a second Conference at Paris from the 18th April to the 4th of May, 1910, and agreed upon the following provisions':

Then follow the provisions.

Therefore, the provisions are limited by the Preamble which I have read out, and it is no use importing into the controversy any considerations of orthodox opinion or social reform or anything of the kind. The whole question is: 'Are you going, as a nation, in honour bound, to reduce the age which other nations have taken to be the age under which special protection is needed for girls, namely, 21?' I say, as a self-respecting citizen, that I would certainly not be a party to any lower age than that which has been accepted by other nations. There is another difficulty. Take article 1 of the Convention. It has been read several times, but I wish to draw attention to some other words in the article:

'Whoever, in order to gratify the passions of another person has procured, enticed, or led away, even with her consent, a woman or girl under age, for immoral purposes, shall be punished.....'

Now I wish to draw attention to these words:

'notwithstanding that the various acts constituting the offence may have been committed in different countries'.

Suppose you have 16 years here and you have 21 years, say, in Belgium or Switzerland or any other country. How will it work? 21 years will be the age-limit there, whereas you will have 16 as the age-limit here. Is it workable in practice? Surely, this Assembly will take into consideration this circumstance, which is conclusive on the point, and will not be a party to accepting any lower age than 21. I, therefore, support the amendment.

The Honourable Mian Sir Muhammad Shafi (Education Member): Sir, I wish only to point out to the House one fact which I would ask Honourable Members to bear in mind when voting on Mr. Joshi's amendment. The words in articles 1 and 2 of the Convention are 'under age' and 'over age' and not 'under twenty-one' or 'over twenty-one years of age.' We know that in Europe, the age of majority is 21 while in India, the age of majority, under the Indian Majority Act, is 18. It is 21 only if the minor is under the Court of Wards or if a guardian of the minor has been appointed under the Guardian and Wards Act. The ordinary age of majority in India is 18. The second difficulty which the Honourable Mr. Samarth mentioned to the House and which he asked the House to bear in mind, therefore, arises from the law of the land as obtaining in this country, the age of majority here being 18, and the age of majority in Europe being 21, so that

Mr. N. M. Samarth: May I interpose, Sir? Under the Penal Code, there is no such offence as this which is extraditable. It is for the first time being made extraditable here, and therefore the age limit must be the same for both the countries.

The Honourable Mian Sir Muhammad Shafi: Under the Penal Code, 16 has been fixed as the age for an obvious reason. I am sure my Honourable friend is aware of the fact that, according to the rulings of High Courts in India, a girl of the age of 14 has presumably arrived at the age of puberty until the contrary is shown. Because of climatic reasons in India, girls become adults much sooner than they do in Europe, and that fact cannot be ignored when dealing with a question like this.

Mr. President: The original question was :

'That this Assembly recommends to the Governor General in Council that India do sign the International Convention for the Suppression of the Traffic in Women and Children accepted by the Assembly of the League of Nations at its second Session subject to the reservation that in applying article 5 of the Convention, India may at its discretion substitute the words 'sixteen completed years of age' for the words 'twenty-one completed years of age'.'

Since which an amendment has been moved :

'To omit all words after, and including, the word 'subject'.'

The question I have to put is that that amendment be made.

The Assembly then divided as follows :

AYES—24.

Abul Kasem, Maulvi.
Agarwala, Lala G. L.
Bagde, Mr. K. G.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Chaudhuri, Mr. J.
Cotelingam, Mr. J. P.
Gajjan Singh, Sardar Bahadur.
Gulab Singh, Sardar.
Jatkar, Mr. B. H. R.
Joshi, Mr. N. M.
Kabiraji, Mr. J. K. N.

Mudaliar, Mr. S.
Muhammad Hussain, Mr. T.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Samarth, Mr. N. M.
Sarfaraz Hussain Khan, Mr.
Sarvadhikary, Sir Deva Prasad.
Schamnad, Mr. Mahmood.
Sohan Lal, Bakshi.
Vishindas, Mr. H.

NOES—32.

Abdul Rahim Khan, Mr.
Ahmed Baksh Khan, Mr.
Asjad-ul-lah, Maulvi Miyan.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bryant, Mr. J. F.
Carter, Sir Frank.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.
Crookshank, Sir Sydney.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Gour, Dr. H. S.
Habibullah, Mr. Muhammad.
Hailey, the Honourable Sir Malcolm.

Hullah, Mr. J.
Ibrahim Ali Khan, Lieutenant Nawab M.
Innes, the Honourable Mr. C. A.
Keith, Mr. W. J.
Lindsay, Mr. Darcy.
McCarthy, Mr. F.
Mitter, Mr. K. N.
Mukherjee, Mr. J. N.
Percival, Mr. P. E.
Renouf, Mr. W. C.
Sim, Mr. G. G.
Subrahmanayam, Mr. C. S.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was negatived.

Mr. President: The question is that the following Resolution be accepted :

'That this Assembly recommends to the Governor General in Council that India do sign the International Convention for the Suppression of the Traffic in Women and Children accepted by the Assembly of the League of Nations at its second Session subject to the reservation that in applying article 5 of the Convention, India may at its discretion substitute the words 'sixteen completed years of age' for the words 'twenty-one completed years of age'.'

The motion was adopted.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadian Rural):
Sir, I beg to move for leave to introduce a Bill further to amend the

Code of Civil Procedure, 1908. Order III, Rule 4, in the First Schedule to the Code of Civil Procedure, 1908, as it stands at present, provides as follows :

(1) The appointment of a pleader to make or do any appearance, application or act for any person shall be in writing, and shall be signed by such person or by his recognised agent or by some other person duly authorised by power-of-attorney to act in this behalf.

(2) Every such appointment, when accepted by a pleader, shall be filed in Court, and shall be considered to be in force until determined with the leave of the Court, by a writing signed by the client or the pleader, as the case may be, and filed in Court, or until the client or the pleader dies or until all proceedings in the suit are ended so far as regards the client.

(3) No advocate of any High Court established under the Indian High Courts Act, 1861, or of any Chief Court, and no advocate of any other High Court who is a barrister shall be required to present any document empowering him to act.'

The amendment which I propose to make is :

'That for this sub-rule (3), the following shall be substituted :

'No legal practitioner entitled to practise in any High Court or Chief Court shall be required to present any document empowering him to act''

The only object of this amendment is that the privilege of appearing without a *vakalatnamah*, which is at present enjoyed by barristers and certain advocates, may be extended to all practitioners who are entitled to practise before the High Courts and Chief Courts, namely, the vakils, or High Court pleaders or by whatever name they are called. I know that the other question which I may call the bigger question of equalising the position of vakils and barristers is at present being considered. That question is a very large one, and, if I may say so, it is sure to take two or three years. There are many considerations which will have to be thoroughly investigated before an Indian Bar is created. Possibly it may be necessary to bring forward a lengthy Bill, and it is also possible that we may have to recommend to the British Parliament an alteration of the Letters Patent, because one of the matters to be considered is that the post of Chief Justice should be thrown open to the High Court vakils, so that the question is a very big question. But the amendment which I propose is a very small matter and may very well be taken up at present. It is hard to see why, when barristers who come from England and other countries are enrolled as advocates, and are not required to produce any document empowering them to act, vakils of the High Court, although they might have practised for 30 years, should still have to suffer under that disability. It sometimes happens that the clients, when they travel from their homes, do not bring a *vakalatnamah* with them signed by the person who is the real litigant in the case. Sometimes, if a suit is brought in the name of the father, the son goes to Court and so forth. This difficulty is meant to be obviated by this amendment, and I hope that Honourable Members will see that the removal of this little inequality will not in any way take away from the position which is at present enjoyed by barristers and is not meant to degrade their position at all. The only object is to afford a facility to the legal practitioners who are at present called vakils or High Court pleaders. I am thankful to the Governor General for having given me permission to move for leave to introduce this Bill, under section 67 (ii) of the Government of India Act. With these few words, I beg to move for leave to introduce this Bill.

The motion was adopted.

Lala Giridharilal Agarwala: Sir, I now introduce the Bill.

DISCUSSIONS IN SELECT COMMITTEE.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): With reference to what transpired yesterday, may I bring a point to your notice?
 1 P.M. Yesterday, you will observe, reference was made to a discussion in Select Committee and I rose to a point of order and pointed out that the Honourable Sir Malcolm Hailey once declared in this House that discussions in Select Committee could not be mentioned in this House. To this you replied that Select Committees are legislative bodies and the Honourable Sir Malcolm Hailey only referred to the Standing Finance Committee. I have since verified the reference, which you will find on page 1707 of Volume I of the Legislative Assembly Debates. The Honourable Mr. Hailey, as he then was, said:

'Sir, may I first make to the House one general remark with reference to what fell from some Honourable Members. Sir Sivaswamy Aiyer told us what were the views represented to the Select Committee by Dr. Gour, and Dr. Gour told us what were the opinions that were expressed by Sir Godfrey Fell before the Select Committee. Might I suggest, Sir, the advisability of following a Convention we used to observe in the Council which preceded this House, namely, that matters which occurred in the Select Committee were not referred to outside it.'

Now, Sir, this is a very important question upon which I should like to have a ruling from the Chair. We have very often to discuss matters in lengthy detail in the Select Committee and opinion is sharply divided, but, after a preliminary discussion, we sometimes come to a conclusion which we record in our final report and that final report is then submitted to the House and is under discussion. I further think that all proceedings of Select Committees are held *in camera*, unless in exceptional cases the Chairman of the Committee otherwise directs, and I think it would be in the interests of this House and of the Select Committee, if the Convention mentioned by the Honourable Sir Malcolm Hailey were adhered to and references to the discussions and debates in the Select Committees were not allowed to be further discussed and mentioned in the full House. I ask for your ruling on this point.

The Honourable Sir William Vincent (Home Member): May I say a word in regard to this, Sir? The practice in the old Council was certainly that proposed now by Dr. Gour and, if I may say so, there are very good reasons for accepting it. We want discussion in the Select Committee to be perfectly frank and free. We want to have arguments put forward by the Members in a much more rough and ready way than would perhaps be suitable for this Chamber, although the ordinary courtesies of discussion are always maintained. If, however, the proceedings of every Select Committee are to be open to publication, you will never get that free, frank discussion that is so essential for a complete examination of a subject. Then, there is another objection. As Honourable Members are aware, no record is kept of the proceedings of the Select Committees and varying accounts may be given of what took place. Different people will have different recollections of the statements and arguments and there will be constant controversy on that subject. For these reasons, if I may say so, I strongly support the proposal of my Honourable friend, Dr. Gour.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): So far as the incident of yesterday was concerned, I understood that the Honourable Member of Government in charge of the Bill said that such and such a point raised by such and such a Member was taken in the Select Committee and that the Select Committee had decided that point. It was upon that, that

the question was raised and, while I fully agree with the views which have been expressed by Dr. Gour and the Honourable the Home Member as to the desirability of not disclosing a discussion that has taken place in a Select Committee, I question the propriety of questioning the particular statement of fact which was made by the Honourable Member in charge of the Emigration Bill and there, I think, your ruling, Sir, if I may say so, with great respect, did not transgress the limits which have been now suggested.

The Honourable Sir William Vincent: I was only dealing with the general question raised by Dr. Gour.

Dr. H. S. Gour: I never alluded to the incident, but I alluded to the ruling of the Chair which was couched in more general terms.

Mr. President: The constitutional position of Select Committees, as one of the organs of legislation in this Assembly, is one on which I am not prepared to give a definite pronouncement at this moment, but the statement made by Dr. Gour and supported by the Honourable the Home Member undoubtedly lays down the convenient and proper procedure. When the Honourable Member raised the question before me yesterday, my recollection took me back to a different incident in which reference was made to opinions expressed in the Standing Finance Committee and I then ruled in relation to that Committee that it was impossible for us to refer to passages that had occurred in the Standing Finance Committee, because there was no record of proceedings. At the same time, in general terms, the position stated by the Home Member and Dr. Gour is perfectly correct.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 8th February, 1922.



LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 8th FEBRUARY, 1922

Vol. II—No. 30

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Wednesday, 8th February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

ATTENDANCE OF MEMBERS AT THE PRESENTATION CEREMONY AND ROYAL DURBAR.

Mr. President: I wish to bring to the attention of the Assembly a matter which is not strictly the business of the Assembly, namely, certain arrangements which are being made on the occasion of the arrival of His Royal Highness the Prince of Wales. It is desirable for the authorities to know beforehand, if possible, how many Members of this Assembly intend to be present at the Public Arrival of His Royal Highness the Prince of Wales at the Selimgarh Bastion on Tuesday, and, similarly, how many Members will be present at the Durbar in the Fort on Thursday. There will, therefore, be placed on the table of this House a notice list containing the names of Members of the Assembly, and they are requested to initial in each column whether they intend to be present or not. I think it will be desirable for them to put down the words 'no' or 'yes' under the respective items of the Presentation Ceremony at Selimgarh Bastion and the Durbar at the Fort. I may say that at the Arrival of His Royal Highness the two Chambers will be presented individually to His Royal Highness.

THE INDIAN LUNACY (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member): Sir, I move:

'That the Bill further to amend the Indian Lunacy Act, 1912, be taken into consideration.'

I explained the objects of this Bill the other day. I have received no notices of any amendments, so I conclude that it has not met with hostile criticism, but I should like to refer to two points which have been mentioned to us by Local Governments in this connection. One Local Government asks us to provide in the Bill for recoveries from Indian States of the cost of maintenance of their lunatics maintained in asylums in British India. It is quite obvious that we could not provide for that under any law in British India, but we have no doubt whatever that we shall be able to effect what is desired by friendly arrangement with the States.

Another Local Government desires that the provisions of the Bill should be so framed as to enable the cost of maintenance of a lunatic to be charged to the province to which he belongs, if they can prove that he has not resided in the province in which the maintenance order was made for five years. Well, all I can say is that the arrangements which we have proposed in the Bill, and which I explained to the Assembly the other day seem to us to be more satisfactory. I do not think there is anything in the Bill to which any Member of this Assembly will take exception, and I will not delay the House further over this motion.

The motion was adopted.

The Honourable Sir William Vincent: Sir, I move that the Bill be passed.

The motion was adopted.

RESOLUTION RE: COMMITTEE ON NEW ARMS RULES, 1920.

Baba Ujagar Singh Bedi (Punjab: Landholders): The Resolution which I am to move to-day, runs as follows:

'This Assembly recommends to the Governor General in Council that he may be pleased to appoint a Committee with a non-official majority to examine the New Arms Rules, 1920, and to submit their report before the next Session, making specific recommendations, with a view to further amend them.'

The Resolution which I have just read out, I think the Honourable Members will agree with me, is of sufficient importance to call for a close examination. The Honourable Members might have observed that every now and then some amendments or Resolutions are brought forward, with a view to remove some of the more glaring defects of some of the provisions in the present Arms Rules. This is satisfactory so far as it goes, but I might take the liberty to point out that a mere piecemeal solution of the problem or mere tinkering with it, will not serve the purpose. Therefore it is that I have thought it advisable to move this Resolution, which, in my humble judgment, seems comprehensive enough to cover all the points raised in this House and elsewhere. I recognise that some efforts have been made by the authorities to meet the popular demand in this matter, and the Arms Rules, 1920, are the evidence of the Government's solicitude—but I am afraid that even the revised provisions, as they stand, do not seem successful in satisfying the public.

Let us examine the question from the financial standpoint. According to the old Law, a person who desired to secure a licence for a weapon, had to pay annas 8 only per annum per weapon. But the existing Rules of 1920 demand Rs. 5 for each gun and Rs. 10 for each revolver. Now, Sir, I beg leave to ask on what principle this enhancement is based? Is it with the object of restricting the number of persons who will take up licences; or is it with the object of raising an appreciable amount of revenue from fees? If the former is the case, then, Sir, may I take the liberty to ask, how many persons have applied for the grant of a licence, how many have been refused and, why? And if the latter is the case, then, Sir, is it not a very serious hardship that the fee has been raised twenty times all at once?

Again, Honourable Members are, of course, aware, that dacoities in villages or towns are of frequent occurrence and that the dacoits, being armed, are able to molest and loot the people, without let or hindrance. The people are without the means to challenge their activities and to drive them away. To support my argument, may I point out that in localities where the people are allowed to possess arms, we seldom hear of dacoities, and if perchance they do take place, the people successfully meet the situation. In the interest of the people, as well as the Government, it seems necessary that there should be some sort of provision in the present Arms Rules, which may afford adequate facilities to the villagers who are the victims of such aggressions.

Examining the Law itself, may I draw the attention of the House to Schedule I, clauses (b), (c) and (d) of paragraph 6 of the Arms Rules, 1920:

'The following persons and their retainers shall be exempted :

- (b) The first class Sardars of the Deccan and Southern Maratha Country States; the first class Sardars of Gujrat; and such members of the Talpur family and Jagirdars and Zamindars in Sind as the Government of Bombay may designate;
- (c) The great Zamindars of Bengal, Bihar and Orissa, and Assam;
- (d) The great Sardars and Jagirdars of the Punjab and North-Western Frontier Province.'

Now, Sir, may I ask whether there is any definition or line of division which would enable us to differentiate between the relative rank and status of these Sardars ?

I would go a little further and read out paragraph 11 of Schedule I, which grants the privilege of exemption from procuring licence for arms. Clauses (a), (b), (c), (d), (e), (f) and (g) read :

'11. All individual members of the undermentioned classes who were as such exempted under the Indian Arms Rules, 1909, immediately before the coming into force of these rules :

- (a) members of the Order of Knighthood;
- (b) persons holding the Kaiser-i-Hind Medal;
- (c) persons holding titles conferred or recognised by the Governor General in Council;
- (d) persons holding swords or other arms received as gifts from the Governor General in Council or a Local Government;
- (e) persons holding certificates received on the occasion of the assumption of the title of Empress of India by Her late Majesty Queen Victoria;
- (f) retired officers (other than subordinate, warrant, petty and non-commissioned officers) within the meaning of the Indian Army Act, 1911, in receipt as such, of a pension; and
- (g) landholders and members of the Municipal Board or a Committee designated for exemption in any lists issued in this behalf by a Local Government.'

Now, if I am right in my interpretation of what I have read out just now, those persons or classes of persons who were honoured before 1920 are regarded as exempted from procuring a licence for arms. but those who have been honoured after 1920 are deprived of this concession. And the words of paragraph 11-A, viz. :

'All persons who, before the first day of January, 1920, had been admitted as members of the Distinguished Service Order, the Imperial Service Order, the Indian Order of Merit or the Order of British India or had been awarded the Victoria Cross, the Military Cross, the Volunteer Decoration, the King's Police Medal, the Volunteer Long Service Medal, or the Indian Distinguished Service Medal'

strengthen my argument still more. I submit, Sir, that one fails to understand why any precedence or preference should be given to those who were honoured before 1920 and step-motherly treatment should be the lot of those honoured after that year.

In the last Session at Simla, I asked a few questions regarding the present Arms Rules. One of those questions was whether the persons who had been awarded a Sword of Honour were considered exempted only in regard to the awarded sword or whether the exemption extended to all sorts of arms for their personal use.

In answer to my question, the Honourable the Home Member was pleased to reply that such persons as were awarded a Sword of Honour

[Baba Ujagar Singh Bedi.]

were exempted for all sorts of arms for their personal use for their life-time (*vide* Legislative Assembly Debates, Question No. 69; No. 3, Volume II, pages 159-60). In view of this Answer, I am quite surprised to see paragraph 13 of the Indian Arms Manual, 4th edition, which I shall read now :

'Persons holding swords or other arms received by them as gifts from the Governor General in Council or a Local Government' are exempted from taking out licenses for 'such swords or other arms as have been so received, together with ammunition for any fire-arms so received.'

Now, here I would draw the attention of the House to the discrepancy which presses itself on our notice, namely, that while the Honourable the Home Member, in his reply to my question, exempts such persons as have been awarded a Sword of Honour from procuring a licence for all sorts of arms, and does not point out any differential treatment between those who were honoured before 1920 and those honoured after that year, as is the case in clause (d), paragraph 11, pages 26 and 27 of the Indian Arms Rules, yet the Indian Arms Act Manual tells a somewhat different story by inserting an altogether new provision, I mean paragraph 13, which is not to be found in the Law itself. Taking the Manual itself as our guide, we note still more puzzling disparities. While clause (d), paragraph 11, page 110, exempts :

'persons holding swords or other weapons received as gifts from the Governor General in Council, or a Local Government,'

from taking out licences, paragraph 13 of the same Manual (page 111) strikes a different note and says that :

'such persons as holding swords or other arms' are exempted only for 'the original sword or arm awarded to them'.

Now, Sir, is it not reasonable to say that, seeing that a licence for a sword is not needed in certain parts of India, it is really no concession to the owner of a Sword of Honour to exempt him from taking a licence for his Sword of Honour.

Under the previous Law, a person who was awarded a Sword of Honour was exempted from obtaining a licence for all sorts of arms for his personal use, but, Sir, in the existing Law, the word 'honour' has been entirely omitted. The object of amending such Laws as the Arms Act, is to afford facilities to the public and not to impose fresh restrictions upon them. I venture to submit that the revised Arms Act has deprived the people of some of the privileges they enjoyed previously. Again, Sir, it seems hardly fair that the military officers, who retired before 1920, should be exempted and that the civil officers, who have been and are serving the Government equally well, should be deprived of this privilege.

There remains another point which might throw further light on the importance of the subject. The magistrates, who are empowered to grant licences to the public or who are empowered to recommend any person for exemption, are themselves not exempted under the existing Law. And what will the other gazetted officers think and what do they think on finding that they were exempt under the old Act, but that the existing Law has taken away from them all their privileges. And what do the Honourable Members of the Council of State, Legislative Assembly and the Provincial Councils, think of their position, when they find themselves deprived of this concession, although they are part and parcel of the Government.

There are some other points upon which I will not touch, in order not to overtax the indulgence of the House, but which all the more support

my plea for the appointment of a Committee for closely examining and overhauling the existing Arms Rules. Quite a limited minority enjoys the privilege of exemption, while of those who formerly were exempt, there are many, who, for no apparent reason, have been deprived of their privilege. These feel their deprivation very bitterly. Here is a question which requires prompt consideration. I am not very keen about exemptions. Let there be no exemptions at all. But what I mean to say is that, if there are any exemptions, or facilities are afforded to certain persons, there seems no justification why others should be deprived of the same.

India has entered upon a new era. New hopes, high ideals and lofty aspirations are awakening the people. We are aspiring towards a better, higher and nobler status. Under the suzerainty of Pax Britannica and the guidance of her time-honoured institutions, we are sure of a great and bright future. India has amply proved her loyalty in many a field. Should we not then, at least our advanced, cultured and educated classes, be trusted? Have we got no claims upon the British Government? I cannot believe for a single moment that the English Government, known for its great sense of justice and equity, should fail to appreciate our services. I fervently hope, therefore, that the Government will have no objection to accede to my Resolution. It is not my contention or object to delete or substitute any new provision in the existing Rules. Nor do I propose, in any way, that arms may be freely distributed, without any distinction, so that there may be two different armies in the country. But my submission simply is, and it is, in my humble judgment, very modest, that a Committee be appointed to consider some of the glaring defects which I have just pointed out. If the Committee think them expedient, they may place them before the House. I hope Honourable Members will agree with me that the present Arms Rules are of such a nature that they deserve reconsideration. It is with this view that I have moved this Resolution for the appointment of a Committee to reconsider these Rules. The reason why I have suggested a specific time before the Committee should meet and submit their report, is that the importance of the subject deserves and demands close and immediate attention. It has been noticed more than once that there has been great delay in the submission of reports by Committees. Thus the grievance to be redressed is postponed, most painfully to the parties concerned, to a distant future.

I have dilated upon the *pros* and *cons* of the question at some length, and I leave it now to the judgment of the House.

With these few words, I beg leave to introduce my Resolution. And, Sir, if my Resolution is accepted, as it stands, then, I would suggest the following Members to serve on the Committee

The Honourable Sir William Vincent (Home Member): I rise to a point of order. Apart from other objections, this is not in the motion before the House.

Mr. President: The question is:

'That this Assembly recommends to the Governor General in Council that he may be pleased to appoint a Committee with a non-official majority to examine the New Arms Rules, 1920, and to submit their Report before the next Session, making specific recommendations, with a view to further amend them.'

Beohar Raghubir Sinha (Central Provinces; Landholders): Sir, I rise to support very heartily the Resolution moved by my Honourable friend,

[Beohar Raghbir Sinha.]

Baba Ujagar Singh Bedi. I am thankful to the Government that they made an attempt to meet the popular demand to recast and amend the Arms Act of old, which was so badly criticized, being wholly imperfect and conservative, and brought forth the New Arms Act as it stands now. Though there has been a decided improvement in some of the provisions in the old Act, the New Act has not succeeded in satisfying the public as would appear from the strong criticism with which the New Act was met by even the moderate section of the Indian Press. Several Honourable Members of the then Imperial Council, at the time of the introduction of the Bill, such as the Honourable Major Malik Sir Umar Hayat Khan, the Honourable Mr. Sachchidananda Sinha, the Honourable Pandit Madan Mohan Malaviya, who complained, and rightly complained, of the curtailment of the exemption list. The Honourable Pandit Malaviya remarked:

'I find that the Bill and the Resolution taken together are not liberalizing measures. I, therefore, object to the introduction of the Bill and, I submit, Government ought to adopt a measure of really liberal character.'

The rules framed under the Act have still crippled some of the salient features of some of the provisions of the Act. Provisions and rules still go to disclose a good deal of distrust towards the people of India—even towards such classes of people as zamindars and landholders, whose loyalty cannot be questioned, and who form a strong bulwark in strengthening the British Empire, and whose interests are so much inter-linked with good government, law and order.

As regards the exemptions, the Honourable Sir William Vincent remarked, during the discussions on the Bill in 1919:

'I am quite prepared to admit, however, that there may be some ground for complaints in regard to the point the Honourable Major Malik Umar Hayat Khan has raised. The Government of India are quite open to re-examine any points of that kind. I am glad, he has brought it to my notice and I will have it re-examined.'

Now, Sir, I respectfully put to the Honourable the Home Member whether that question was satisfactorily re-examined in consultation with any non-official Members. In other words, was any Committee appointed for discussing that point? I do not know. In view of the changed political outlook, in view of the national consciousness having been aroused, and after the participation of the Indians in the world war and the services rendered by them, it is but meet that the policy of the Government in this direction must be completely changed and the Arms Act and Rules be totally recast and liberalized in conformity with the aspirations of the people. The appointment of a Committee, as advocated under the Resolution, is perfectly justified in view of the many glaring defects and discrepancies, some of which have just been mentioned by the Honourable Mover, and last, but not least, in view of the Honourable Sir William Vincent's promise to re-examine the question of exemptions, which was left open. I am sure, the Resolution will be accepted by the House unanimously.

Rai Bahadur S. P. Bajpai (Lucknow Division: Non-Muhammadan Rural): Sir, I rise to give my whole-hearted support to the Resolution moved by my Honourable friend, Baba Ujagar Singh Bedi. The New Arms Rules were amended with a view to satisfy public opinion in India. Now, we have to see whether the New Rules have satisfied public opinion. So far as my information goes, they have failed to satisfy officials and non-officials, Europeans and Indians, landowning classes and the educated

classes. We are perfectly dissatisfied with the present arrangement and will remain so as long as the Government choose to have certain classes of people exempted from the operations of the Arms Rules. There seems absolutely no justification why other classes of people (who are on the same level with the classes of people exempted under the New Arms Rules) should not also enjoy the privilege of exemption. I should like to illustrate my point by giving a concrete instance. In the Province of Oudh, the taluqdars, as such, have been exempted from the operation of the Arms Rules. Some of the taluqdars do not pay more than Rs. 500 as land revenue, while very big zamindars, paying as much as twenty-five thousand rupees, have to take out licences. Then, again, while the taluqdars are exempted, those who pay income-tax on incomes ranging as high as fifty thousand rupees are not exempt.

Sir, again, though the taluqdars have been exempted, Members of the Indian Legislature and the Provincial Legislatures are not exempt. I fail to see how the taluqdars are superior in any respect to the Members of the Indian and Provincial Legislatures. If it is argued that the taluqdars have great stakes in the country, it should not be forgotten that the Members of the Indian and Provincial Legislatures represent India.

Then, Sir, Rai Sahibs and Khan Sahibs, who received those titles before 1919, are exempt from the operation of the Arms Rules, while people who have received the titles of C.S.I. and C.I.E. after 1920 are not exempt.

The Honourable the Home Member assured the Members of the Indian Legislative Assembly that persons who have got swords of honour or fire-arms from the Government are exempt, but, as has been pointed out by the Honourable the Mover of the Resolution, they are exempt only from those arms which they have got from the Government, not from all the arms. I think a person who gets fire-arms from the Government should at least be considered a very reliable man and should be exempted from all the fire-arms which he keeps for his personal use.

Sir, during the course of the last few months, a Circular was issued by the Government of India laying down that exempted persons cannot keep more than a fixed number of fire-arms, say five. I don't think this restriction is reasonable or desirable.

The Honourable Sir William Vincent: How many do you want?

Rai Bahadur S. P. Bajpai: We may not want more, but why don't you trust us? Then, Sir, a man whose income is Rs. 3,000 a year is entitled to take out a licence to keep fire-arms

The Honourable Sir William Vincent: That is not correct.

Rai Bahadur S. P. Bajpai: I think there is a Circular to that effect; at least this is my impression. (Laughter.) Sir, I believe, I am correct, though I leave this point because, unfortunately I have not got a copy of the Circular in my possession at present. Sir, Indians, if they happen to go abroad, can enjoy the privilege of keeping any number of fire-arms, while they cannot do so in India. Again, people in Native States can keep any number of fire-arms, but surely more dacoities are not committed in Native States than in British India. I again say, if Government want certain classes of people to be exempted, all those who are on the same level with them should also be exempted. Sir, the best way to discuss this matter is

[Rai Bahadur S. P. Bajpai.]

to refer it to a Committee with a non-official majority. I insist upon a non-official majority, because I am sure their recommendations will carry much more weight with my countrymen. With these few remarks, I beg heartily to support this Resolution.

The Honourable Sir William Vincent: Sir, I think I can shorten this debate very considerably by rising now. I should like to take the opportunity of explaining what the underlying policy of the Government, in regard to this question of arms, is, but the first point I want to make clear is that there is no question of amending the Arms Act, nor have the provisions of the Arms Act anything to do with the question now before the Assembly. The position is shortly this. For many years, the administration of the Act was attacked by the Indian public, chiefly because it was said and fairly said that there was a distinction between Europeans and Indians in that Europeans were exempted from taking out licences for fire-arms, while Indians, outside certain privileged classes, had not got this right. Well, the Government of India had prolonged correspondence with the Local Governments as to what amendments in the Rules were necessary to remove the difficulties that then arose, and two main principles emerged out of that discussion :

- (1) that there should be no racial distinctions, and
- (2) that the Government must retain the power to impose restrictions to prevent arms, and particularly fire-arms, from falling into the hands of lawless people. That is a restriction which I am sure, will commend itself to every Member of this House.

While details were under discussion, a Resolution was moved in the Legislative Council urging the appointment of a Committee of officials and non-officials to consider the amendment of the Rules, and a Committee was appointed. At that time, certain gentlemen, now officials, were non-officials, and a Committee was appointed, including my Honourable colleagues, Dr. Sapru, Mr. Sarma, Sir Surendranath Banerjee, Sardar Sundar Singh Majithia and Mr. Ironside. There were others, but I have not got a record of them here. I think it may fairly be said that that was a strong Committee. The conclusions arrived at by Government on the report of that Committee were published in 1919 and detailed effect was given to them, after taking the further advice of the Local Governments, in the Indian Arms Rules, 1920. Immediately the Rules were issued, they were subjected to a great deal of criticism; much of it was perfectly justified; some, I think, was not justified. The criticisms were directed partly against the policy and partly against the administration. As regards the administration, I think neither the authorities nor the applicants were familiar with the new procedure which the Rules proposed. Since then, we have been in communication with the various Local Governments, indeed with every Local Government, on points of detail, and, whenever any defect in the Rules has been brought to our notice, we have endeavoured at once to remedy it. I do not, however, claim that the Rules are perfect in any way now, but I think they are a great improvement on the Rules as originally issued, and I myself do not believe that there is much substantial ground for complaint. At any rate I may say this that, subject always to the two main principles which I have explained to the House, we have endeavoured to meet criticisms and to mitigate any inconvenience of which complaint has been made to us.

Sir, it has been suggested to-day that the Rules might be so modified as to make the Act work on a purely financial basis. Now, I do not think, that is a safe proposition in this country at present. If fire-arms were very generally distributed to every one who paid a small fee even amongst the lawless classes, I think we should be exposed to much greater dangers even than we are at present. I anticipate also that we should have had far greater loss of life in recent disorders and very much more expenditure would have to be incurred in arming and equipping our police, and also in increasing their strength. I do not think I need press this point further. Everyone knows the dangers of fire-arms being used in faction fights, in religious disputes, and land riots, everyone will admit that in our recent troubles, things would have been much worse if a large number of the men, say those who, in Oudh, rose against the landlords and the Government, had been armed with fire-arms.

And here may I pause to advert for just a moment to the incitements offered by certain Muhammadan extremists to their co-religionists to undertake war against the Government. One of the reasons why that has not been undertaken, according to some, is admittedly the fact that they are not in possession of fire-arms. Whether that is true or not, it is to some extent illustrative of the danger which a general distribution of fire-arms would involve.

I now turn to the question of exemptions. Sir, when we amended the Rules, we originally contemplated the complete abolition of exemptions. That was our first idea, but we were then met by objections from everybody. It was asked: 'Why should not this loyal subject, this important person, be exempted as he has always been' and so on. Finally, we adopted the policy of restricting these exemptions as much as possible. It is true, this has led to anomalies, for instance, I am asked why holders of certain titles and honours conferred prior to 1919 are exempted, while those, on whom a similar honour has been conferred later, are not exempted. The reason for that was simply this, that it was put to us very strongly by a large number of men that they had enjoyed the privilege of exemption for many years and it would be a great hardship if Government withdrew from them that privilege. We accepted this view, but we thought that it was by no means necessary to continue an unnecessary and undesirable system of exemptions to new holders of the same title. That was the only reason why this particular class of exemptions was limited to that extent.

At the same time, the Government of India are, as I think I have indicated on a previous occasion, quite prepared to have this matter examined by a Committee, subject to the two really vital principles which I have already explained to the House, namely:

- (1) that there shall be no racial distinctions, and
- (2) that power must be retained to prevent arms from falling into undesirable hands.

I think that the House will admit that both these are legitimate principles for any Government to adopt.

The Honourable the Mover cited another instance of an anomaly in the Rules in regard to persons holding Swords of Honour. Well, I have not got the Rules by me. . . .

Baba Ujagar Singh Bedi: They are here with me if you would like to see them.

The Honourable Sir William Vincent: I do not know whether the Honourable Member's copy is corrected up to date, but, in any case, if it was a question of single anomaly of that kind, I think the House would agree with me that it would not be necessary to appoint a Committee to inquire into it, and it could have been put right if he or any other Honourable Member of this House had approached the Home Department and had pointed out the fact. However, Sir, the Government do not object to the appointment of a Committee for other reasons when, however, the Honourable Mover suggests that the Committee must report by next Session and put forward as his reason for that proposal a statement that Committees of this Assembly have always delayed their work, then, I am entitled, so far as the Home Department at least is concerned, to join issue with him. There are many Members here who have sat with me on Committees during last year and I challenge them to say—I know they will not attempt to do so—that Government has been negligent in this matter. We have had reports, from all of the Committees with which I have been connected, submitted at the earliest possible moment. So many Members of the Assembly have sat with me on these Committees that it really is not necessary for me to emphasize this point, I mention this to show that the Honourable Member's charge against the Government is in no way justified. All the same as I have no doubt that the Committee will be able to submit some kind of report by next Session—I doubt whether it will be able to submit a final report by then—I have no possible objection to accepting the Resolution in the form that he has proposed, although I cannot say that I accept all the reasons that he has given. Another point raised by the Honourable the Mover was that it is necessary to arm villagers for their protection. Well, that is a proposition that seems, on the face of it, not only plausible but sound. Unfortunately, our experience shows that that is not the effect of a free distribution of arms. In Malabar, for instance, in the most recent case we have had, arms had to be taken away from the villagers, not because they were using them too freely, but because the Moplahs at once took them away from the owners and used them against the Crown. I myself saw the house of a big Nayar from which five weapons had been taken in this way. Then, I remember a district in the United Provinces where a number of licences were issued to all villagers for purposes of protection, and I regret to say that the result was a large increase in the number of armed dacoities. Similarly, in Bengal, weapons were very largely distributed at one time for protection against dacoities, but it often happened that they merely formed a sort of bait for dacoits, as was the case in Ireland. The truth is that villagers often fail to use the arms to repel dacoits but surrender them at once for fear of further depredations by their enemies.

Mr. K. Muppil Nayar (West Coast and Nilgiris: Non-Muhammadan Rural): Most of the arms were taken from police stations.

The Honourable Sir William Vincent: As far as Malabar is concerned, it is true, there were occasions on which arms were taken from police stations; but, generally speaking, that is not the case, and we cannot consider Malabar conditions as normal. However, on the main question of the appointment of a Committee, I am only too glad to have the assistance of Honourable Members in examining this most difficult question and I have much pleasure in accepting the Honourable Member's Resolution.

Maulvi Miyan Asjad-ul-lah (Bhagalpore Division: Muhammadan):
(The Honourable Member spoke in the vernacular*.)

Mr. R. A. Spence: (Bombay: European): I move that the question be now put.

Mr. President: I presume that the Honourable Member who moved the Resolution, wishes to reply.

Baba Ujagar Singh Bedi: Sir, I would like to say a word or two. Sir, at the very outset, I would like to point out that I am very grateful to the Honourable the Home Member for his broad-minded policy in accepting my Resolution as it stands. I have already pointed out, Sir, that it is not my contention, nor do I want, that arms should be so freely distributed that there should be two different armies in the country. I have also pointed out that it is not my object that there should be exemptions at all, and that, if there are to be exemptions, they should not be limited to any persons or class of persons. There is at present no definition at all of great Sardars and Jagirdars, as given in these Rules. These were some of the anomalies that I wanted to bring to the notice of the House as deserving close examination at the hands of a Committee. Sir, I am grateful that my Resolution, as it stands, has been accepted by the Government.

Mr. President: The question is that the following Resolution be accepted:

'This Assembly recommends to the Governor General in Council that he be pleased to appoint a Committee with a non-official majority to examine the New Arms Rules, 1920, and to submit their report before the next Session, making specific recommendations, with a view to further amend them.'

The motion was adopted.

DISTURBANCES IN THE UNITED PROVINCES.

Sir Frank Carter (Bengal: European): Sir, with your permission, I should like to ask the Honourable the Home Member whether he has any information to give this House regarding the very serious disturbances which have occurred at Chauri Chaura and Barceilly in the United Provinces. The news in the papers this morning is most alarming.

Mr. President: The Honourable Member gave no notice before, that he wished to raise this question, but perhaps the Honourable the Home Member will be able to give a reply at the end of the business to-day.

The Honourable Sir William Vincent (Home Member): I think I may be able to give the information after the luncheon interval.

RESOLUTION RE: WITHDRAWAL OF MARTIAL LAW IN MALABAR.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, the Resolution, which I have taken the responsibility to move, reads as follows:

'This Assembly recommends to the Governor General in Council that he may be pleased to withdraw the administration of Martial Law in Malabar in the Madras Presidency, and further to state what arrangements are intended to be made for the future administration of the Martial Law area of Malabar till normal conditions are restored.'

* The original speech together with a translation will be printed in a later issue of these Debates.

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Sir, it will be within the recollection of Honourable Members that, when we met at Simla at the end of August or the beginning of September, the outbreak of the Moplahs necessitated the Governor General promulgating an Ordinance proclaiming Martial Law in Malabar. This subject was discussed at the very first meeting of the Assembly, and the situation, as it stood then, was described by the Honourable the Home Member. In that discussion, I took part and I ventured to state that the Ordinance was framed with great care and circumspection, and the sting that usually attaches to Martial Law was not there. Nearly six months have passed during which the Ordinance has been worked and submitted to the test of practical application. I am glad to say, I have no reason to think that the working of the Ordinance has been otherwise than fair and equitable. That branch of the administration of Martial Law with which we lawyers in this Assembly are more intimately connected has, as Honourable Members must know, evoked no adverse criticism. The tribunal of three Judges have done their work with patience and with that detachment which we as lawyers value more than anything else. The presiding officer of that tribunal is a Judge of considerable experience and has worked for a good many years in the districts which I represent and with which I am intimately connected. He has a reputation for judicial calmness and impartiality. The success, as I can see, of the tribunal is not only due to its *personnel* but also to the terms and conditions of selection and administration laid down in the Ordinance. The persons tried by this tribunal have received a fairer consideration of their cases than they would have received from the ordinary Courts of the country, for, as we practising lawyers know, persons accused of offences against the public peace generally get short shrift from the ordinary Courts. Some of the records in these cases have come up before the High Court and they have been examined and these cases have received wide publicity. No error has been discovered in the trial of these cases. The next branch of the martial law administration, *viz.*, that which is concerned with the executive side, has not, as far as I can see, evoked any adverse comment of any considerable volume; but there have been grumbings here and there. That, of course, in the circumstances one could naturally expect. The ameliorative side of the work, relief to victims which was necessitated in that area, cannot be said to have been taken up by Government with such energy as one would desire. But such work as has been taken up and carried on was by public-spirited citizens in and outside the area, notably by our Bombay friends. (Hear, hear.) The Governor of Madras and Her Excellency Lady Willingdon had also been there, and as we all know Her Excellency takes a great deal of interest in works of this character. But one thing should not be forgotten. The Honourable the Home Member went down to Malabar and Madras to see things for himself and for the Government of India, and I have the authority of a Moplah to say that the Honourable the Home Member's visit to Madras and the conference and interviews he held there have effected—as I am told—a considerable change for good for the calm administration of affairs in the Presidency. It is a double-edged compliment that I am paying; that is, while what I say is a compliment to the Home Member, it is rather a hard thing for the Government of Madras. But, unfortunately, the reputation of the Government of Madras for sanity of judgment is at a very great discount.

All this kept the martial law administration free from attack. There was one untoward incident which led to very serious consequences,—the

Moplah Train Tragedy, as it is called. It was a culpable piece of negligence by someone or other which gave rise to a very great noise; it was no doubt exploited by those who wanted to attack Government; but it has to be judged in its true perspective. It has added to the pile of agony with which the Government of Madras was loaded, but, after all, the Government of Madras is very much to blame in these matters. We had recently a communiqué from the Government of Madras giving us an abstract of the findings of the Committee that sat to inquire into that train tragedy affair. Well, all that I can say is that the conclusions of that Committee appear to me to be lame and impotent. It is not going to give any satisfaction to the most moderate of people, and here I may say that Government has got into the habit of supporting and white-washing and screening every one of its officers, no matter whether they have erred grievously or not. That habit pervades every branch of the Government and that is at the root of so much adverse criticism from all quarters which is levelled against Government. While Government is ready to say harsh things against its critics, they have never, as far as I can see, in recent years, taken to task its incompetent, or erring subordinates. Unless Government changes its attitude in this matter, we, who wish to stand by Government, believe in Government and who have nothing but support to give to Government in all its correct actions, we also become a little bit diffident about the impartiality of Government.

Now, Sir, Honourable Members from Madras and others have been asking me in anxious tones and with bated breath whether I had given deep thought to the Resolution which I had tabled, whether I had thought of the consequences of the withdrawal of Martial Law, and so I simply told them 'yes' and 'no,' because deep thought is not very much in my line; thought, speech and action have to follow, in my line, as quick as possible; you cannot think over a thing long; and therefore I told them that I had given such thought to it as I could. Section 72 of the Government of India Act says:

'The Governor General may, in cases of emergency, make and promulgate ordinances for the peace and good government of British India or any part thereof, and any Ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law.'

And so on. So, the martial law ordinances that have been passed, must *ipso facto* lapse at the end of this month, and, therefore, before they lapse and before Government takes any action, it is time to bring up the matter before the Assembly so that we may be in a position to know what the intentions of Government are. Therefore, my Honourable friends, who had certain misgivings about this Resolution, will now be satisfied that it was a very essential matter to have moved this Resolution, for otherwise it would have died a natural death and other steps would have been taken. The condition at present, as far as one can see, though very much less intense, cannot justify the reversion of the method of administration to its normal state. There ought to be some special measures taken to continue the administration of this disturbed area.

With regard to these disturbances, I venture to make a few remarks. Honourable Members in this House probably never heard the word 'Moplah' till these disturbances; and, as regards Malabar, they might have thought it was some part of India with which they had not much to do. This Moplah, it must be said, in normal times and in his normal mood, is a thrifty, hardworking and enterprising individual. He occupies himself in tilling the land, in retail trade, and, to a certain extent, in the coasting trade; and the more wealthy men in the wholesale trade as well. They

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are a compact clannish body, fanatically religious. Now, Sir, what is their condition to-day after these disturbances? Thousands of them have died in a mad, hopeless endeavour to subvert the Government. Some thousands are now in jail, and I have no doubt that a very large number are runaways from justice in hiding and in exile, and a great many, I suppose, have died, and nothing is known about them. Their families have naturally become destitute, their farms are lying waste and their homes are in a dilapidated condition. Not only this, Sir, every Moplah, whether an inhabitant of the disturbed area or of outside, is suspected as one directly or indirectly guilty of murder, rapine or rape. No Malabar Hindu can think of the Moplah without detestation and hatred. Well, he has worked himself to such a state that everyone's hand must be against him. Now, the question well worth the consideration of this Assembly is: what actually contributed to drive the Moplahs to these murderous and outrageous attacks? That is the question with which the Assembly must concern itself. So far, Government has not helped us, they have not told us why it was that the Moplahs broke into rebellion. Every sane man in this country must know that it is impossible to overthrow the Government. Unless he is a lunatic, he will understand that, with all the resources which the whole of this country has at its disposal, it would be impossible to overthrow the Government. If that fact is ignored, there is no use in arguing or telling anything to such people. Now, knowing as we do the nature and temperament of these Moplahs, let us consider for a moment what made them rise against the Government and the people. The ordinary reply to that would be that the non-co-operators and the non-co-operation movement are responsible, that these had roused the Moplahs to commit such horrible and heart-rending deeds of murder and rapine. Now, that position I shall briefly examine. The non-co-operation movement, as I understand it, is said to be based on a tripod. There are first of all the Punjab wrongs. Now, I do not think that the Moplah knows anything about the Punjab wrongs, nor do I think, knowing his character as we do, he ever knew or would ever care to know the rights and wrongs of the Punjab. His habit is not to care for the welfare of others. He is self-sanguine. So the Punjab wrongs would not have in any manner excited him. Then, there is the Khilafat movement and Swarajya. As for Swarajya, I might say that the Moplah has not got any clear notions, and the only notion of Swarajya probably which appeals to him as it would appeal to baser minds, is the chance of getting money, power and other things for himself. It may have had some share, but the Khilafat teachings, so far as I think, must have had a great deal to do to excite the Moplahs. Being a fanatically religious man, the persistent teachings that his religion is in danger, that it has been practically trodden down, that his religious places abroad have been desecrated and destroyed, and all the other attendant lies and fabrications have very naturally excited him to resort to this mad endeavour. Well, till no other better and charitable suggestion comes, I can only think the dangerous teachings of the non-co-operators are primarily responsible for the rise of the Moplahs. Now, if I am right in thinking, and I believe it is the general opinion, that it was the religious fanaticism that made these ordinarily peace-loving and hardworking people rise in rebellion, then, it is a serious matter for every one to consider the consequences of this movement. Now, in one word, this Khilafat movement is an intensely religious agitation to connect the Moslem world of India with the Sultan of Turkey on a religious basis. It is to link the Moslem world of India with the Sultan of Turkey as the head of the Muhammadan religion. (A voice: 'No.')

This movement is to own the Sultan of Turkey as the religious head of the Mussalmans of India. (*Voices*: 'No, no' and 'louder please') The Khilafat movement is a movement to link the Moslem world of India with the Sultan of Turkey as the head of the Moslem religion. (*A Voice*: 'Certainly not'.) If it is something else, I should be very glad to know what this movement means. I say, if you only substitute the word 'political' for the word 'religious', you get the other side of the shield. I ask the Assembly to ponder over this matter seriously. Religion and politics are so blended in most countries that, if you only substitute the word 'political' for the word 'religious', you can see the other side of the picture. I simply leave the matter there for Honourable Members to consider. I shall not go further. Now, quite recently, we had speakers of the non-co-operation movement who incidentally referred to the Malabar outrages. Did any one condemn the action of the Moplahs in Malabar? Did any one directly or indirectly condemn the rebellion, the outrages and horrible murders that were committed in Malabar? Was it not said that they were dying as a brave race, that they were fighting for liberty and so on? What does it mean? Is it not time for us now to take note of such utterances, whoever may have said it, and come to a conclusion as to what the nature of this movement is and where it will lead us to if allowed to go on unchecked. It also shows that those gentlemen who have held up the Moplah to encomium, that he was fighting for the cause of liberty and so forth, do not know the value of the lives which have been lost, the property which has been destroyed and the misery which has been brought on large numbers of people in the disturbed areas. Every one connected with this agitation tells us: 'This Government is not for me; I have nothing to do with this Government; I am no member of this Government; I am no subject of this Government'. Can that agitation, from whomsoever it comes, lead to any good? That is with regard to this point.

There is one other aspect of the question. The Moplah had done grievous wrong. He had committed the worst offences. But there is a duty of the Government which is above all ordinary considerations of retaliation. 'An eye for an eye and a tooth for a tooth' policy is not one which I would recommend to Government. The Moplah had violated the law. Let the law vindicate itself and let him also know that the strong arm of the Government is long enough to reach him and others similarly behaving. But there is another aspect. If a whole lot of people have for some reason or other behaved in this outrageous manner, they are not going to be deported. They are the residents of that area. They have to live there and live in the midst of a large Hindu population. Should not statesmanship take such steps as would make them repentant and penitent and bring them back to the fold of peace and orderly life? That is the matter which the Government should seriously take in hand. What to do with these Moplahs in future years? Those in jail would come back. They would come back probably much worse, with hatred and revenge in their hearts. What is the Government going to do with these Moplahs in order to bring them back to the normal conditions of law-abiding and peaceful people? If that problem is not going to be tackled by Government in a statesmanlike way, I think, this frequent assertion of the maintenance of law and order alone will not solve the case, because that is the problem which the Government ought to tackle, and I have no doubt that the Government would, sooner or later, indicate a policy of reformation of these people. Now, Sir, while I have said so much about the Moplah, what about the Hindu? People do not know the peculiar characteristics of the

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Hindus of Malabar. They are simple-minded persons. They are people of olden times, believing in devils, goblins, magic and all sorts of things. The Hindu of Malabar will believe anything that you may tell him. That is one of his characteristics. I mean the rural people. I do not mean the people living in towns. The rural people are simple. Their lives and their habits are very simple. They are also a very hard-working people. People may have strange notions of Malabar. The Hindus of Malabar have their own peculiar laws of marriage and inheritance. People in other provinces might think that they are somewhat different in effect from the laws of marriage which govern them. I may tell you, and I beg you to take it from me, that their laws of marriage and their social conventions enjoin them to be as moral as any section of the Hindu community. People living far away from Malabar and not acquainted with their habits and modes of life may have peculiar views about them, but I tell you from my knowledge of the people of Malabar and the friends with whom I have come in contact that they are as moral as—more moral than—any section of the community in this country, Hindu or Muhammadan or Christian. The homes of such people have been devastated, they have been most cruelly wronged, their women have been ill-treated, their children have been mangled, and the men have been made to flee from their homes. No wonder then that the Hindu in Malabar, Nair, or Brahman, or Nambudri, or Thiya, has got nothing but detestation against the Moplah. No wonder that it is so, and his hand will be against the Moplah for years and years to come unless the Moplah reforms himself. There is one peculiarity about this rebellion,—and I would ask, with all respect, the Honourable the Home Member to find out, whatever the expense may be, the class, the status, the occupation, the means of living, of the men who have risen in rebellion,—I have some information that the better class of men, men who own property, are not in it, at any rate to our eyes. It may be that they are behind. I wish to draw particular attention to the fact that the men who are now in jail, the men who have died, the men who have been arrested, the men in exile, are men with little property. If what I am told is correct, there is a great deal of significance in it. Men of property, men of position, men who have got a stake in the country are not in the rebellion and have not come under the clutches of the law, if that is a fact.

Well, Sir, the Government of Madras and the people of Madras were impatient a few weeks after the tribunal of judges started work. They were impatient that the tribunal was too slow, and so another tribunal was appointed by an Ordinance. I am not aware of the working of that tribunal. Whether it functioned well, whether it functioned fully or not, I cannot say. That shows that the control of the Government of India was from the beginning necessary because those in Madras were inclined to adopt a policy of greater vigour, as it is said.

With regard to these Hindus, what is the compensation that they could get for all the wrongs they have suffered? There is no good telling them that they can get their compensation from the Moplah. He is unable to give any compensation. As far as one can understand, it will be impossible to get out of the Moplah anything in the way of compensating the Hindus. I think the Government must take the matter in hand and see that every one of these people who have lost their homes, who have lost their property, are properly and fittingly compensated. It is no good leaving them alone and saying, 'I maintain law and order, and there my duty

ends.' If the duty of Government begins and ends with law and order, the same trouble may take place, and neither the Hindu nor the Moplah will have a loving word for the Government. We have heard often that the Oriental imagination must be attracted and something must be done to strike the Oriental imagination. I do not believe that the imagination of the Oriental is different from that of the Occidental. Both want Government. Both want the good things of the world. Both want the Government to do good for them, and, therefore, in this instance, you will strike the imagination of the Hindu in Malabar and elsewhere if you give up your ordinary rules and routine and strike a new departure and compensate in full every Hindu who has lost and suffered by this rebellion. On an occasion like this, Government should not be tied down by rules and red tape. They must take their courage in both hands and find money to put these people back in their original places. It is only then that the Hindus there and elsewhere will say that the British Raj is as good as the Raj of Sri Ramchandra. Very recently a great man in the journalistic world did India within a fortnight and he said many things which have been published all over the world, though I do not think that there is any unanimity of opinion in this country as to all that he has said. One matter is worth referring to at this moment, because it is relevant to the matter in issue at present:

'He was shocked at the change in the demeanour and acts towards Whites by the Hindus and especially the Muhammadans who were formerly most friendly.'

He says that there is a complete change in the demeanour of the population in India towards the European. Is it a fact or is it not? I say, it is a fact. The old glamour that surrounded the European has gone and very probably may not return. The European has to cast his conduct on different lines if he wants to retain or regain the respect of the Indian. Whatever may be the cause, this has been going on during the last fifteen years and no longer, even in the outlying villages, you will find

The Honourable Sir William Vincent (Home Member): I rise to a point of order. The Honourable Member has, I think, strayed very far from the motion before the House.

(At this state Mr. R. A. Spence rose.)

Mr. President: Order, order.

Rao Bahadur C. S. Subrahmanayam: Therefore, unless the Government takes effective steps to see that the causes are removed, any amount of maintenance of law and order will not help you to bring peace to this country.

Mr. President: I will draw the Honourable Member's attention to the fact that he has already exceeded his time.

Rao Bahadur C. S. Subrahmanayam: Now, Sir, there is only one word more and I have done. While we are ready to compliment Government when it does things in the right fashion, we reserve to ourselves the liberty of criticising the Government when we feel and feel strongly that it has gone wrong. I am not one of those who think that Government is wrong always and that we should always adversely criticise the Government, and I do not think that any Honourable Members of this Assembly are of that mind. We want to stand by Government when we think it necessary and essential that we should do so (*Mr. N. M. Samarth:* 'Desir-

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able')—desirable that we should do so. When we feel that the Government is going wrong, it is our bounden duty to tell it that it is doing so.

Mr. Mahmood Schamnad Sahib Bahadur (West Coast and Nilgiris: Muhammadan): Sir, from the different and conflicting statements made by the Honourable Member, I am able to gather some facts. First, I agree with him in saying that the Martial Law Ordinances were worded carefully in order to avoid any mishap that might have occurred on former occasions, but that the administration of Martial Law was properly conducted or conducted in a way without any cause for murmur, I cannot admit. About a fortnight ago, I went to Malabar and visited the villages in the Martial Law area. One feature of Martial Law administration in Malabar was the burning of thousands of Moplah houses by the police and the military. In one village alone, I could count more than 100 houses burnt by the road side only. Some were strong, well-built and storied houses. Some houses and shops were simply broken into and looted. Now, to begin at the beginning, this rioting or rebellion was started as a joint concern by some Moplahs, Nayars, and others of the non-co-operation party, and, in the beginning, all were arrested and punished indiscriminately. Of course, as the Honourable Mover has said, the Moplahs in the Martial Law area are really poor, ignorant and illiterate. They do not know anything about the Punjab happenings, even about the Swaraj movement, nor anything about the Khilafat. Even their religion they did not know properly. It was these non-co-operators that set them up, and it was these Nayars and others that told them, 'Your religion is in danger. Your Khalif is gone. The British Government is an enemy of Islam.' So, these fellows duped these fools.

The Honourable Sir William Vincent: It is unnecessary for the Honourable Member to look at me so fiercely. I am not one of those who misled these unfortunate people.

Mr. Mahmood Schamnad Sahib Bahadur: Latterly, however, a change came on. These Nayars and others were somehow or other made to feel that the safer course for them would be to desert the Moplahs and show themselves as their foes. Therefore, as soon as Martial Law was proclaimed and the military came to the place, these people, instead of advising the Moplahs that it was madness to oppose the Government, just as they advised them in the beginning to regard the British people as the enemies of their religion, went along with the police and military and joined them in looting Moplah houses and outraging their women. When these Moplahs saw their co-workers turning against them, they considered it a treachery. Therefore, when the military retired in the evenings, these took their revenge upon them by killing them or confiscating their properties. Many have also escaped their punishments by offering to become converts. This is the story of conversion, looting and murder by the Moplahs. If they were actuated by the desire of proselytizing for the sake of religion, then, why did they allow many others to remain amidst them without molesting them in the least? Why did they loot and murder Moplahs also? Those that did not trouble them they also did not trouble. All the Patter Brahmins were living in their midst quite peacefully.

I do not mean to say that everything went on in this systematized way. Some rowdies, taking advantage of the situation, must have done wanton mischief by murdering, looting or converting.

My object in rising to speak on this occasion is not to defend the guilty Moplahs. I do not say they were all innocent lambs. First of all, they are guilty of rising against the Government, whatever the provocation, whatever the preaching and persuasion of their friends might have been. They cannot now come and say: 'We were duped.' That is no excuse. They ought to be brought under the clutches of the law. All that I want to impress upon you is that we have been hearing through the papers only one side of the question. The reason is that Mr. Thomas had committed the initial blunder of retreating from Tirurangadi hastily before an unarmed mob, although he had machine gun, military and police with him. In order to justify his action, he wanted the help of the vociferous section of the people. So he made common cause with the Nayars and left the dumb Moplah, who could neither speak nor write, to himself. Thereafter, the press and the public have been heaping all the blame upon the Moplahs. This may sound strange to you as you are accustomed to hear only one side of the story. Did you hear before this that not one educated or well-to-do Moplah took part in this rising, whereas the non-Moplahs that took part were rich and educated people? Some of them were even graduates and B.A., B.Ls.

Now, to return to the horrors of Martial Law administration, the Moplahs in the Martial Law area used to be regarded only as wild beasts. Once one Moidin Kutti Haji and another were taken by some sepoy from Parapanangady to Tirurangadi. From there they were allowed to return. While returning, some other sepoy who were also going in the same direction shot them and left them dying on the road and went away.

The Honourable Sir William Vincent: Where was this?

Mr. Mahmood Schamnad Sahib Bahadur: Tirurangadi.

The Honourable Sir William Vincent: When?

Mr. Mahmood Schamnad Sahib Bahadur: Three months ago. I have got several such instances. Some time back, there was an idea of exterminating the Moplahs, as could be gathered from several articles and letters in the papers. The train tragedy, the refusal of relief to the Moplah sufferers and the burning of houses, even in villages where there were no disturbances at all, are all acts done in pursuance of the policy of extermination. As these people killed some Europeans in the beginning, Mr. Thomas and the Madras Government under his advice were regarding the whole race in a worse light than the Germans were regarded during the war.

When I read in the papers about the burning of Armenian houses by the Turks, I could not believe that, but now, when I find even the most enlightened Government did not feel ashamed to do worse things against a people who were, unlike the Armenians, strictly unarmed under the Arms Act, I do not see why I should not believe the story against the Turks. Was not the brutal way of carrying Moplah prisoners another instance of the wilful negligence of the Madras Government? Otherwise, would they appoint such a farce of a Committee to inquire into the train tragedy? Who are the members of the Committee? They are all from the Martial Law area and hence men with their mouths locked. What is their object in making Mr. Knapp, who is responsible for the administration of Martial Law in Malabar, the President of this Committee? Why was Mohamed Abdur Rahman arrested and sentenced to two years' rigorous imprisonment for simply saying there were Moplah sufferers requiring relief. When

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I visited Calicut last, there were 5 or 6 thousand people at Calicut receiving relief from the District Relief Committee. But there was not a single Moplah among them, although in the Congress Camp I found about 80 Moplah refugees, mostly women and children. Some of these women had their ears torn and their ear ornaments removed. One young boy had his hands cut, neck wounded, while a small woman had several wounds on her body said to have been inflicted by the police and the military.

It may be said, there are no sufferers among the Moplahs. Is it imaginable? Moplahs, who are already very poor, had their houses burnt with all their possessions and had been forced to live under trees and in temporary sheds. Males in most families have been either killed or arrested. The others are not allowed to leave the villages to eke out their livelihood even by begging. What will be the condition of such people? Still Mr. Knapp is not willing to admit that there is distress among the Moplahs. If it is found there is distress, then the punishing of Mr. Abdur Rahman would not be justifiable. Now, some show of helping the Moplah sufferers is being made. A separate, though nominal Committee, has been appointed to find out and bring to the camp Moplah sufferers. Mr. Knapp himself admitted to me that the existing Committee was against helping the Moplahs and the so-called Moplah camp at Quilandy was an eye-wash.

Now, the Moplah has been crushed and humbled. A spirit of further retaliation, with the object of permanently suppressing him, is in the air. With this object, a meeting was held at Calicut some time back. Although the Government was not a party to this meeting, they think the Government is on their side and they can get the help of the Government in suppressing the Moplah.

The affected area includes Ernad and Walvanad Taluqs and portions of Ponnani and Calicut Taluqs in South Malabar. Now, there are Moplahs not only in the affected taluqs but also in North Malabar and South Kanara and the remaining taluqs of South Malabar and different other parts of the world. They number more than a million. More than one-third of the entire Muhammadan population of the Madras Presidency are Moplahs. Will all these Moplahs look on with folded arms, quite unaffected when these friends of Mr. Subrahmanayam are devising plans for permanently suppressing their brethren living in the Martial Law area? I ask the Government and my non-Moplah brethren of Malabar to check this spirit.

If this retaliative spirit is not nipped in the bud, there will be no end to this retaliation; it will go on revolving.

Now, normal conditions have been restored in Ernad, Walvanad, Pohoir, etc., except for the locally-recruited special police who are making a hell of heaven. They make their daily rounds of extortion, and if anybody dares to question, he is at once arrested under some charge or other. The horrors of the Martial Law administration of the Punjab dwindle into insignificance when compared with the present one, though I do not know, at least personally, the extent of the horrors in the Punjab.

Now, what is urgently needed is the immediate withdrawal of Martial Law and the special police and the opening of the ordinary Courts of law, and the cessation of further arrests as the jails are already said to be congested.

If the course adopted after four months of shameful warfare with a subject people, that is, of offering pardon on condition of their surrendering, had been adopted earlier, the rising could have been suppressed long,

long ago. When I had suggested a similar course to His Excellency the Viceroy and also to the Honourable Sir William Vincent in September last, they heard me patiently and promised to consider the matter sympathetically. But when I suggested the same course to the Madras Government, the case was quite different. Such impatience will not mend matters.

If we want to solve the question and restore permanent peace, we must enter the question without any prejudice and retaliative spirit.

The three things that are considered quite necessary for the improvement of the affected area are compulsory education, the introduction of a more liberal and up-to-date land tenure system, and the opening up of the country by railways. All these things can be settled, however, only on the report of an independent Commission which must be appointed by the Government of India. Such a course only will inspire confidence into the hearts of Moplahs and also the public at large. I propose, therefore, that soon after Martial Law is withdrawn, an independent Committee be appointed to inquire into the cause of the rising, and advise as to the means of restoring permanent peace.

Mr. K. Muppil Nayar (West Coast and Nilgiris: Non-Muhammadan Rural): Mr. President, I wish to speak only on the first portion of the Resolution. The question is, in my opinion, one for the local authorities, versed in the details of the situation, largely to advise us upon, for the dangers of any premature action are, it is hardly necessary to say, very great. No doubt, most of the leaders of the rebellion have been captured, but, in a movement of this sort, where the rank and file have tasted loot, there is much more than the mere ringleader. There are still out some gangs capable of considerable mischief, and, if what I heard before I left was true, all was not sound with the so-called surrendered. Further, the capture of a leader is no serious hindrance with these rebels, for their commanders have not, unlike ours, to spend years at Sandhurst or years in a regular army, but any ex-bandywallah or ex-teashopkeeper will easily satisfy their test of a leader. However much I may hope it may turn out otherwise, yet, if past history and present outlook tells me anything, it is that the task of dealing with the remaining lawless lot is going to take some months, if not years. Then, again, there are a great many prisoners, if I am not mistaken, who are still awaiting their trials before the tribunal for the horrible crimes with which they are charged. I say this, because the absence of big leaders or blood-boiling telegrams in our papers ought not to mislead us to think all is quiet in Malabar. If, however, there are any technical objections to the continuation of Martial Law, then our duty is clear, and I appeal to the Government for something effective to take the place of the temporary measure and I appeal to this Assembly for support.

But one thing I implore here and now, and that is, let us not by any hurry on our part have a relapse in Malabar, for she has already suffered much. I come from the spot, and I tell you, there is no horror to which people in my district have not been subjected; young and old, men and women, rich and poor, all have suffered, and such a suffering too!

The Honourable Mover in moving his Resolution has mentioned about the Moplah Train Tragedy. Sir, it was a very regrettable incident, no doubt. But there are some other stories, 10 times worse, 100 times worse, which have not received the notice of the Secretary of State or of any other Members of Government. Little babies, I am told, were chopped like bananas and thrown down into pits. Old women, old men, hacked to

[Mr. K. Muppil Nayar.]

pieces! We heard very little of that! Some hard things were mentioned about the Madras Government by the Honourable Mover. I am not going to answer them, but I simply refute them, and leave it to the Member in charge to answer them.

The previous speaker spoke about no relief being given to Moplahs. I beg to refute that statement, and say that relief is being given. He also mentioned that not a single educated Moplah joined the rebellion. My information tells me that there are many educated Moplahs who are concerned.

Mr. Mahmood Schamnad Sahib Bahadur: No, but that there were graduate non-Moplahs among the rebels.

Mr. K. Muppil Nayar: The distress is so great that Malabar looks up with one pity-evoking glance to you and your Government to undo, as far as possible, what a satanic Government of the disciples of visionaries (rather missionaries of mischief) and preachers of the so-called non-violence have managed to do during their brief spell of Swaraj. But on this I do not propose to dilate now; my present purpose is to appeal to you to let the authorities choose their ways and do their task, unhampered by the dictates of such of us as are far away where we can hardly realise the gravity of the situation; and, when I emphasise that, I will be the last to support the unnecessary prolongation of a measure like Martial Law, for I am one of the district, I know I shall not have appealed in vain to my Honourable brethren.

Maulvi Abul Kasem (Dacca Division: Muhammadan Rural): Sir, the Resolution, as it stands and as it is worded, relates to a part of the country where I have never been, and it has no interest for me personally. But, unfortunately, Sir, the learned Mover of the Resolution has, I beg to be excused when I say, introduced into it matters which raise a controversy, which it is neither desirable nor wise to have. He has said, Sir, that the real mischief is due to the question of the Khilafat, as it is believed to be a religious question which excites the fanaticism of the Moslem world. Sir, I happen to be a Mussalman and I admit that I belong to a fanatical race, as I am not ashamed of it. (Hear, hear.) It is not the belief but the real truth that the Khilafat is a religious question. We feel it, and feel strongly and deeply, that the pledges given to us by His Majesty's Government, by responsible representatives of the Government, have not been carried out. (A voice: 'Shame.') If a large section of my Muhammadan friends, like myself, have already cut themselves off from the present Khilafat movement, it is not because we do not feel it as keenly and as sorely as they do (Hear, hear), but because we feel that their methods are neither practical nor wise, and, if I may go further, I will say that they are more dupes than human beings, because I know, from my own personal knowledge as well as from the published information, that the Government of India has done its very best, and is still doing its very best, to redress those grievances. (Hear, hear.) I feel and feel again that it will be neither a wise nor a practical policy to hamper the hands of the very advocates who are fighting our cause. I am not a lawyer, but as a client I have some experience of my lawyers. We have to please the lawyers and not to offend them if we want to win our case, and that is the ground which led me to make my choice. I can say—and I do so with a full sense of responsibility—that the Muhammadan grievances will neither be redressed

nor the Muhammadan feeling satisfied unless this question is settled according to their own demands and reasonable and just grievances are removed. Then, Sir, it has been said that Swaraj does not appeal to the uneducated and illiterate Moplahs of Malabar and that they do not understand anything about the Punjab grievances. I agree there, Sir, that the masses of the people do not understand what Swaraj is. I, for my part, do not understand what is the programme of Swaraj which has been placed before the country. What about the poor Moplahs? I believe the very propounders of that theory do not clearly understand it. But, where I join issue with Rao Bahadur Subrahmanayam is that these poor Moplahs, found to be fanatics, found to be keen on their religion, were utilised by designing persons as their dupes for breaking the law and for receiving the punishment which they got for breaking the law. (Hear, hear and Shame.) That is the real question. If the administration is to be carried on, you ought to get at the bottom of the thing and not to punish the mere innocent tools of these instigators. My Honourable friend, the other gentleman representing Malabar, has said that in spite of the fact that Martial Law has been enforced there for some time, still many a rebel and many an outlaw is at large and not yet captured. May I inquire from him and from this House, are these Moplahs the only rebels and the only outlaws that are out of jail in this country? Are there not other rebels and outlaws flourishing and succeeding in life who ought to be in jail. (Hear, hear.) But the real point is that my friend, Rao Bahadur Subrahmanayam, is nervous. He does not want Martial Law to be repealed, but he is nervous as to what will be the fate of that part of the country when Martial Law dies a natural death, and he wants the Government to lay down the policy and wants the House to discuss this policy about the administration of that part of the country. I will ask him to be a little wider in his view and to have a broader view of the whole situation at the present day. As he has taken the trouble of dilating upon it, I say what has happened in the Malabar territory is likely to happen in the whole of this country and the whole situation may be changed unless we realise the full sense of our responsibility and discharge our duty and advise the Government accordingly. It is not a question of dealing with the situation piecemeal but as a whole organisation; and the solution does not lie in taking advantage of the poor, ignorant, illiterate, but brave, thrifty and fanatical Moplahs of Malabar and hanging them for the sake of others.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): Sir, I support the Resolution whole-heartedly. In my opinion, Martial Law ought to have been abolished long ago. I think the killing of subject people and its continuance for such a period is unknown in history. I admit, such killing took place in this city when Nadir Shah invaded India. Some historians said that it lasted 6 or 7 hours, some said 6 or 7 days, but none mentioned any time over this. I think I am running a risk of comparing the deeds of a Mussalman monarch reigning a few centuries ago with that of the Christian Government of the present day. Such an idea will be repugnant to the Treasury Bench. I ask these Honourable Members to point out to this Honourable House any place in Indian history where the killing of an unarmed subject people went on for seven months. I will be taken to task again for calling them unarmed. Of course, they had some fire-arms, but to fire these arms was more dangerous to those firing them than to those whom the fire would have been aimed at. These, again, were possessed by one in a hundred. I feel sick of the treatment of the Moplahs, not because they are Mussalmans, but because they are human beings. I am a Mussalman, and we, Mussalmans, have no country to call our own.

[Khan Bahadur Zahiruddin Ahmed.]

which is no doubt a crime in the eyes of the Western peoples, who are all Nationalists.

Mr. N. M. Joshi (Nominated: Labour Interests): India is not your country?

Khan Bahadur Zahiruddin Ahmed: I am coming to that. Hear me please first. What is our principle? We call ourselves citizens of the world 'Moslem hain hum watan hai sarajahan hamara,' which means 'I am a Mussalman, my country is every land on the face of the earth.' We take the whole world as one country and all the nations as one people. We believe and act on the principle of the universal brotherhood of mankind. In short, a Mussalman hates to be a Nationalist but loves to be a philanthropist. The Madras Government communiqués mentioned a lot of barbarous acts and attributed all of them to the Moplahs as aggressors and the Hindus as sufferers. At first, I believed in all of them, but when I came to the District of 24-Parganas and I questioned the Madrassis there, who are all Hindus, I began to have my own doubts. These men, in a large measure, denied them and said they were too much exaggerated. It reminded me of the story of a British Field Marshall who took to task a Colonel for leaving a large number of German dead bodies unburied. The Colonel replied: 'These Germans are not dead, but living, only slightly wounded.' The Field Marshall questioned the Colonel who told him that they were not dead? The Colonel timidly replied: 'They themselves.' Whereupon, the Field Marshall said: 'The war is not yet over and you begin to believe the Germans.' The Colonel took the hint and not a single German was left unburied. Unfortunately for the Madras Government, the Hindus have not taken the hint. They have not commenced to kill the Mussalmans as the Madras Government desired them to do. I must frankly confess that, when I heard of the news emanating from the Madras Government, I formed a firm conviction that all the Hindus in the Madras Presidency had been murdered, and I must say I felt a great relief when I saw the Honourable Rao Bahadur Rangachariar in this Assembly, I argued that at least one Hindu was left unkilld, and I respectfully submit that there may be a few more Hindus left unkilld yet. When I hear them talk even in this Assembly, how can I ever believe that they have been all murdered?

If I argue that dead men cannot talk, and when they talk, they are not dead, I believe I will not be contradicted, even by the apologists
 1 P.M. of the Madras Government. As for the forcible conversions, I have some doubts. I believe there have been conversions, but whether forcible or not, I am not sure. I converted a number of these people from Madras when I was a Kazi and Mussalman Marriage Registrar. My experience was this. There are a few untouchable classes of Hindus in that Presidency, who were yesterday Hindus, to-day are Mussalmans, to-morrow Hindus again, and next day Christians. These people come to work in jute mills, and each male will bring at least five women along with him. The four of these will be married to mill workers, and their religions changed. At first the fifth woman is kept by the male as his wife, but, sometimes, it has been my experience that she is even given away in marriage to a Mussalman mill worker, if the man was ready to pay the price asked for her. So long as these women remain in the district of 24-Parganas they take to the religion of their husbands, who are mostly up-country Mussalmans. But when the male Madrassi goes back to his province, these women who come along with him go back with him too.

Mr. Harchandrai Vishindas (Sind: Non-Muhammadan Rural): I rise to a point of order. Has this got anything to do with the Resolution?

Mr. President: I understand the Honourable Member is describing the process of conversion.

Khan Bahadur Zahiruddin Ahmed: I thank the Chair for the decision. I may, at the same time, point out to my Honourable friend calling me to order that he is a sensitive man. Sensitiveness is a brain disease, and I ask my Honourable friend to consult a brain specialist. I believe we have got such a specialist in the person of the Honourable Colonel Gidney in this Assembly, may I ask my friend to consult him? If my Honourable friend has not been introduced to the Colonel Saheb, I believe any Honourable Member of this House will be willing to introduce him. Failing this, I am prepared to introduce him myself.

Mr. President: The Honourable Member is irrelevant now.

Khan Bahadur Zahiruddin Ahmed: Before one Member calls another to order, the interrupter must be very certain that his own brain is not out of order. With these few words, I will resume my speech. They all become Hindus again. The apologists of the Madras Government can have it from me that all these so-called forcible converts have become Hindus again. By this I do not wish to minimise the atrocities committed by the Moplahs. I condemn them with as great force as any Hindu or a Government Member; and I say more, if these Moplahs have killed ten Hindus or ten Police Officers, kill ten times their number in exchange or say fifteen times or twenty times that number, but the whole people should not be wiped out or they should not be killed at sight.

Before I came here, I visited the camps of the extremists as well as the loyalists, with a view to learn their views on this Moplah affair. An influential extremist or non-co-operator said: 'Do not put a single question about the Moplahs in the Assembly. Let the Government go on digging the foundation of their empire by such massacre; let them go on digging their own graves, making their own coffins, and let them cover themselves with the shrouds of their own making. He finally said that the Government is simply making our task easy.' He went on to say that an Indian State had given an exhibition of a 'chita' hunt, and the Madras Government had given an exhibition of a Moplah hunt. These words tore my heart and made deep sores in it. I also went to the camp of the loyalists. A loyalist of loyalists put this question to me point blank: 'Do you, after this massacre and butchery, still contend that the British race still retains the right to govern the non-Christian and coloured people?' These were very painful words to me.

Both these experiences have made a great and deep impression on my mind. I mention this in this Honourable Assembly so that it should know how a large portion of my countrymen is thinking. I would have been a loyal hypocrite if I were to lull the Government into a false security. I know I may receive the retort that as a loyalist I ought not to have given vent to my feelings in this way. My humble reply will be: 'I am a loyal man and for that reason I am not a cruel man. I am a co-operator, and for that reason I am not a servitor. I am not a cringe and an abject flatterer of the Government as to say *Hazur Garib Purwar, Jahan Pana, jo kijia hak hai* (Your Worship, Cherisher of the poor, Protector of the world, whatever you do is right), when I know, when I feel sick at heart at what the

[Khan Bahadur Zahiruddin Ahmed.]

Madras Government is doing in this respect. I know we have got such flatterers in this country—they may be in this Assembly as well—but I am not one of them, and I hate to be one of them.

May I ask if the maintaining of law and order requires the wiping out of a whole population? Will it be called restoring order? Or will the dictionary give some other name, some other word for it? I quote a Persian poet, who said:

'Ba ek gurdeshay charkh niloo farin

Na Nader baja mand na naderi.'

'The dazzling splendour of 'Nader' in vain,

The freaks of time are the culprits in main.'

(What became of Nadir Shah and his authority? The whole thing was short-lived and temporary.)

With these words, I beg to support the Resolution.

Munshi Iswar Saran (Cities of the United Provinces: Non-Muhammadan Urban): Sir, I must confess I have not been able to clearly understand the object which my Honourable friend had in moving this Resolution. (Hear, hear.) But, be that as it may, I must say, and say with great sorrow, that the speeches which have been made have displayed a mentality which must be distressing to every nationalist. Sir, I wish to assure the House that I do not wish to approach this question as a Hindu, but as an Indian. A Hindu or a Muhammadan or a Christian, as such, I submit, with great confidence, should have no place in this Assembly. We should be Indian first and everything else afterwards. A Member ought to come here as an Indian, he ought to approach public questions from the point of view of India, and not of this or that particular religion, sect or class. To me it is a matter of great sorrow that this grave question has been treated in this light-hearted fashion. The Honourable gentleman, who has just sat down, has tried in his usual way to amuse us by his description of conversions. Is he prepared to say that the stories of conversions that we have heard are unfounded? Have they not created a thrill of horror in every man, be he a Hindu, be he a Muhammadan, or be he a Christian? Men of 60 to have been subjected to a particular operation, which I shall not name in this Assembly! Is the Honourable gentleman prepared to justify that act of brutality and barbarism in this Year of Grace One Thousand Nine Hundred and Twenty-Two? (Hear, hear.) What is the good of talking in that fashion? I do not wish to condemn the Moplahs as Muhammadans, but I do wish to condemn them as human beings who have shown, if the accounts are true, that they are worse than beasts, worse than brutes. If the Honourable Member can contradict the accounts that have appeared in the Press, if he can contradict the communiqués of the Government of India and of the Government of Madras, let me assure the House in all sincerity that no man will be better pleased than I or others of my way of thinking shall be. I should like to have the assurance that all these stories have been exaggerated; that these stories are false; that Moplahs have not behaved in that heartless and inhuman fashion; because it pains me, it distresses me, that my own countrymen—Moplahs are after all my countrymen—should have behaved in a way which brings discredit—not on the Moplahs alone—but on all of us who are in this country.

Sir, attempts have been made—and I say not very straightforward or courageous—to insinuate, suggest, imply, that the Moplahs are so many misguided, unhappy, unfortunate fools, who have been really duped by Hindus. As I have said, I do not approach this question from the point of view of a Hindu. But I am nevertheless forced to ask, are the non-co-operators only Hindus? Are there not Muhammadans amongst them? What is the good of making that suggestion and really confusing the issue which you have got before you? My Honourable friend, Maulvi Abul Kasem, says: 'Moplahs are not the only outlaws in this country; there are others,' and some Members cheered him and I suppose he felt immensely satisfied with himself. Is that, Sir, an argument to be advanced in an Assembly like this? He in effect meant to imply: 'Do not deal with the Moplahs. There are other men worse than the Moplahs.' Are we to treat the Moplahs with consideration, are we to treat them with respect; are we to treat them with honour; because there are worse criminals in India? (Cries of 'No, no, he never meant that.') Well, will you repeat what he said, will you explain what he meant? When you have a chance, you can correct me. I submit, Sir, we have to take facts as we find them and Government have got to take facts as they find them. Yes, it will be necessary at a future date for Government to go into the causes of this Moplah outbreak, but at this movement Government find themselves face to face with a situation where a certain number of people, from all accounts that have reached us, have been guilty of the most unmentionable and horrible outrages. Government have got to deal with them and to deal with them with firmness, and I say, with mercy as well. An Honourable Member has said—I have no information of it myself—that hundreds of Moplah houses have been burned, that hundreds of Moplah houses have been looted. I do hope that Government will take early steps to see what foundation there is for the statement made, and, if there be any foundation for it, I have no doubt that the Honourable the Home Member will see that these people whose houses have been looted and burned in this lawless fashion are compensated for the wrongs inflicted upon them and the offenders are adequately punished. Sir, but what I submit is this. We are now face to face with this situation in Madras. It is no good blinking facts, it is no good shutting our eyes to hard, actual facts as we find them. My only object in intervening in this debate is to place the issue clearly before the House and to brush aside all this light-hearted talk and all this insinuation about Hindus being at the bottom of this trouble. Hindus may be anything, but they are not fools. Now I wish to ask my friends if they mean that Hindus duped the Moplahs so that the Moplahs should ruin Hindu homes, should convert Hindu men, should dishonour Hindu women, and should brutally ill-treat Hindu children. It is nothing but sheer folly to suggest that. We have got the trouble and, if any misdeeds have been committed, it is our bounden duty to bring them to the notice of Government, so that the perpetrators may be punished and their repetition in future may be avoided. Sir, I whole-heartedly join with my friends who have made an appeal to Government that no retaliatory measures should be adopted and I entirely agree with them that those men who have gone wrong, those men who have inflicted these hardships on their fellow-men ought to be punished but, punished with justice tempered with mercy. Retaliation is perfectly out of place, and I do venture to hope that, not only in this House but even outside it, there will be no responsible man who will ask that the Moplahs should be punished with undue severity; but punishment has to be meted out, be it to Moplahs or be it to anybody else who are guilty of such atrocities.

[Munshi Iswar Saran.]

Sir, before we come to a decision, I shall ask those Honourable Members who have taken part in this debate to approach the question from the correct standpoint and not to confuse the issue by irrelevant observations such as have been indulged in by some of the speakers who have taken part in this debate.

Lieut.-Col. H. A. J. Gidney (Nominated: Anglo-Indian): Sir, I do not rise in response to my Honourable friend, Mr. Zahiruddin Ahmed, as a professional man, to pronounce an opinion on the over-sensitiveness of Mr. Harchandrai Vishindas or to say whether he is thin-skinned or thick-skinned. I rise to take part in the more serious aspect of this Resolution. Sir, I have also listened with care and with great attention to my Honourable friend, Mr. Subrahmanayam, and I have read the Resolution before me two or three times, and I have yet to find in his speech the slightest evidence in support of his Resolution as to why Martial Law should be withdrawn from the Moplah country. He has indulged in a series of indictments, invectives and malignments against the Government. He has gone so far, judging from the speeches to which we have just listened as to create, unfortunately, a religious ill-feeling between the Muhammadans and Hindus in this House, which I think should not be encouraged. He has gone absolutely outside the mark in his speech. The result has been that the speakers who have followed him have done the same. Not one speaker so far has brought forward a single reason why Martial Law should be withdrawn from the Moplah country. The Mover of the Resolution first tried to make capital out of the train tragedy. He then accused Government of white-washing. I know that they do that for I have often done it myself when in Government employ. He then tried by a process of exclusion to bring forward what was the *raison d'être* of the trouble in the Moplah country. He asked: 'Was it due to the non-co-operation movement or the Khilafat movement? What was it?' Then he himself tried to white-wash the sins of the Moplahs by saying that they were misguided fools and deserved the pity of this House. He went further and definitely stated that the main cause of the trouble was the Khilafat propaganda. Finally, he requested Government to give ample compensation for those who were homeless and penniless. He even threatened Government that they must change their attitude towards Indians or they would lose the support even of the moderates in this Honourable House. Now, Sir, in these various points that he brought forward, I have yet to see one genuine reason which he has adduced for the withdrawal of Martial Law from the Moplah country.

My friend, Mr. Abul Kasem, then treated us to a speech which mainly opposed the religious charges brought forward by the Mover against the Muhammadans of Malabar, but he hit the nail on the head when he remarked that the leaders in India who were inciting the ignorant masses to civil disobedience were the chief culprits and were yet not in jail. Whereas one side said it was non-co-operation, the other side said it was the Khilafat movement and went so far as to connect it with the Sultan of Turkey. My friend, Mr. Abul Kasem, as I say, hit the nail on the head. He showed clearly—and I do not think there are many Members in this House who will deny it—that, no matter whether it was the Khilafat movement or the non-co-operation movement, the real conspirator is loose in India to-day. He is the man for whom these Moplahs have suffered; he is the man on account of whom we to-day read of the murders that have taken place at Chauri Chaura, Bareilly, and elsewhere.

It is no use our disguising this fact and there is absolutely no use moving a Resolution here asking for Martial Law to be withdrawn when India is seething with discontent and when disaffection is being spread by the leaders of the non-co-operation movement, when the arch-conspirator and so-called Dictator of India roams about free to incite the masses of India to disorder and rebellion. Apply Martial Law to these leaders and, I assure you, that we shall hear less of ultimatums and manifestos coming from the head quarters of the non-co-operative camp. I submit that it would be suicidal to India for this Honourable House to pass this Resolution. Martial Law can only be withdrawn (although it is confined to six months by the Government of India Act, 1919) when the country is normal and quiet. Can any Honourable Member stand up here and truthfully say that the Moplah country as well as other parts of India to-day are quiet? If he does, let him go to these localities and see things for himself and he will, I feel sure, change his mind very soon. Let him read the daily papers and see what is still happening in the Moplah country and elsewhere to-day. I submit with all the emphasis possible that Martial Law is absolutely necessary—more necessary in India to-day than it has ever been and I warn this Honourable House to-day that the time is not far distant in fact has all but come, when it will have to be further applied and extended to other parts of India at once—otherwise its universal application will soon be necessary. (*An Honourable Member: 'All over India.'*)

Lieut.-Col. H. A. J. Gidney: I do not know what part of India the Honourable Member comes from or I would gladly answer his question. Sir, I for one do not at all approve of the Resolution. I condemn it most strongly. I consider that it is not only too premature, but it would be most dangerous to withdraw Martial Law from the Moplah country. Had the Honourable Member substituted for it a Resolution to the effect that Martial Law should be introduced in other parts of India, I for one would have most willingly and gladly supported him. But to ask for Martial Law to be withdrawn from a country from which Mr. Nayar comes and who describes it as being still pregnant with trouble and rioting, that my Honourable friend over there has himself so correctly described is to ask for further and more serious trouble. For the benefit of the Honourable Mover I will relate to him a little story. There was a mother, whose daughter, with her (the latter's) husband, lived together in a cottage. The husband had to go away on some business for the week end. The mother, who was a somnambulist, one night, in her sleep walked in the garden and fell into the well. The daughter, hearing her cries, wired to her husband to this effect: 'Mother fallen into well, please wire advice.' The husband replied as follows, and I would draw the Honourable Member's attention to his reply: 'Leave well alone.' My advice to the Honourable Member is, therefore, to withdraw his Resolution and to 'leave well alone'. With is, therefore, to withdraw his Resolution and to 'leave well alone'. With

Mr. Harchandrai Vishindas: Sir, I would go a step further than Colonel Gidney and say that not only has Mr. Subrahmanayam failed to adduce any evidence or argument in support of his Resolution, but that he has adduced arguments and evidence against his Resolution. When I got notice of this Resolution, I read it at home and rubbed my eyes in wonder. I said to myself, what does this mean—that Mr. Subrahmanayam, a Hindu and a Madras Hindu, a lawyer of great reputation, when another Madrassi, Mr. Rangachariar, also a Hindu, has been telling us of the horrors and atrocities committed by the Moplahs in Malabar, should come forward

[Mr. Harchandrai Vishindas.]

with this Resolution? The wonder that I then felt has been tenfold confirmed by the speech he has delivered.

Now, what is the sum and substance of his speech, that Martial Law has been very equitably administered—so much so that the Judges who are administering it do more justice than ordinary Judges? Is that a reason for the withdrawal of Martial Law? Then, again, he said that the Moplahs have committed such gross horrors. When they were described by Mr. Nayar, it brought tears to our eyes. Then, in my opinion, he diverted himself into an entirely wrong channel by stating that you should not be satisfied merely with having punished the Moplahs as you have done but you must go a bit further, because these men returning from jails will come out embittered and try retaliation upon you. That means you should have more severe Martial Law inflicted upon these people. Was there any reason advanced by him that we could say was not in favour of the perpetuation of Martial Law? I think the best advice we can give Rao Bahadur Subrahmanayam at the present moment, though I am not sure if he will follow it, is that he should withdraw his Resolution: Otherwise I prophesy that he will be defeated by an overwhelming majority in this House.

Now, Sir, you will permit me to make a few observations on the other speeches that we have heard to-day. I can tell you that I did not rise to retaliate in any way upon my friend, Mr. Zahir-ud-Din Ahmed, for the remark he made that I was suffering from sensitiveness, which is a disease of the brain; because the usual role he has assumed in this House is that of the standing Joker of the House, and, if we have the benefit and amusement of his jokes, we should also be willing to pay the price. (Laughter.) But I do strongly disapprove of the remarks which he made that the Government have been acting like Nadir Shah in perpetrating massacres of Moplahs. He went on in that vein for a great length of time. In fact, the whole of his speech was predominated by that particular idea—that he heartily supported the Resolution because the Government have been massacring the people of the Moplah country in the same way as Nadir Shah did. In fact he said that, while Nadir Shah only massacred for a few hours, the Government have been massacring for months and months. Then, characteristically enough, he went on to say: 'Oh, these Moplah conversions are quite harmless, because I myself have converted several people!' Well, if he has converted several people in the same way as the Moplahs, I think, he should be dealt with like the Moplahs. (Laughter.)

Sir, I also join with Munshi Iswar Saran and Colonel Gidney in pointing out to this Assembly that they will be doing a lot of harm to the interests of the public and the country by passing this Resolution. I am very sorry to find—it had not come to my notice before—that this Martial Law Ordinance is due to expire automatically at the end of this month. But, if that is so, I do not know what useful purpose Mr. Subrahmanayam's Resolution can be expected to serve. Perhaps he also is in a jesting mood, and what he really means by this Resolution is,—as sometimes used to be done last year in voting for Demands—that 'whilst I am moving this Resolution I really want to draw the attention of the House to conditions in Malabar not to withdraw Martial Law but to perpetuate it.' If that be so, I am certainly grateful to him.

The other issues raised in the course of this Debate, I think, are not pleasant to dwell upon. Certain Muhammadan gentlemen have tried to

throw mud upon Hindus. (Cries of 'No, no.')

No? Did not two or three gentlemen over there say it was the Hindus who had instigated the Moplahs? (*Honourable Members*: 'Only non-co-operators.') But there are Hindus who are non-co-operators. Thank goodness, we have got a partial admission at least. I say no Hindu, as has been pointed out by Munshi Iswar Saran, could have had any hand in this nefarious business. Is it possible that Hindus who know that the Moplahs are a most exciteable people and who had a bitter foretaste of these Moplah atrocities years and years ago—atrocities which were described last year, when the outbreak took place, by Mr. Rangachariar, who showed that, when the Moplahs get out of hand, their first victims, their first targets are Hindus. I say the Hindus who are neighbours of the Moplahs and know their nature—is it possible that they would instigate the Moplahs in order to have these horrors committed upon their own community? It is no use going into this question further. The point has been dealt with by previous speakers. All that I want to point out is that we should listen to the appeal of Mr. Nayar, who comes from the same district and who has given us such harrowing accounts of the doings of the Moplahs there—we should listen with greater consideration to him than to Mr. Subrahmanayam who does not come from that district. As Mr. Nayar said, people sitting in their arm chairs far away do not know what is happening on the spot; and I am surprised that a man in the position of Mr. Subrahmanayam does not respect the feelings of his countrymen and co-religionists coming from that part of the country, because he gave us an inkling that, before he came to move this Resolution, he was asked by Madrassis: 'What are you going to do? Have you thought over the subject?' But his reply was: 'I am not a deep thinker; I am a shallow thinker and therefore I have not given deep thought to it.' Sir, there is nothing more for me to say; but I appeal to Mr. Subrahmanayam that he should be consistent, and consistently with his speech he should withdraw his Resolution.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division: Muhammadan): Sir, I move that the question be put.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock. Mr. President was in the Chair.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): Sir, the trend which the debate has taken in the course of the speeches of the Honourable Members has led to my earlier intervention on their behalf. I deeply regret that the main issue upon which the Honourable Mover of this Resolution spoke has more or less been transcended by the subsequent speakers and the general issue has been challenged on the question of the Moplah rising and on the propriety of Government action. Charges and counter-charges have been made and an amount of temper has been shown which I lament. I fear, Sir, that, if this debate is to continue, the courtesies of the debate are not likely to be preserved, and, in that view, as the author of the amendment to the Resolution moved by my Honourable friend, Rao Bahadur Subrahmanayam, I give an advice to him, an advice which I give to myself, that he and I should both withdraw our respective motions. As for my Muhammadan brethren in this House, I am authorised to say that, whatever may have been their expressions, they feel that they are Nationalists first and Muhammadans afterwards. (Hear, hear.) That their

[Dr. H. S. Gour.]

duty as Nationalists is much greater than the duty which they owe to their religion and to their race. We feel, Sir, that, when we stand in this House, we stand as representatives of no party, of no sect, of no creed, of no political association. We stand here to speak for the country at large, and, in that view, I feel, Sir, that I am voicing the sentiments of this House when I say that the question which the Honourable Mover of this Resolution has moved is at least premature. He wants us, first of all, to recommend to the Governor General in Council that he may be pleased to withdraw the administration of Martial Law in Malabar. On that point I have no doubt that the House will listen with interest to the speech of the Honourable the Leader of this House who will bring to bear upon the question the intimate personal knowledge which he possesses of the subject. As regards the latter portion of the Resolution as to what further steps are to be taken for the future administration of Martial Law, that is a question which is necessarily dependent upon the answer he is prepared to give to the first question. Sir, the administration of Martial Law is a matter of dire necessity. In all countries, civilised or semi-civilised, the resort to force for the purpose of suppressing disorder is well recognised. There is no country in the world subject to a well-regulated constitution, where a time and occasion does not arise for the enforcement of law and order by the proclamation of Martial Law. My friends in this House, who have been complaining of excesses, my friends on the other side, who have been levelling charges of maladministration of Martial Law, and of the abuse to which it is subjected, may pause and consider the situation with which we are at the present moment faced. Some of my friends speak of the extension of Martial Law to the country at large. I am sure, Sir, they do not believe in what they say. I feel that the question as to what steps the Government should take for the preservation of peace and order in the country at large is wholly irrelevant to the issue before the House. What we are concerned here with is the question of the Moplah rising in Malabar, and I hope that the discussion on that question will not be widened into the other issue as to what steps the Government should take with regard to the preservation of law and order in other parts of this Empire. Sir, when I tabled my amendment, I was under the impression that law and order in Malabar had been restored, but I have been disillusioned. My Honourable friend who spoke for the Moplahs has confided to me a tale of woe, and my friends who come from Malabar have depicted to us a different picture. I think, Sir, the situation at the present moment in that unfortunate country is still very grave, and, in that view, I do not think it would be right for any Member of this House to embarrass the Government by either insisting upon the immediate cancellation of Martial Law or demanding a judicial inquiry for the purpose of scrutinising the work that has been achieved by the Martial Law officers. In that view, Sir, I appeal to my Honourable friend, the Mover of this Resolution, to withdraw his Resolution, as I am prepared to, and do hereby, withdraw my amendment. If my Honourable friend does not wish to withdraw his Resolution, I can only say that he prefers a decent burial to self-immolation, because the fate of the Resolution, I submit, is a foregone conclusion.

The Honourable Sir William Vincent: Sir, I differ from many Members of this Assembly in the view they take of this Resolution. I believe myself that the Honourable Mover has performed a very useful duty in bringing this matter before the House. Not only has he been of assistance in enabling Government to explain their policy to the Assembly

and inviting discussion but I believe he has given this House an opportunity of looking into one of those questions which it is of vital importance they should not overlook. But, Sir, almost at once from this point, I have to part from my Honourable friend. He began his Resolution with an attack on the Government of Madras. There was also a suggestion in his speech that I went down to Malabar in order to alter the policy which had been followed by the local authorities, that my presence there was the signal for inaugurating changes in that policy and that I had influenced the Madras Government in this respect. Sir, I should be wrong if I allowed that impression to remain uncontradicted for one moment. There is no foundation for it whatever. I went down to Madras to perform what I believed to be the simple duty, to see for myself what was happening there, how martial law was being administered and also to ascertain whether I could be of any assistance to the local officers, though I doubt whether I was of much assistance to them.

At the same time, I must repudiate any suggestion whatever that the Madras Government have been apathetic in this matter or have been wanting in energy, sympathy or consideration. I maintain that they and the military and civil authorities on the spot have behaved throughout with the utmost propriety. The administration of martial law, save for one tragic affair, which we all lament and which is now *sub judice*, has moreover been singularly successful. (Hear, hear.) When I was down in Malabar, I heard indeed that martial law was being too leniently administered. I had Madras gentlemen like those who sit opposite me coming in a state of great excitement, demanding the adoption of more severe measures, and asking why this was not done to the Moplahs and why that punishment was not inflicted on the Moplahs; the greatest indignation was felt by all the residents of Malabar against the Moplah community at the time, and I had ample evidence of it. Now I mention this in answer to some of the speakers to-day to show that not only were there no complaints against the administration of martial law but that most people thought that the administration of martial law was too lenient rather than too severe.

But, Sir, I should like to begin my speech in a different note from that adopted by the Mover. I should like to begin with a note of our great appreciation and gratitude for the services of those officers who have fought so well for the Government and so well for the protection of the people in Malabar,—General Burnett Stewart, Colonel Humphreys, Mr. Evans, Mr. Thomas, Mr. Hitchcock, and others who have worked, many in danger of their lives at times, and at all times under great difficulties. I think that this House will do well, instead of attacking our local officers, to pay a tribute to the great work they have done there. (Hear, hear.) Now, Sir, I want to get to the substance of the Resolution and to tear off some of the side issues that have encumbered it throughout this discussion. Martial law in Malabar will, as a matter of fact, cease under the Ordinance on the 26th February next. That is the date when six months expire from the date of the promulgation of the first Ordinance. The position is, that martial law will cease, and yet normal conditions have, by no means, been restored. I think every one with any knowledge of the place will admit that large numbers of these Moplahs have returned and are now free in their homes. It is by no means sure that some will not break out again: and there are a number of outlaws still about the country looting, burning and murdering when they get the chance. Then we have to consider the question of these unfortunate converts—forcible converts. It is no use any

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Member of this Assembly telling me that men have not been forcibly converted, because it is not the fact. Every one knows it, and it has been abundantly proved. Indeed I am quite certain that if my Honourable friend, Zahiruddin Ahmed, had been to the West Coast himself, he would not have dared to make that assertion in this House. Well, these converts who have reverted to Hinduism are in peril of their lives. I am told that any one who once becomes a Muhammadan and then reverts and comes back to his Amsom is in great danger of being murdered by the Moplahs and that many many instances of such murders have occurred in the past. Special measures of protection are essential for them. If I am wrong, my friend, the Honourable Mr. Innes, who has great knowledge of the place, will correct me. Then, again, there are a number of these outlaws, as I said, still preying on the country side. You have only got to read the daily papers to learn this. Members will see that certain localities have been freed now sufficiently for refugees to return, but there are two or three notorious leaders of these Moplahs who are still out for mischief, out for murder, looting, converting people, for arson or for any other form of crime. In these circumstances, the Government of Madras feel that it is quite impossible to carry on the administration under the ordinary system of law until normal conditions are restored. At the same time, our information is that it is not necessary to continue martial law in its full operation. What we want to do is to instil confidence into the Hindu residents and those Moplah residents who have remained loyal, and induce the refugees to return to their homes, to withdraw the troops gradually and to do what is possible in the way of reconstruction. There are also a very large number of persons to be tried who have been arrested during the rising for the gravest crimes. Dacoity has been an every day occurrence there. Arson equally so, and I fear other grave crimes have been very common. It is therefore absolutely necessary that the Local Government or some authority, either the military authority or the civil authority, should have some power of protecting the unfortunate residents in Malabar, and that some means of trying this large number of pending cases should be devised. What we propose to do is to ask His Excellency to issue an Ordinance which will abrogate martial law in that part of the country but will give the Local Government power to make regulations which are necessary for the protection of these unfortunate residents and people who are returning to their homes, as also for the restoration and maintenance of law and order, breach of these regulations being punishable with imprisonment. For the trial of the cases that are pending and are now being tried by special tribunals and by courts-martial in some cases, we propose to substitute tribunals of different characters, one class being summary courts, another being courts of special magistrates and a third being courts of special judges. We shall also provide for adequate rights of appeal. That will, I am quite sure, satisfy any Member of this Assembly. We propose to create courts of special judges because we cannot afford to keep these special tribunals going on indefinitely.

And now, I want to turn to one or two allegations that have been made in regard to the past. I will refer particularly to the observations of my friend, Mr. Schamnad Sahib Bahadur, because, after all, he is a Moglah himself and his words may, therefore, carry some weight in this Assembly. I believe the Honourable Member comes from another district just to the north of Calicut—South Canara. It is a fact that he did come to see me in Simla when he made certain complaints to me regarding the conduct of officers down in the affected area, and I made inquiries as to the truth of

the charges made. All I can say is that these inquiries have proved the charges to be entirely groundless, and I want to know whether Mr. Schamnad during the time of these rising went down to the Malabar district inside the martial law area or to Calicut at all to verify his charges, and I am going to wait until he answers.

Mr. Mahmood Schamnad Sahib Bahadur: Yes, to Calicut.

The Honourable Sir William Vincent: During the disturbances?

Mr. Mahmood Schamnad Sahib Bahadur: Yes, I went to Calicut in September and spoke to Mr. Thomas and others also.

The Honourable Sir William Vincent: Did you attempt to get any further? That is not the area more directly affected by the Moplah rising. When I went down to Malabar, I was very anxious to meet Mr. Schamnad. I wanted to get hold of him to help me to ascertain the facts about these Moplahs. I thought that he would be there converting these Moplahs into a better frame of mind and helping to do something to induce them to abandon their lawless courses. I could not find any trace of him. Not a trace.

Mr. Mahmood Schamnad Sahib Bahadur: If I had known you wanted me, I would gladly have come.

The Honourable Sir William Vincent: I am afraid the Honourable Member never visited any of the affected areas outside Calicut town to which he paid a short visit. Well, Sir, he has attempted to push the whole responsibility for the rising on to local Nairs and make them responsible for the rebellion. That is what I understood: I do not want to be unfair. Other Members of this Assembly are in a position to confirm my statement.

Mr. Harchandrai Vishindas: Yes, he did.

The Honourable Sir William Vincent: Well, does the Honourable Member mean to tell me candidly that he believes that? Is it not a matter of notoriety that these risings were fostered by some local priests—they call them Thangals, I think—and not by these Nairs? I saw myself a number of men under trial in some cases. They were not Hindu Nairs or anything of that kind, but they included two of these Muhammadan leaders and they were the people who had led these unfortunate Moplahs in that case into trouble. I saw the prisoners myself and I felt and still feel a great deal of compassion for the Moplahs who have been misled into this rebellion, but that cannot prevent justice running its course where they have been guilty of grossest cruelties to Hindus and others. But they have been misled, but not, believe me, so much by Nairs or other Hindus as by their own priests, by their own Maulvies, and by the influence of those Khilafat agitators who are responsible for the whole rising, and in my judgment there is no gainsaying this plain fact. If any gentleman here thinks that I have been unjust in this matter, I will ask him to read for himself the speech of Hazrat Mohani at the Congress at Ahmedabad. I read it here the other day. What does he say? Can any one after reading that speech deny the fact? Is there not, in that speech, a clear admission that this was a Muhammadan revolt for the benefit of the Khilafat? But I do not say, and I carefully avoid saying, that there were not some non-co-operators also concerned. I think Mr. Iswar Saran went a little too far in his statement. At any rate I will say, if they were not in the affair, then one or two have been singularly unfortunate as they are under arrest and are

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being charged with offences connected with the rising before a Court of Law. It is said that Hindus would never have instigated measures to convert Hindus, and I do not suppose they would, but this is not the first time that people have meddled with forces they cannot control or foretell. At the same time it is only fair to say that the real leaders of the movement were these religious leaders of whom I have spoken.

I now turn to Dr. Gour's amendment and I am glad that he has withdrawn it. It is obvious that for various reasons no such Committee could be held at present while matters are in the present state, but further than this, there is no ground for such a Committee at all on the information before Government. I have heard no specific complaints made nor any allegations that martial law has been misused or abused there, except for Mr. Schamnad. I am prepared to make any inquiries into any specific complaints that he makes, and I have always been prepared to do that. But if you start an inquiry into the conduct of officers in this way without any reason, how do you expect them to do their duty in times of difficulty? You have got nothing against them. Their conduct has met with well merited commendation. Mr. Nair, I think, who comes from Malabar, is one of those who have eulogized them. Then we have the fact that the Local Government is entirely against such an inquiry. We have the fact that not a single member in the Local Council has asked for such an inquiry. What basis is there then for an inquiry, which would at once be taken as a slur on those who have been attempting to do their duty in an extremely difficult situation? I do not want to develop the argument but in those circumstances, I can only say that I am glad that Dr. Gour has withdrawn the whole of his amendment on that point, the more so because the spirit of fanaticism is still abroad in Malabar and the conditions are not such that it would be wise or proper to hold any such inquiry there at present.

There is only one word more and I think I have done with this Resolution. That is, a suggestion has been made in the course of this debate that the Government of Madras and those charitable persons who have been spending their time and money, including members of the Servants of India Society of whom we have one example here before us, have neglected Moplah women and Moplah suffering in their efforts to relieve distress and have been content to alleviate the sufferings of Hindus only. This is a suggestion again for which there is no foundation. Has any one read what Mr. Devadhar has written on the subject? I have the papers here. They sufficiently disprove any such suggestion. I have also a letter from the Government of Madras which disproves it. It has been said, and listening to Mr. Schamnad some Members of the Assembly may have been led to believe, that the Moplahs and their women were treated with unreasonable harshness and severity. This is, I believe, entirely untrue. I can only say that when I motored and walked through a part of this martial law area, I saw many Moplah women and Moplah men in their houses living comfortable and unmolested lives, and I did not see anything which led me to believe that innocent Moplahs were in any way ill-treated. I saw one or two Moplahs in hospital too. I saw one in the hospital being treated alongside possibly one of his victims. (Mr. Schamnad: 'No houses burnt also?') I saw a great many houses burnt, but mostly burnt by the Moplahs. (Laughter.) I saw a very large number of houses burnt. I saw buildings ruined and destroyed, but I believe by the co-religionists of my Honourable

friend. I dare say, however, the military have burnt some Moplah houses, they may have had to do it in the course of military operations,—very often it may have been necessary. I do not think that Honourable Members quite realise what the position was in Malabar. There was a regular miniature war. When I was down there, no one could go out of the vicinity of a military camp without a military guard. Whenever a person got on to a lonely road there was a real danger of a Moplah springing out of a bush with his war-knife to attack him, and I understand the gentleman is very difficult to stop when he comes on like that. It was not a question of dealing with a quiet, harmless, innocent folk who had been out for a little disorder or rioting. It was a question of a regular civil war with a desperate and fanatical foe. Sir, I maintain from all I saw and from all I have heard and read, that the martial law has been administered with the utmost leniency and consideration and that the greatest fairness and consideration possible has been shown to the Moplahs as a whole. In conclusion, I trust that the House will rest satisfied with the explanation that I have given and that the Honourable Member, who has rendered a public service by bringing forward this Resolution, will withdraw it.

Rao Bahadur C. S. Subrahmanayam: I withdraw the Resolution.

The Resolution* was, by leave of the Assembly, withdrawn.

DISTURBANCES IN THE UNITED PROVINCES.

The Honourable Sir William Vincent (Home Member): I have been asked by Sir Frank Carter if I could give him any information as to the recent occurrence in the United Provinces. The Government of India have no information as regards the murders of the Police at Chauri Chaura or the riot at Bareilly beyond what has appeared in the press. Official communiqués were published in to-day's 'Pioneer,' and I should be happy to supply any one with copies who has not seen them. In a report, dated the 3rd February, the Local Government mentioned that the lower strata in the numerous cities and towns were under little discipline and there were grounds for apprehension regarding them. Volunteer demonstrations, during the second half of the last month, have been common and most of them have been what is technically called peaceful. (*An Honourable Member:* 'Non-violent.') But a number were sufficiently disorderly to demand dispersal by force. Hostile feeling was said to be strong in the towns. But, beyond these facts and the actual news which is before Honourable Members, we have no further information. In fact the news of this occurrence was entirely unexpected by us. I have wired for further information and shall get it as soon as possible.

Sir Frank Carter (Bengal: European): I thank the Honourable the Home Member. May I ask him whether he has heard of further disturbances in the United Provinces during the last few days?

The Honourable Sir William Vincent: I have not. Chauri Chaura and Bareilly are the only two places of which I have information. There is of course, as Honourable Members are aware, a railway strike at Tundla.

Sir Frank Carter: Apart from that?

The Honourable Sir William Vincent. I have no further information.

Mr. R. A. Spence (Bombay : European): May I ask the Honourable the Home Member whether full protection is being given to the police in the United Provinces in carrying out the duties which lie before them?

The Honourable Sir William Vincent: The police are generally supposed to be able to protect themselves pretty well.

Mr. R. A. Spence: They were not able to do so in this particular case.

The Honourable Sir William Vincent: All possible precautions are being taken and we have asked Local Governments to enlist further bodies of armed police for the purpose of coping with the present disorders where the existing force is inadequate to deal with it.

Mr. President: Before adjourning, I may remind Honourable Members that a list of Members has now been placed on the table in accordance with the statement which I made at the beginning of to-day's business.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 9th February, 1922.

LEGISLATIVE ASSEMBLY DEBATES

THURSDAY, 9th FEBRUARY, 1922

Vol. II—No. 31

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LEGISLATIVE ASSEMBLY.

Thursday, 9th February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

MEMBER SWORN.

Raja Rajendra Narayan Bhanja Deo, O.B.E., of Kanika, M.L.A.
(Bihar and Orissa: Landholders).

QUESTION AND ANSWER.

SCHOOLS FOR TRAINING MEN AND WOMEN TELEGRAPHISTS.

177. **Mr. N. M. Joshi:** (1) Will Government be pleased to give a list of schools conducted or aided by Government for training men and women telegraphists for the Telegraph Department and the annual recruitment for each, mentioning which schools are for (a) Europeans and Anglo-Indians, and (b) Indians?

(2) Will Government be pleased to state the scale of grants paid to aided telegraph schools or classes attached to schools?

(3) Will Government be pleased to state whether any Indian schools have been ever invited to open such classes on the Grant-in-Aid system, and if so, with what result?

(4) Will Government be pleased to give the figures relating to the annual recruitment of telegraphists to the Department during the last three years for (a) General, and (b) Station Services, and what are their scales of pay?

Colonel Sir S. D'A. Crookshank: (1) Attention is invited to the reply given to Mr. Muhammad Faiyaz Khan in the Legislative Assembly in September 1921. Since that reply was given, a class for non-Indian boys has been opened in the Bombay Educational Society's High School at Byculla, Bombay. Each class consists of not less than 8 pupils in the first year and not less than 12 after the first year. The total number of recruits annually is not a fixed quantity, but varies according to the requirements of the Department.

(2) For every candidate trained in a Telegraph Training Class attached to a selected school and admitted into the Department, a bonus of Rs. 100, if he is drafted into the General Service, and Rs. 70, if into the Station Service, is paid to the school by the Telegraph Department. This payment is irrespective of any grants payable by any other Departments of Government.

(3) A copy of the rules under which telegraph classes can be opened in schools was sent to all Postmasters-General for communication to all schools where there was a possibility of opening classes, and two schools training Indian candidates were selected. There has been no expansion recently of

the system, as the requirements of the Department are being met by the existing arrangements.

(4) The average number of telegraphists recruited during the last three years is as follows :

					General Service.	Station Service.
1918-19	...	...	...	...	154	Nil
1919-20	...	...	...	...	129	Nil
1920-21	...	...	...	...	122	195

The Station Service was introduced in the Department only from the 1st December 1919. The scales of pay are as follows :

General Service	Rs. 80—5—100—10—250 (Efficiency Bar at the stage of Rs. 200).
Station Service	{ At Calcutta, Rangoon, Bombay, Madras and Karachi (A Service)
	{ Rs. 70—5—160 (Efficiency Bar at the stage of Rs. 115).
	{ At any other place where adopted (B Service) Rs. 60—5—150.
	{ (Efficiency Bar at the stage of Rs. 105).

Mr. N. M. Joshi: Does not the Government see the necessity of opening more classes in Indian schools?

Colonel Sir S. D'A. Crookshank: I will inquire into that question and give the Honourable Member a reply later on.

MR. GANDHI'S CHARGES AGAINST THE GOVERNMENT.

Dr. H. S. Gour: May I ask the Honourable the Home Member to reply to my question, of which he has been supplied with notice?

Mr. President: When an Honourable Member wishes to ask a question by private notice he must submit it to the Chair as well.

Dr. H. S. Gour: May I ask for the reply, with your permission?

The Honourable Sir William Vincent: Sir, I have not seen any written question myself, but I received oral notice that I was to be asked a question as to the action, if any, the Government intended to take in regard to the recent statement made by Mr. Gandhi. The attention of the Government of India has been drawn to that statement. The Government have already made an announcement on the 6th of February which contains a full statement of their policy, and they have given a more detailed explanation of it in this Assembly. They have nothing to add to those pronouncements.

As regards the specific charges of misconduct made in Mr. Gandhi's last statement, I will have inquiries made from the Local Governments as to the truth of the allegations and I will place any information I receive at the disposal of the Honourable Member. But I must remind the Assembly that all these questions are really matters for Provincial Administrations to deal with, and many of them have, I believe, been taken up, or are being investigated by Local Governments. I would also ask the Assembly not to place too much reliance on vague statements of this kind, bearing in mind the fact that similar allegations, those, for instance, regarding the jail administration in Delhi, have proved to be without foundation. There are two particular charges, however, to which I must draw attention. One relates to the dispersal of unlawful assemblies by force, and I want to make it quite

clear that, where it is necessary to disperse unlawful assemblies and such assemblies refuse to disperse when ordered to do so by competent authority, it is the intention of the Government that, as in all other countries, they should be dispersed by force when this is necessary. In such cases force is the only remedy.

In the second place, attention is drawn in this statement of Mr. Gandhi's to the question of searches and arrests by night. The Government of India will give no undertaking that searches and arrests will not be made by night or by day, as may be found necessary.

There is one more point to which I shall refer, and that is the statement that a special form of pledge has been devised to be signed by volunteers with the deliberate purpose of keeping out all but men of approved character. I want the Assembly to bear in mind the recent tragic occurrence at Gorakhpur, where so many servants of the Crown have lost their lives, and to consider whether that is any indication that this new pledge is being kept. In my judgment, it remains for Mr. Gandhi to consider that occurrence in the light of some of the remarks which he made after the more fatal disturbances in Bombay.

UNSTARRED QUESTION AND ANSWER.

CONTROLLER OF CONTRACTS ORGANISATION.

255. **Mr. K. C. Neogy:** Will Government be pleased to state:

- (a) whether the Controller of Contracts organisation at present attached to the Quartermaster General's Branch, Army Headquarters, is a central agency set up mainly, if not wholly, for the wholesale and economical purchasing of foodstuffs, petrol oils, lubricants, mineral fuel and other miscellaneous supplies for the Army in India and abroad;
- (b) whether proposals are at present under consideration of Government for placing the above organisation on a permanent basis in view of its proved utility to Government as considerably economising expenditure of military funds on supplies arranged by it: if so, the approximate date by which the organisation will be made permanent and its exact future status, i.e., whether it will be absorbed in the Quartermaster General's Branch or will remain as a separate office directly under the control of the Commander-in-Chief;
- (c) whether it is a fact that the first Controller was an eminent businessman of Calcutta, and whether, on his relinquishing the appointment, it has throughout been and is even now held by Supply and Transport Corps Officers? If so, what are the business qualifications of each of these officers to hold the appointment?

Sir Godfrey Fell: (a) The Controller of Contracts administers a separate organisation, which is controlled directly by the Quartermaster General in India. The purpose of this organisation is as stated.

(b) The question of making this organisation permanent is at present under the consideration of Government. The future status of the Controller

of Contracts will depend upon the decision which His Majesty's Government may make regarding the recommendations of the Army in India Committee on the subject of the creation of the appointment of a Surveyor-General.

(c) The answers to the first two parts of this question are in the affirmative. As regards the third part, the senior officers of the Supply and Transport Corps have considerable experience in the purchase of supplies.

STATEMENT OF BUSINESS.

The Honourable Sir William Vincent (Home Member): Sir, may I make a statement of the legislative business to come before the House next week? On Monday, the 13th February, the following Bills, which were passed by the Council of State and laid on the table of the Assembly on the 1st of February, will be taken into consideration, and, if the Assembly so thinks fit, will, it is hoped, be passed:

- (1) A Bill to repeal certain provisions of the Criminal Law Amendment Act, 1908.
- (2) A Bill to repeal certain special enactments supplementing the ordinary criminal law.

The Report of the Select Committee on Standing Orders will probably be taken into consideration on the same date and Standing Orders, as amended by the Committee, will be passed, if approved by this Assembly.

RESOLUTION *RE*: IMPROVEMENT OF MEDICAL EDUCATION IN INDIA.

Lieut.-Col. H. A. J. Gidney (Nominated Anglo-Indian): Sir, the Resolution which stands in my name reads as follows:

'This Assembly recommends to the Governor General in Council that he be pleased to appoint a Committee of professional experts, half to be obtained from the United Kingdom in consultation with the General Medical Council, and the other half from India, to tour India and to inquire into the training that is obtained in the various Medical and Surgical institutions, both official and non-official, and to submit recommendations with a view to bringing the Indian institutions, in all respects, on a level with those of the United Kingdom and thereby creating in India a suitable field of recruitment for its entire Medical Services.'

The Resolution that I am putting before this House places me in a position of some singularity inasmuch that I have not got any medical man here to contest what I am to say. It also leads me to state my disappointment and regret that there is not a Medical Member attached to this House sitting on the Government Benches, for, I submit, in such intensely professional matters it will be much better for me to be replied to by a medical man, especially when the Indian Medical Service and the medical needs of India are very prominent before the country to-day. The Service is represented most worthily by the Member who holds this portfolio, but at the same time, Sir, in these intensely scientific subjects, it is much better that they are dealt with first-hand by a medical man. Sir, I feel I am entitled to talk with some authority on this matter, and, as such, I feel that I

should be thrusting my opinion on this House and they may think, as a professional man, what I say is correct. Sir, I speak with some authority, because I have received my training in India, in London, in Edinburgh, in Oxford and in Cambridge, in all of which places I have qualified and received my degrees. I feel I can, therefore, speak with some authority. My Resolution is the sequel of one that was moved at the last Simla Session by Mr. Subrahmanayam. Honourable Members of this House will remember that at that Session Mr. Subrahmanayam pointed out to this House a certain letter which was received from the General Medical Council, in which he showed, or tried to show, the discourtesy extended to India, as compared with the courtesy given to the English schools. This House will remember that, on that occasion, it expressed itself in no uncertain terms regarding this Resolution. The General Medical Council, no doubt, was informed of this and they acted in a very wise manner insomuch that they have extended their grace regarding the affiliation of Indian Universities and graduates, to a longer period than they had intended doing. To place themselves in a more secure position and to justify this extension of grace, they have taken it upon themselves to send out a representative, named Dr. Norman Walker. Now, it will be necessary to know what Dr. Norman Walker is going to do or why he is coming out. I believe I am right in thinking (but I am open to correction) that Dr. Norman Walker has come out in consultation with the Government of India. I do not know whether the provincial Governments have been consulted in this matter. I am told that he left England on the 13th of last month and should be here now or will shortly be in India.

To Dr. Norman Walker's staff is to be appointed one of the most capable officers of the Indian Medical Service to help him—I refer to Colonel Needham who is the Deputy Director General of the Indian Medical Service—and, when he tours each province, he is to be aided by, I believe, two or three non-official Medical members. His intention, I understood, at first was to inquire into our defective system of midwifery training, but I have since learnt that his inquiry will embrace a larger field, inasmuch as he will find out the various rules which govern our institutions, with a view to placing before the General Medical Council his opinion as to whether our schools should or should not continue to be affiliated by the General Medical Council in England. I believe that is correct. Now, the Committee that I propose in this Resolution goes many steps further. It is to inquire into all our medical needs and the object is to advise the various Governments regarding the defects in their medical training with a view to bringing them up to equality with the best in Europe. Before I go further into this matter, it is perhaps necessary for me to enter into some little detail as to the training that is at present given to medical students in the Indian Universities and Colleges. I make one exception, and that is Madras, for, I believe, that Madras stands *par excellence* about the best medical institution in India, so far as medical training is concerned. The training of our students devolves on two sets of tutors or teachers or professors. The first is the Indian Medical Service and the other is the tutorial staff consisting mainly of Assistant Surgeons or those who have qualified in the Indian Universities. There is no doubt it is the current belief that most of these professorial appointments, or the best of them, are held and retained by the Indian Medical Service officers. I offer no arguments for or against the

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justice or wisdom of this retention, but I believe that is the current opinion in India. At the same time, I must admit that the selection for these appointments amongst the Indian Medical Service is not always of the best; I mean by this that it does not always depend entirely on merit. These Professors devote an hour or two daily to the training of the students, a few hours to their hospital work and the rest of the time is, I believe (and very rightly so, as I did myself) devoted to maintaining a lucrative private practice. Now, it is well known that most of the members of the Indian Medical Service, to which I belonged, are birds of passage. The result is that the preliminary, and in some cases more than the preliminary, training devolves on the second class of teachers, viz., Assistant Surgeons. I call them Assistant Surgeons, because they generally are of the M. B., B. S. or the L. M. S. type and enter that service in Government. They are young, inexperienced, and newly-fledged doctors, who, for their own benefit and their own experience, keep on for a year or two, and in some cases longer, on the residential staffs of our various hospitals. They are very rarely, if ever, permanent men. I must, at the same time, admit that there are a few good professorial chairs given to Indian Medical men. Bombay is an example of this. But, at the same time, there is no doubt a feeling that these appointments are few and far between. Now, what is the result of this training? Our graduates are imperfectly trained compared to the European schools and graduates. They are absolutely devoid, or to a large extent devoid, of any national medical pride. Those wishing to succeed in life and to improve their knowledge are compelled to go to Europe, to England, to the Continent: some go to America and even to Japan. When they return, they look down on their own Indian degrees, and yet India offers the finer field for practical work than any other part of the world. It may surprise this House to know that Indian students who wish to qualify or obtain a degree in ophthalmic surgery (a disease which abounds in India, to which specialists from all parts of the world come to gather experience), ears, throat, teeth, etc., have perforce to go to Europe to acquire this so-called special knowledge.

Our poorer and most brilliant students are therefore penalized, and they have to remain in the background for want of funds to enable them to go to England. It may be pertinent here to ask: 'Why should these brilliant students in India be so penalized, and those who wish to get on in this world be forced to go to England to spend their parent's hard-earned money when India offers the best field, provided efficient training were imparted to them? Why should this be so? I submit, with all respect to those in charge of our various Hospitals in India, that there is a want of skilled staff, which results in deficient and defective training and which in its turn is partly attributable to a parsimonious Government. The Indians, rightly or wrongly, say that, owing to the official monopoly, our institutions are defective, though the staff are very keen indeed in improving things. There is another factor which plays an important part in this defective training, viz., the inferior type of Indian Medical Service men who are coming out to India to-day. The Indian Medical Service was once the most brilliant Service in any part of the world. It consisted of a band of devoted men who gave their lives to this country, and who have made their names in the various branches of research work. The Indian Medical Service at-

tracted the cream of the European schools: to-day it attracts the skimmed milk or the whey, and men of a distinctly inferior professional type, I believe, are now coming out. That applies to the men who are recruited from England. Now let me refer to the men who are *nominated* (not by examination) now in India, the Indians. Before I refer to them, I should like to say something more about the Indian Medical Service. I say that the best of the English schools will not come out to India for various reasons, *viz.*, India, they see now, is not good enough; they realise the unsettled state of the country; the economic conditions press them very heavily; the Service is unattractive to them, and there is not the faintest doubt that the racial feeling which exists to-day is playing a big part in preventing them from coming out. Similar reasons apply to the paucity and inferiority of the other services in India—the Indian Civil Service, the Army, and even, I believe, the Women's Medical Service.

I now come to the Indians. The best Indians of our Universities will not look at the Indian Medical Service, because they can do better in private practice. They say, and very rightly say, that the plums are reserved, not for them but for the Europeans. There is too much colour prejudice and official influence at work; but, whilst on this point, I must make a digression and offer my tribute of gratitude and acknowledgment to the present Director-General of the Indian Medical Service, Sir W. R. Edwards, who, I know, has got the Indian interests deeply and truly at heart.

Let me continue. There is too much of the European hall-mark and the European-trained *versus* the country-born and the Indian-trained at work in official circles. This even applies to our Nurses to-day. Another handicap is this: we cannot go to England, because the European schools are so congested that it is difficult for the Indian to secure admission. I do not think that what I have said here can be refuted in principle. I challenge the Government to do so. Now, who are the sufferers in these conditions? Our hospitals, our students, our graduates, and the women and children of this country whose high mortality still confronts us with awe. Let me now make a mental leap from my Medical Committee to the Reforms. The ultimate goal that we aim at in India to-day is *Swaraj*. To attain this, I submit, we must prepare the ground so far as our medical needs are concerned. Are we doing so to-day? I say emphatically 'No', for there is no national medical pride existing in our institutions, no unification of medical degrees; there is no one—or very few—who is proud of his Indian M. D. or other degrees. It is for this reason mainly that I regret that medicine and the medical administration of this country has been made a transferred provincial subject. I submit that it should have been retained as an Imperial reserved subject, for we might then have got our own Indian General Medical Council. I want to change all this; I want to inculcate some national medical pride; I want to put our house in order, to raise the standard of medical training and make it equal to the very best in Europe; to demand equal recognition by deserving before desiring; to improve our training and to get the best staff possible; to kill the European hall-mark and all these distinctions that stand in our way; to supply our own medical men for the entire medical services, including the army and civil; to make the Service more popular; to have it a first class Service and open to the best men in the world; to recruit freely in India, instead of depending on other countries for our medical men; and to be independent like other Dominion States, to let

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others come to us, not we to them. To shake off the control of the General Medical Council; and to have our own General Medical Council. Such is the *Nirvana* that I am trying to portray; such is the medical *swaraj* that I am trying to put before you to obtain for India and which, I submit, will be obtained by accepting my Resolution.

There is no use saying with one breath, 'We want *swaraj*', and in the next, 'borrow our medical needs from other countries'. Can we obtain this *Nirvana* with the present system which is in force in India? I say emphatically 'No'. It is impossible with the present type of medical men who are coming to India. It merely results in inferior training at the hospitals, when compared with the European schools.

Now, what is the remedy? Appoint a Committee to thoroughly investigate and level up all Hospitals in India and make them the equal of the best in Europe. I am indifferent as to its national constitution, but it must be the very best obtainable and must consist of experts, both European and Indian. Let it tour all important places in India—Calcutta, Bengal, Lahore, Madras—inquiry into our present day training and draft out remedies, however drastic they may be. Of course, it must be admitted that, for a few years to come, we shall have to employ medical experts and specialists from abroad.

What is the constitution of my Committee? Three experts from Europe and three from India, in Medicine, Surgery and Midwifery, with power to co-opt experts in specialistic subjects. Let me compare my Committee with the Committee of Inquiry suggested by the General Medical Council and supported by the Government of India, with its solitary representative on it from the General Medical Council, who, I may *en passant* say, is an eminent Dermatologist, and which will tour the various parts of India receiving the local help of two or three officials and non-official medical men. Can India's legitimate and pressing medical needs be remedied by a skin specialist, however eminent he may be? Do we want our skins improved? If he, as a skilled Dermatologist, removes the cursed colour bar, I, for one, would gradually welcome him to my Committee, for nothing is more needed in India to-day than the complete and final eradication of this cursed colour bar and distinction. To my mind, the two Committees I have put before you are not comparable.

Now, it might be said here that this Committee of mine will interfere very seriously with the provincial Governments. I say that it will not. This interference with provincial Governments is a much hackneyed excuse, conveniently put up on occasions by the Government of India to suit its own convenience. I have no desire to interfere in Provincial Governments with my Committee, but I object to such pious objections and such efforts of platonic homage rendered to provincial sensitiveness. My Committee will not interfere with any provincial Government more than will Dr. Norman Walker and his Committee. Let me ask: Is not the Government of India, the adviser of all provincial Governments? Is not the Legislative Assembly representative of all the provinces? Do we not represent the people of India, and do not the people of India form the various provinces? Of course they do.

I am not out to interfere with or thwart the medical progress in Provinces. I say my Committee is out to help, not to thwart them.

I am not actuated by impertinent curiosity or interference; so, why should the provincial Governments, if they are genuinely desirous of improving their own schools, object to my Resolution or to the Committee? Why should we anticipate that they will say: 'Mind your own business, we will mind ours.' I will no doubt be told that by my Committee I will be poking my nose into provincial hospitals and their working. Well, if I am poking my nose into their affairs, is not Dr. Walker doing the same thing with his Committee, the only difference being that I will be poking more noses than he, possibly much better and more penetrating noses than he? I submit, with all respect, that provincial Governments cannot and should not object to the Committee that I propose in my Resolution. Let me now refer to the expense involved in my Committee: I submit this will be only three times the amount the Finance Committee has already sanctioned for Dr. Walker's Committee, but the greater expense will be more than compensated for by the greater gain. With Dr. Walker we will derive partial gain, whereas with my Committee we will derive more gain and will thoroughly inquire into all the branches of our medical training, and, as you know, the whole is always greater than the part. I repeat, this solitary representative of the General Medical Council cannot possibly be an expert on all our medical needs.

We do not want to improve in midwifery only, as suggested by my Honourable friend, Sir Deva Prasad Sarvadhikary, but in all subjects which, in many cases, are perfunctorily taught in our schools for want of an efficient training staff, and which will be felt more and more as the years go by. We are often told, and no doubt Dr. Walker will repeat it, 'wait a little longer, when there will be more men and better men coming into the Indian Medical Service from England.' I do not believe this for a single moment, and I ask this Honourable House to accept this from me. You may take it from me—and I ask you, with all respect, to do so—that the Indian Medical Service, so far as England as a recruiting ground is concerned, is *absolutely* dead, a past history and a past glory.' We must, therefore, look for our future men from and in India, and now is the time to put our schools in order, so that within a few years they will be able to supply our entire medical needs. If I had the choice, I would say that I would rather have the best from India than the mediocres from Europe. India to-day demands of the very best. She must have that. She cannot supply it herself to-day, but I want her to supply it within a few years. She must do so. My Resolution asks and seeks for this, nothing more and nothing less. In support, Sir, may I be permitted to read just a few extracts from the debate which was held in the Imperial Legislative Council in 1918 upon the Resolution moved by the Right Honourable Srinivasa Sastri on the Civil Medical Services. Most of these extracts support what I have said here, some reflexly, others directly. The Honourable the Home Member, when he entered into that discussion, said as follows:

'Further, nearly all the officers of the Indian Medical Service possess English degrees and have been trained in England in specialist and practical work, which officers trained in India are generally unable to obtain'—*and mark this point*—'not through any fault of their own, but simply as the result of local conditions.'

The Honourable Pandit Madan Mohan Malaviya in talking on the same Resolution said as follows:

'We are not blind to the fact that in this country we have not got those medical institutions as you have in England. But I ask you to consider whether the non-existence of these institutions is not the result of the present system of recruiting the Indian Medical Service? So long as you will not look for the recruitment of this

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Service in India, you will not get institutions where the highest education can be imparted. I consider it a matter of regret and of reproach to India that, while it has had such a large number of medical experts and distinguished medical men in its service, there should not be one first-class institution where the higher training could be imparted, and that it should be possible to urge that the absence of these institutions constitutes a difficulty in the way of employing Indians in the higher ranks of the Service.'

Further on, he remarks:

'The real feeling is that medical science should become more nationalised, that the results of medical researches and the advantages accruing from a knowledge of medical science should be retained in India; they should be scattered more broadcast in the country, that they should go down among the people in a larger degree than is possible under present conditions. It is towards that end that it is suggested that a separate Civil Medical Service should be constituted. It is in the interests of humanity that it should be so constituted. Where our existing institutions are deficient, let provision be made for improving them up to the highest standard. Let it be open to Indians as much in practice as it is in theory to obtain a fair share of appointments in the Indian Medical Service, if they prove their merit and worth.'

I have but a few more extracts left. The Right Honourable Srinivasa Sastri, in summing up and in reply to a question put by the Honourable Sir William Vincent, said:

'I think it has actually been proposed—it came out abundantly in the evidence—that an Indian, before being admitted to this examination, should be compelled to undergo a hospital course in England. Some fix it at one year, some fix it at a year and a half, and some fix it at two years. That, it seems to me, is not according us free admission, nor contemplating with equanimity the results of the free admission. Let it be remembered, too, it is becoming increasingly difficult for us to gain admission into any place of technical training in England.'

Further on, he says:

'It will, at all events, place within the reach of those who want the advancement of this country the services of a body of people who will be patriotic, who after their pensions will remain in India and give the benefit of their matured wisdom to the service of this land.'

The Honourable Surgeon General Sir William Edwards, the Director General of the Indian Medical Service, when speaking on this Resolution, said:

'I will not weary the Council by speaking further on this point, but before touching on the second part of this Resolution, I think it my duty to inform this Council that there is every reason to fear that the Indian Medical Service, unless its conditions are greatly improved, will cease to attract medical men of the highest attainments, either British or Indian. It must, therefore, be mended or ended, and I unhesitatingly maintain that, in the interests of India, the former is the wiser course.'

Truer words were never uttered by any officer in charge of the Service. That statement was made in 1918, four years ago. The question is, has it been mended?

With these few remarks, Sir, I place my Resolution before this House for their consideration, hoping that they will consider it from the various aspects which I have placed before them, and I trust that they will receive it with approval.

The Honourable Mian Sir Muhammad Shafi (Education Member): Sir, the deep interest which my Honourable friend, Colonel Gidney, takes in the cause of medical education in this country is, in his case, perfectly

natural, and I am sure Honourable Members will agree with me that, in bringing forward this Resolution, he is actuated by the best of intentions. At the same time, from the various schemes of Indianisation of our Imperial services, many of which have already been adopted and others are in the course of formulation, as well as from the institution of examinations in this country for the purposes of recruitment to those services, Honourable Members will realise that the Government of India are in entire sympathy with the ultimate object which the Honourable Mover has in view.

The question which arises upon this Resolution, therefore, is not one of principle, for in respect of principle we are all in agreement. The question at issue is really one of method, and, in offering the few observations which I intend to make upon this Resolution, I propose to confine myself to that question—that is to say, the question of method.

Sir, it is quite true that the Member in charge of Education in the Government of India is not a medical expert, but the question before the House is not one of a scientific medical proposition with reference to which different medical schools hold different opinions. The question is one upon which, I venture to submit, every Member of this House, be he an expert in medicine or not, is in a position to pronounce a definite opinion.

Sir, a careful analysis of the Resolution moved by my Honourable friend will make it clear to Honourable Members that the proposal put
12 Noon. forward by him is divisible into three parts. In the first place, there is the proposal for the appointment of a Committee and the constitution of that Committee. There is, in the second place, the nature of the inquiry which this Committee is intended to make; and there is, in the third place, the ultimate object with which that inquiry is to be undertaken. Now, I propose to deal with these three aspects of the proposal embodied in this Resolution separately, in order to show that, while I am in entire sympathy with the object which my Honourable friend has in view, the method proposed by him is entirely misconceived.

Sir, the Honourable Member has referred to what happened in Simla in the September Session. Honourable Members will remember that, during the summer of 1921, the General Medical Council, being very anxious that practical training in Midwifery both in England and in India should be brought up to the requisite standard, took certain action in connection with the training which is being imparted in this country. As I emphasised on that occasion, that action was not based upon any racial or political considerations and was taken by the General Medical Council in the discharge of the statutory obligations which rested upon their shoulders under a Statute passed by the British Parliament. Well, Sir, in connection with the action which was then contemplated by the General Medical Council, a debate took place in this House in its Simla Session, and a certain Resolution, to which I need not refer in detail, was adopted. That Resolution was communicated by the Government of India to the Secretary of State and by the Secretary of State to the General Medical Council. Honourable Members are aware that in response to what was urged by this House and the Government of India, the General Medical Council have postponed the carrying into effect of that Resolution and have sent out Dr. Norman Walker to make inquiries on the spot as to the exact position with regard

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to medical education in this country. As the Honourable the Mover has informed the House, the Government of India have on their own behalf associated Colonel Needham with Dr. Norman Walker in this inquiry, and the proposal is that, when these two gentlemen tour about all over the country, in each Province they will have co-opted with them in their inquiry one official and two non-official medical representatives. It will thus be seen that, in this inquiry, which is about to be inaugurated—I may inform the House that Dr. Norman Walker is already in Delhi and he proposes to address those Members of the two Houses who will be present at the gathering to-morrow upon the nature of the inquiry he has come out to make and upon other matters connected with the subject-matter of this Resolution—well, Sir, we shall have a representative of the General Medical Council, a representative of the Government of India, an official representative of the Provincial Government—meaning one official representative of the Minister—and two non-official medical experts in each Province representing the profession. In these circumstances, I ask: Is it at all necessary, would it not be entirely superfluous on the part of the Governor General in Council, to appoint another Committee of Inquiry, which also is to tour about the country for the purposes mentioned in this Resolution? It seems to me that the proposition, as I have put it, has only to be stated in order that it should be readily accepted by this House.

Again, my Honourable friend himself has admitted that the expenditure involved in the inquiry which he advocates will be, according to him, three times as much as the expenditure involved in Dr. Norman Walker's inquiry. I was not aware that the Government of India were possessed of a superfluity of funds which they could spend on this inquiry and that inquiry. Indeed, we are face to face with a financial stringency unparalleled in the past history of India, and, in these circumstances, when we have an inquiry already actually, practically, going on, or at any rate soon to be commenced in circumstances which I have already explained, does our financial position justify the acceptance by this House of a Resolution involving an expensive inquiry of the kind which my Honourable friend has proposed in this Resolution?

The next point which I wish to place before the House for its consideration is this: What is the nature of the inquiry which the Resolution contemplates? Now, let me invite your attention to the exact wording of the Resolution in this connection. This is how the Resolution runs:

'to inquire into the training that is obtained in the various Medical and Surgical institutions, both official and non-official, and to submit recommendations with a view to bringing the Indian institutions, in all respects, on a level with those of the United Kingdom.'

Now, Honourable Members are aware that, in the new state of things which has been brought into existence by the Reforms Scheme, University education, including medical education, is a transferred provincial subject. What the Resolution asks the Governor General in Council to do is this: to appoint a Committee to inquire into a branch of University education in the provinces when the administration of that subject has been transferred into the hands of Ministers, elected representatives of the people who, in

the discharge of their responsibilities, are answerable to the Provincial Legislative Councils. The latest theory, I understood, was that the Universities ought to be given more and more of an autonomous character in the discharge of their duties, and it seems to me that one of the fundamental principles for the successful working of the Reform Scheme which we, this House as well as the Governor General in Council, have to bear in mind is non-interference with the administration of subjects which, under the Government of India Act, are now transferred provincial subjects. Sir, there may be, and possibly there is, a good deal of truth in what Colonel Gidney has said with regard to the actual state of things obtaining in our educational institutions in the provinces in so far as medical training is concerned. But Colonel Gidney has misconceived the place in which such a proposition ought to be discussed. I am sure my Honourable friends here who represent the Madras Presidency will not be prepared to admit the correctness of any criticism which has been made by my Honourable friend with regard to medical education in their province.

Lieut.-Col. H. A. J. Gidney: I made an exception with regard to Madras.

The Honourable Mian Sir Muhammad Shafi: And I doubt very much, I doubt very much indeed, if the representatives of the Presidency of Bengal, and particularly if amongst them there are any who are Fellows of the Calcutta University, will be prepared to admit that the criticism made by my Honourable friend applies to medical education in that Presidency. Indeed, my recollection is that, when the Resolution with regard to the action which the British Medical Council proposed to take last year was discussed in the Simla Session, loud protests were heard from the Bengal Benches against what was said by my Honourable friend himself with regard to the defects in medical training and medical education in this country. As regards the other provinces, the criticism made by him may be partially or even wholly justified. I do not think it necessary to enter into a discussion of that. But it is the provincial Legislative Councils of those provinces in which medical education is defective which constitute the proper place where such a discussion as this ought to be raised, so that the attention of the Ministers who are in charge of education in those provinces may be invited to the defects obtaining in those systems, with the object which my Honourable friend has in view. That, I submit, is the proper procedure to be adopted in a case like this, and I would earnestly request this House not to accept a Resolution which is calculated to drive a coach-and-four through this sound constitutional principle.

Then, the ultimate object which my Honourable friend has in view, in connection with the inquiry which he has proposed, is embodied in the last words of the Resolution. He seeks to create in India a suitable field of recruitment for its '*entire Medical Services*.' Now, here again I am in entire sympathy with the ultimate object which my Honourable friend has in view. But I would invite the attention of the House to the phrase '*entire Medical Services*'. That phrase includes not only the Indian Medical Service, but it also includes the Provincial Medical Service and the Subordinate Medical Service. Here again the same constitutional objection arises. In regard to the Provincial Medical Service and the Subordinate Medical Service the Governor General has no power whatever, in the conditions which have been brought into existence by the Reform Scheme, to interfere. Those are concerns of the provincial Governments,

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exclusively the concerns of the Ministers in the new state of things. It is only the Indian Medical Service which is the concern of the Governor General in Council. Now, with regard to the Indian Medical Service I have one or two observations to make. Our proposals with regard to this Service are now before the Secretary of State, and no orders have yet been passed by the Secretary of State in connection with those proposals. A discussion, therefore, of what the position will be when those orders are passed is now premature. After the Secretary of State has passed his orders, if still a discussion is necessary, that will be the proper time for such a discussion. Moreover, I would like to mention to the House that the question of passing an All-India Medical Registration Act is now under the consideration of the Government of India. And should we, after consulting the Local Governments, be in a position to place before this House an All-India Medical Registration Bill, the next question that will arise will be the constitution of a General Medical Council in India, and in consequence, it seems to me that it is, at this moment, both premature as well as inadvisable to discuss the question raised by my Honourable friend in regard to the Indian Medical Service. On all these grounds, therefore, I appeal to my Honourable friend to withdraw his Resolution, and, in case he insists on a Division, I ask the House to reject the Resolution, not on the ground that the principle involved is one with which the House should not be in sympathy or that the ultimate object is such that the House should pronounce against the Resolution, but on the ground that the remedy placed before the House by my Honourable friend is entirely misconceived.

Rai Bahadur S. P. Bajpai (Lucknow Division: Non-Muhammadan Rural): Sir, in view of the statement made by the Honourable Mian Sir Muhammad Shafi, I beg to withdraw my amendment*.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, the angelic rigidity with which Colonel Gidney has chosen to circumscribe himself makes it difficult for us to rush in where he has not feared to tread. I have been trying to find out what super-scientific expert knowledge is necessary to take up his challenge and have failed, for he is fairly intelligible to the laymen. However, I agree with him it is unfortunate that there are no more medical Members, for their ancestors established the British Indian Empire. If, Sir, the next best title were any good, I should urge some on my own behalf. Not only as one who has watched medical education with the keenest possible interest all one's public life, but as one who is the son of a doctor, the brother of doctors and hopes to be the father of a doctor (Laughter), I have some claim, and I admit the need of improvement, for our methods are anything but perfect. My amendment shows, Sir, that I do not agree with the Honourable Mian Sir Muhammad Shafi in his position that there is no occasion for an inquiry. An inquiry, on the other hand, has been forced on us. An inquiry has been undertaken and that inquiry will not be fully satisfactory. The assent to that inquiry, however, shows that there is not really very much in the constitutional position that the Honourable the Education Member seeks to take

* For the Resolution substitute the following :

'This Assembly recommends to the Governor General in Council that he may be pleased to take early steps to bring the Indian medical institutions on a level with those of the United Kingdom and thereby create adequate facilities for the entire recruitment to Indian Medical Services in India.'

up, and I believe central advice and central financing in these matters would be useful and acceptable. I must take exception, however, to the sweeping nature of the inquiry that the Resolution seeks to attain. Representing Bengal and as a Fellow of the Calcutta University, I have no desire to claim perfection on behalf of our medical teaching, for with more resources we can and should do more. It is common knowledge, however, that the Medical Colleges of Bengal and the infant Belgachia College, that has come into existence during the last few years, have, in spite of a tremendous handicap, achieved wonders. I do claim also that the Lahore and Bombay Medical Colleges have done work of which any medical institution similarly situate might be proud.

We are on insecure ground on the question of Midwifery. In September last, the Assembly took up the question and the Resolution here was of great assistance in putting off the evil day. Before the Assembly moved in the matter, the Lytton Committee had taken it up in London and pressed upon the authorities the utter undesirability of interfering with our medical graduates in the way that they proposed to do, because, among other things, one of the surest things that would happen would be agitation for retaliation of a kind that would not be desirable. That representation of the Lytton Committee had some effect on the authorities and they agreed to pause. The Secretary of State also had already taken up the matter and the Resolution of this Assembly was of great assistance in bringing about the inquiry that is represented by Dr. Norman Walker. There were some rather ominous words in Colonel Gidney's speech that I did not understand. Colonel Needham has been deputed, he said, to be on the *staff* of Dr. Norman Walker. Well, if that is not so, the official Member who will follow me will probably correct Colonel Gidney or me, for I believe Colonel Needham is, and should be, one of the Commission, and not a member of the staff.

The Honourable Mian Sir Muhammad Shafi: Sir, may I be permitted to make the position clear? I think I stated that Colonel Needham is being associated on behalf of the Government of India with Dr. Norman Walker in that inquiry as a colleague.

Sir Deva Prasad Sarvadhikary: And not as a member of the staff. I am glad to have that assurance, because a great deal may depend upon that, and the position of the provincial associates will also depend upon what Colonel Needham's position on the Commission or Committee may be. Sir, Colonel Gidney has chosen to say, and he may have good reasons for saying, what the General Council of Medical Education in England has not yet thought fit or dared to say with regard to the whole of our medical training. He has said that which the Sadler Commission, which went as far as possible into the question, has not thought necessary or fit to say. The expression of disapproval of the General Council of Medical Education is not with reference to training and teaching in subjects other than midwifery. Midwifery is the only sore point, as far as one knows, with the Council in England, and that is the point with which, I think, we need trouble ourselves for present purposes, and my amendment is directed towards that.

There also I do not admit that the General Council of Medical Education in England occupies a strong position. Nor do I admit that, in the action that they are taking, they have been actuated only by a sense of statutory

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obligations. The statutory obligations, Sir, have been always there. How is it that, only within the last few years, they have been troubled with considerations like these and found it necessary to threaten withdrawal of recognition of Indian graduates. There would not really be very much the matter with regard to the exclusively Indian position if the threatened withdrawal of recognition came, particularly if the scheme for the Indianization of the services is given early effect to as it ought to be. If the inquiry, to which the Honourable Mian Sir Muhammad Shafi has referred, for a general All-India Medical Registration Act and the scheme for the formation of an Indian Medical Council fructifies, I do not think it will really matter from this exclusive point of view whether the General Council of the Medical Education in England continues to recognise our graduates or not. But I am sure we do not want to be and cannot in these days afford to be exclusive, insular or isolated. Moreover, there will be some outstanding matters in regard to which we shall still be dependent upon Great Britain particularly with regard to admission to institutions like the Schools of Tropical Medicine, and examinations for the Diplomas of Public Health and other things about which Indian students are naturally keen in England. Unless you are registered on the British register, you cannot be admitted to the Tropical School of Medicine or to the examination for the Diploma of Health and some other Diplomas.

Regarding the Indian Medical Service, we hope, Sir, that we shall very soon achieve all or at least much that we want. So long as that, however, does not come, we are interested in proving to the General Council of Medical Education in England that they are entirely under a misapprehension with regard to the training and teaching here, and I propose to go into the matter a little in detail and show why, if there is to be an inquiry, it ought to be confined to the teaching and training in Midwifery, and need not be of the comprehensive type that Colonel Gidney suggests. It is not the difficulty about the statutory obligations that made the General Council of Medical Education take up the matter so much as the objection of some amiable gentlemen in the Indian Medical Service, who were super-anxious about the efficiency of our training here. The first suggestion, as far as I have been able to find out, about the defective midwifery training was put forward before the Public Services Commission in 1913. Various members of that Service gave evidence before that Commission. They were not very happy that Indian Medical graduates got into the Indian Medical Service within a short time of their arrival in England, as if the Universities and the institutions there could not take care of themselves, they thought it necessary to suggest a time-limit. A sort of incubation was insisted on, and an Indian Medical graduate would have to be there for one, two or three years before he could be permitted to show what he was able to do in examinations and hospitals. Time will not permit me to go into details. Colonel Smith of the Punjab, Colonel Rogers of Bengal and Colonel Elliot of Madras gave their evidence and supported this point of view. They, however, did not succeed, so far as the Public Services Commission was concerned, and Mr. Abdur Rahim's note settled the matter. When they failed with the Public Services Commission, they took their second step. It was a sort of trench warfare that has been going on since 1913. The next trench was the British Medical Association in 1918. They waited in deputation on the Secretary of State and the whole tale of woe about midwifery inefficiency was again laid bare. The Secretary of State reminded the deputation that the Public Services

Commission had gone into the matter very thoroughly and had not supported their case. However, he said:

'I agree that the training must be acquired in this country, but I look forward with confidence to the time when India itself will provide facilities for an all-round medical training.'

That is what Colonel Gidney undoubtedly also aims at, and that, I think, can be achieved without the comprehensive inquiry that he is wanting to have instituted. I need not quote at length what the Secretary of State said on the occasion, but it was fairly decisive. Then came, Sir, the Medical Services Committee in 1919—a sort of *pardah* or *semi-pardah* commission. It did not take the public into its confidence in its inquiries and took upon itself to say this:

'It is impossible to obtain in Indian Medical Colleges complete instruction in gynaecology, obstetrics and diseases of children.'

It confined itself practically to this, and went on to say something about ear, nose and throat surgery, advanced X-ray therapeutics and electro-therapeutics—very important but not by any means essential matters for general medical training. There the matter was allowed to rest. Indian Medical Service officers have kept up the agitation more or less, and the General Council of Medical Education in England sent out an ultimatum to the Indian Universities that, unless they mended their ways, withdrawal of recognition would come. That is what made the Secretary of State as well as the Lytton Committee, as I have told the House, take up the matter with the Council of Medical Education, and the Secretary of State agreed that a representative of that Council should come out to this country and investigate matters for the Council, and that he would be prepared to afford facilities such as have been indicated by the Honourable Mian Sir Muhammad Shafi.

Here again, Sir, a grave doubt arises as to what is intended to be done. Dr. Norman Walker will tell us to-morrow what his inquiry will be. We shall not anticipate him. But what we are concerned with is training in midwifery. As has been pointed out, that is not Dr. Walker's subject, nor do I believe is it Colonel Needham's, and, therefore, whatever this Commission may be able to say or do—unless it is very strongly supplemented in the Midwifery side in the provinces—may not be acceptable to the General Council of Medical Education in England. Supposing Dr. Norman Walker's inquiry is, however, no more than what I may, for our present purpose, call administrative; if he is going to do what the Registrar of a University would, under normal conditions, do, *viz.*, take the regulations and see how far they can be complied with in the Indian colleges and schools and report to the Medical Council that these regulations cannot be complied with—there will be greater difficulty in the situation. It, therefore, becomes obligatory upon us that the inquiry should be specially directed towards what the Medical Council in England has been considering as defective and we must show what can be done by co-ordination and supplementing of our resources. From that point of view, my amendment would be necessary, that is to say, if Colonel Gidney, in response to the appeal of the Honourable the Education Member, does not withdraw his Resolution. For myself, I should not be very unhappy if the Resolution is withdrawn, and with it my amendment. I submit, however, that the scope of the inquiry

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ought to be limited in the way that I have described in my amendment, namely, that it should be an inquiry by a Committee,

'consisting of representatives of each of the Medical Colleges affiliated to Indian Universities and of the Government of India inquiring into and suggesting improvements (in conjunction and consultation if necessary with the nominee of the General Council of Medical Education proposed to be sent out for the purpose.)'

—this had been drafted and sent, Sir, before Dr. Norman Walker had arrived—

'for teaching Midwifery in Indian Medical Colleges by means of inter-University practical training on lines prevailing in Europe and otherwise.'

I need not go into a variety of details that might be urged in support of the position that what the Council in England says is not tenable. It is no use doing that in this Assembly, and, if there is to be an inquiry, all the details may usefully be placed before that Committee.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadian Rural): I oppose the Resolution and also the amendment that is proposed. An inquiry into any institution or any concerned presupposes a belief that something is wrong. Unless the House comes to the *prima facie* conclusion that there is something wrong in the medical instruction in the colleges of India, I do not think that the House will be justified in according its assent to an inquiry of the kind suggested in the Resolution or in the amendment. Now, Sir, this question of medical education was the subject of discussion in the last Simla Session, and now, as a result of that discussion, we have a gentleman coming out to make the necessary inquiries. I think that it would be very wise on our part to await the results of the inquiry made by this gentleman and those associated with him, and then see whether it is necessary that we should go further and investigate the conditions of the medical institutions in India. Over and above all this, there is the question of cost, and the question of cost is a matter which we ought always to keep in mind. Of course, if the anticipated results are such as to outweigh the considerations of cost, if we are assured that the matter is one of great need and an inquiry would result in bettering our conditions, then possibly the question of cost might be put aside. After what we have heard from Sir Muhammad Shafi and considering the really important position which the Reform Scheme has given to the Local Governments and to the Ministers, an inquiry of this sort, started from here, I think is inadvisable, and, therefore, I would ask the House to reject the Resolution, and, as Sir Deva Prasad Sarvadhikary has said that he will be quite content to withdraw his amendment and await further developments, I think the House will be wise in rejecting both.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadian): I confess with the majority of the laymen in this House that we are perhaps not qualified to speak on a subject purely medical, but, as the Honourable Member for Education has pointed out, this is not a question which deals with the technical aspect of medical education, and my further justification for speaking on this subject is that I have received a clear passport from the Honourable Mover of this Resolution. I think that all Members of this House will sympathise with the principle underlying the Resolution, but I cannot accord my support either to the Resolution or to the amendment

moved by Dr. Sarvadhikary. As it has been said from the Government Benches that this is a question which appertains to the provincial Governments, I beg to draw the attention of the Honourable Member for Education to the fact that the constitution of the Walker Committee is the best refutation of the plea that the matter is not within the jurisdiction of the Central Government, and, if that had been the sole obstacle to the inquiry proposed, I submit that the Members of this House would not regard it as insuperable. But there are other and more weighty objections. As my friend, Mr. Subrahmanayam, has pointed out, the question of cost is the main objection to the carrying into effect of this proposal. The Honourable the Education Member tells us that a Committee has already been appointed to inquire into the condition and state of medical education in this country. But, from what has fallen from the Honourable Mover of the amendment, Dr. Sarvadhikary, I feel that the scope of the inquiry to be made by the Walker Committee would be necessarily limited. Dr. Walker comes as a delegate from the British Medical Council. He is, no doubt, to be associated in this inquiry with a representative of the Government of India, but I think that the primary object of the inquiry directed by the General Medical Council in England is to submit a report to that body as to the condition of teaching in the medical colleges in this country. If that be the sole object, and it appears to be the sole object, then, I submit, the inquiry ordered by the Secretary of State is not a substitute for the inquiry proposed in the original Resolution. If the Government Benches can assure the House that the scope of this inquiry will be enlarged so as to cover the ground proposed by the Honourable Mover of the Resolution, it will give us great satisfaction. Will the Walker-Needham inquiry be made generally into the condition of medical education in this country? Will it suggest improvements in the matter of medical education with a view to make it possible that persons for the Indian Medical Services would be trained in this country? Would it, for instance, examine the condition of other departments besides that relating to midwifery? The Honourable Mover of this Resolution made a pointed reference to Dr. Norman Walker and said that he was an eminent dermatologist, and he pointed out that a dermatologist is not necessarily qualified to conduct an inquiry of the nature suggested by him. To this my friend, the Honourable Mian Sir Muhammad Shafi, vouchsafed no reply. He told us, no doubt, in an extremely ambiguous way, that some meeting of the combined Chambers was to take place to-morrow.

The Honourable Mian Sir Muhammad Shafi: I said I understood that there will be held a meeting to-morrow to which Members of the two Chambers have been invited.

Dr. H. S. Gour: We are told that a meeting will take place to-morrow. I was inquiring from my neighbouring friends as to when and where this meeting is to take place and they say they are in as much obscurity about the time and the place and the nature of the meeting as myself. I hope that, when there is this meeting, the Honourable Member in charge of this Committee will be able to assure the Members of this House that the inquiry will be on the general lines indicated in this debate and that it will eventually result in the improvement we want in the medical education of this country. If this is assured, I have no doubt the Honourable Mover of this Resolution would be satisfied, but, if this is not assured, then the only thing we can say is, we shall await the result of this inquiry and revive the agitation launched by the Mover of this Resolution for the improvement of medical education in this country.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I had no intention to participate in the debate over this subject, but, after listening to my Honourable friend, Rao Bahadur C. S. Subrahmanayam, I thought I might usefully add a word or two to the debate that is going on. Now, Sir, I agree with the Honourable Member for Education that the scope of the inquiry that has been suggested by the Resolution is too wide for practical purposes, especially at the present time of financial stringency; and I think that even if suggestions were made for effecting improvements in the entire medical education system in this country, there would be no funds coming forth to carry out suggested improvements all along the line. There is another point before the House. It is not long since debate in this House was directed to the question of education in midwifery in this country, the Faculty in England not being willing to recognise the practical training on the subject which India could impart to students in certain parts of this country. That being so, Sir, and further it being a fact that Dr. Norman Walker is now in this country to make an inquiry, we shall not be doing wisely if we allowed this opportunity to go by without bringing this subject of education in midwifery specially before this Committee of Inquiry. I, therefore, have very great sympathy with the amendment which has been brought forward by my friend, Sir Deva Prasad Sarvadhikary. The present seems to me to be a very opportune moment for carrying on an inquiry regarding the teaching of midwifery, and I venture to suggest that inasmuch as this point has been very specially under the consideration of the Council of Medical Education in England, we in this country should try and associate with Dr. Walker the very best man available in India as regards the practical teaching of midwifery obtainable here in order to assist him in the investigation that is going to be held by him and his Committee. This will advance the solution of the question of backwardness, if any, in this respect very much forward. Instead of making a general inquiry into the whole subject of medical education, it seems to me that, if we directed our energies towards the practical aspects of this subject, we might hope to achieve some useful result. Therefore, Sir, my submission to the House is that it should take the amendment into consideration and give it its support.

Lieut.-Col. H. A. J. Gidney: Sir, I have listened very attentively to the various criticisms made on my Resolution and regret to observe, with much surprise, that it has not met with much support from the House, the chief objection being financial stringency. I have always looked upon Mian Sir Muhammad Shafi, the Honourable Member in charge of Education, as a very gallant courtier, but I have now learnt that he is an arrant flirt. He first started flirting with Madras, with which Presidency I had already made love when moving my Resolution. Next he started a violent flirtation with Bengal to whom I am already wedded, as I received my first medical education in that Province. This was certainly not very gallant of him. He then referred to a certain discussion which took place between myself and the Members from Bengal when the midwifery training was discussed at the last Simla Session. He then indulged in various incidental and somewhat irrelevant statements, and finally announced, for the edification of this House of laymen (I use that word with great respect), that Dr. Norman Walker would deliver an address to Members of both Houses, to-morrow, on the scope of his inquiry when in India, etc. I have puzzled my brain as to why he tried to bait or influence this House by referring to a lecture to be given by Dr. Norman Walker. It seems to be in the guise of a sprat to catch a mackerel. I should like to know, otherwise why this invitation to laymen to this lecture?

The Honourable the Education Member has given three main reasons for opposing my Resolution. Firstly, he said that this was such an intensely provincial transferred subject that we must keep our 'hands off.' He then gave us the constitution of his Committee on which there is one official, an Indian Medical Service officer, an administrator and a brilliant departmental administrator, I admit; but what I want is a man versed in hospital training, a man who has lived his life within the four walls of a hospital and trained medical students. We are told there is also to be a Government official who will give the Committee a Government blessing and complexion no doubt; also two non-official medical men. Now I admit the strength of that Committee, but it is not strong enough and is mainly Indian in character and constitution, with one man only from England—a skin specialist who is not an expert in midwifery even. I am most certainly not going to act the apologist for having a skin specialist to investigate our midwifery deficiencies. Dr. Norman Walker is an eminent man in his particular subject, but what I complain of, in the formation of this Committee, is the absence of suitable and adequate European experts on it. We have had our hospitals going for years and years in this country, and what is our condition to-day? Not accepted by the General Medical Council. Our men have to go to England and spend large sums of money in foreign lands to acquire a little extra polish or complexion to their knowledge, due *perforce* to local deficient training, as the Honourable the Home Member himself admitted in a former discussion in 1918 on the Civil Medical Service.

He then told us about India's financial stringency. I know that there is acute financial stringency, and no doubt we will know much more about it in a few days more; but, are we always to have that thrown at us whenever any one gets up to ask for some urgent and vital improvements in India? Are we going to suffer for the financial profligacy that has characterised the Government of India in the past? Are the needs of India going to be sacrificed and suborned in that? Are we always to be told, when some improvement is needed, that it is impossible because there is no money—the Exchequer is depleted? If that is the case, then it is absolutely useless to make requests for Committees in this House and there is no need our trying to improve the condition of things in India. This is not fair and I refuse to accept this reason.

The Honourable Member for Education next told us that we must not interfere with Provincial Administrations. I ask, Sir, why then is he interfering? He cannot tell me not to interfere and then interfere himself, although in a more limited capacity. Colonel Needham, Deputy Director General, Indian Medical Service, is a sort of an attached member of this Committee, but he is employed in the Imperial Government. If that is not interference of the Government of India with the Provincial Administrations, I would like to know what is and what is sauce for the goose is sauce for the gander? What is allowed to him should be allowed to my Committee also, if it were sanctioned.

He then told us that the administration of universities depends very largely on their autonomous character. I quite agree with that. He then told us plainly—and I thank him for it—that many things I have said are more or less correct. Well, if there are these faults—be they more, be they less—they *must* be rectified, and it is up to this House to do so. Are we going to allow the medical needs of India to suffer? We have the Member in charge of this Department admitting that there is some truth in

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what I have said. My friend, Mr. Subrahmanayam, asks for *primâ facie* evidence that such a state of things do exist; well, this admission from the Education Member gives it to him and is also my answer to him. I, for this reason, again regret very much that there is not another medical man, as a Member in this House to support or challenge me. None of the Members of this Honourable House can answer this question, as they are laymen. The students and doctors themselves can alone answer it, and the truth of our defective training in some branches is found in its rejection to-day by the Medical Council in England, and it must be the final judge of my statements. If our system of training in India is not up to the standard demanded by the General Medical Council to enable our students to enter the Indian Medical Service, then there is something wrong. And I *emphatically* state that it is so—I challenge its denial. (A voice: 'No, no. We won't admit that.') Thank you very much, but I do and medical men do.

The Honourable Member in charge of this Department then told us that there are certain proposals before the Secretary of State for—I did not quite catch what he said—but I think it was the Indianisation of the Indian Medical Service or certain proposals for the reorganization of that Service. I do certainly think this House should know something about those proposals. It claims such knowledge and this is one of the reasons why I have brought forward this Resolution. If he says this disclosure is inadvisable at present, am I then to understand him to mean that it might be advisable at some future date?

Then, my friend, Sir Deva Prasad Sarvadhikary, said that this question had been gone into by the Sadler Commission which had given an opinion on it. I understand that the Sadler Commission did *not* go into this question. I understand that it went into medical education in India *very* incidentally and as a side issue. It was not entitled to give an opinion on our medical education in India, not being sufficiently equipped or qualified for the purpose. He then brought forward reasons for limiting this Resolution and inquiry into training in midwifery only. Now, Sir, it is no use confining our activities to midwifery only. Would this House have known anything about the imperfect training in midwifery in India, had it not been for the Resolution which my friend, Mr. Subrahmanayam, moved at the last Simla Session, and had it not been for the letter—the mandatory letter, as it was called—which the General Medical Council issued to our universities? I say, but for this, we would have known nothing about it. Those were the reasons which opened the eyes of this House on midwifery training and which I showed in my address on that Resolution existed to the extent that some of our Universities were sending out their doctors as qualified to practise gynaecology, with an experience of only *half* a labour case per doctor. I say this is assisting in a professional tragedy. If that is the condition of our training in regard to midwifery, what might not be the state of affairs in regard to the training in surgery and medicine, and what other defects might there not be? A Committee of experts such as my Resolution asks for would show what improvements were necessary in the entire medical training now being given in our Universities and this, I say, *does* remain defective, especially in the clinical training imparted to our students. This is what I want

to remedy by asking this House to accept my Resolution. Training in midwifery, it is admitted by themselves, is sadly deficient in certain universities and various reasons have been adduced to account for it. I do not accept them entirely. I am not confining the activities of my Committee to an inquiry into midwifery training only. I want to cover the whole ground. Our medical institutions have been in existence, as I said, for years and some of them have been turning out this class of doctors. Just think of it, Sir,—we have discovered, after all these years, that we are turning out doctors with a training in midwifery of only *half a labour case*. Could anything be more lamentable, more dangerous, more defective? What other defects might not be brought to light if my Resolution were accepted? Mr. Subrahmanayam asked the Education Member for definite evidence of defects and of the necessity for improvement before he would agree with my proposal. The admission of the Honourable Member in charge of this Department, that there is some *truth* in what I have said is a sufficient answer to him and he must accept it, and I say this House must accept it or should accept it. Then Dr. Gour asked the House for an assurance that the inquiry which Dr. Walker's Committee is making will embrace the general medical training given in India. Now, Sir, what is the use of that? It is absolutely futile to give me that information. I do not want to know that; because, I submit, with all respect to Dr. Walker, who, as I have already said, is an eminent member of the profession as a skin specialist, that he cannot look into *all* our deficiencies. He is not qualified to do so. I do not want official and non-official Indians and Europeans in this country only on my Committee. I want two or three eminent medical men who are experts, well-known experts in the administration of European medical institutions and in the care and training given to medical students in Europe. You cannot get away from the fact that the training imparted in England is better and far superior to that obtained in India. These are the members whom I want on my Committee, for, again, I submit that one single individual, in the shape of an expert skin specialist, is not the right man to investigate the condition of things in regard to the general training given in our institutions. In fact, he is the wrong man. I believe that the General Medical Council has not done wisely in limiting the sphere of its inquiry and in sending out a man merely to look into, as I am told, the various regulations governing our institutions only. We are in urgent need of a thorough and searching investigation of our entire medical training. It makes no difference to me what the Government Member says about the scope of his inquiry for, to my mind, it falls lamentably short of the mark I ask for. Dr. Gour has taken it upon himself to oppose a general inquiry; why he should do so and relegate to himself this function, I for one do not know. He styles himself a layman, but he is also a 'Doctor' (only of Laws?). Why should he, a layman, say to this House: 'You should be satisfied if the Government says this and says that.' I am the Mover of this Resolution and I also want to be satisfied, but I am not satisfied, because the Honourable Member in charge has not disproved the truth of my charges against our training though he has had ample opportunity and time to do so. The Honourable Member has asked me to withdraw my Resolution. It is because I am *not* satisfied; because the medical needs of the country will not be satisfied with these assurances, that I will not withdraw, even though several speakers, being wrongly influenced, have spoken against it. This inquiry, I submit, should not be limited in this manner. I

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want to probe much deeper than that and to go into the entire medical needs and training and not into the need for better training in midwifery, only, nor should my Resolution be refused acceptance merely on the grounds of provincial interference and financial impotency. I submit this is false economy on the part of Government. I, therefore, with all respect to the Honourable Member in charge of this Department, and my friend, Sir Deva Prasad Sarvadhikary, regret I cannot accept their offer of withdrawal or of supplanting my Resolution by the amendment that he has put before this Honourable House. Sir, I know, judging from the speeches delivered, that various Members are not in favour of this Resolution. Notwithstanding this I warn this House that our medical training sadly stands in need of a thorough investigation and I make bold to say that the day is not far distant when some of the Indian Members will again move this Resolution in the House, and I feel *sure* it will *then* be carried. (*A Voice: 'Leave it to the provinces.'*) No, I do not intend to do that. I now want to know what will be the cost of Dr. Walker's Committee and what will be the cost of my Committee, if allowed. This question was raised by an Honourable Member who is an advocate of the Government on this point, so far as financial stringency is concerned, and offered as an excuse, *viz.*, Mr. Subrahmanayam. He asked what would be the cost attached to this Committee. Will the Government kindly tell me what will be the cost of Dr. Walker's Committee? Mr. Subrahmanayam will then be answered, this House will then be answered, I will then be answered and we will then be able to say whether the gain, if my Committee is sanctioned, will be commensurate with the expenditure or not. I wait for the reply of Government. This is most regrettable—most astounding and yet the Member in charge of this Department has brought forward, as one of his *main* arguments, against my Resolution, the present financial stringency, and at the same time he does not know what it is going to cost. (*Laughter.*) Sir, I stick to my Resolution, I stick to my guns, and I decline very respectfully to withdraw my Resolution. Let it be accepted or rejected on its own merits.

Sir Deva Prasad Sarvadhikary: With your leave, I beg to make a suggestion to the Honourable Member. Some of the points of view urged by Colonel Gidney and me would be met if a specialist here is deputed, say, like Dr. Hamilton of Bombay.

The Honourable Mian Sir Muhammad Shafi: Sir, I desire to say a few words in connection with the amendment moved by my Honourable friend, Sir Deva Prasad Sarvadhikary, in order to remove a misconception. My Honourable friend was pleased to say that the fact of Dr. Norman Walker's inquiry itself showed that there was very little in the constitutional objection advanced by me, and in that view he was supported by Dr. Gour. I am afraid both my Honourable and learned friends have entirely misunderstood the position. By an Act of Parliament the General Medical Council in England is possessed of certain statutory authority and has also certain statutory obligations to perform. All medical degrees given by any University whatsoever throughout the British Empire have to be registered under the Act with the General Medical Council before they can be recognised for certain purposes. Those purposes, Honourable Members will remember, were mentioned in the speech which I delivered in Simla in connection with the

Resolution which was moved by Mr. Subrahmanayam there. Now, an authority established under an Act of Parliament, possessed of certain powers and having certain obligations to perform is well within its own power in sending out a delegate in order to satisfy itself that the medical education given in our Universities is up to the requisite standard.

Mr. N. M. Joshi (Nominated: Labour Interests): At whose expense?

The Honourable Mian Sir Muhammad Shafi: Dr. Norman Walker has come out as a delegate of the General Medical Council and the inquiry which he will hold in conjunction with certain representatives of the Government of India and the provinces, is by virtue of the authority which the General Medical Council is possessed of under the Act of Parliament which brought it into being. Therefore, the fact of that inquiry has no relevancy whatsoever, no bearing whatsoever, upon the constitutional objection which I put forward as against my Honourable friend Colonel Gidney's Resolution. I said in my speech that University education in India, including medical education, is, under the Reform Scheme, now a transferred subject under the complete control of provincial Governments, *viz.*, the Minister in charge of Education, who, in the discharge of his responsibility, is answerable to the Provincial Council. That argument is in no way met by what my two learned friends were pleased to say in connection with the inquiry which is to be held by Dr. Norman Walker.

Then, my friend, Colonel Gidney, while paying compliments, well-deserved compliments, if I may venture to say so, to Dr. Norman Walker, at the same time emphasised the fact that he was no expert in the particular branch of the subject connected with the inquiry to be held by Dr. Norman Walker. May I point out that the object of the association or co-option, or whatever term may be used in connection therewith, of three representatives, one official and two non-officials, from every province with Dr. Norman Walker, in the inquiry which he will hold in the various provinces of India, is that medical experts, official as well as non-official, who are thoroughly well acquainted in the provinces with the state of medical education there, should be associated with Dr. Norman Walker in the inquiry which he will hold: so that the object which my Honourable friend, Sir Deva Prasad Sarvadhikary, has in view—and if he will kindly glance at his own amendment, he will find that I am right in what I am saying—will be fully met, and, therefore, there is no need really for him to insist on his amendment being put to the vote. I quite understood what was at the back of my Honourable friend's mind. He really did not want his amendment to be put to the vote, should my friend, Colonel Gidney, withdraw his Resolution, but, in case Colonel Gidney were to insist upon his Resolution being put to the vote, my Honourable friend, Sir Deva Prasad Sarvadhikary, who is opposed to the proposition embodied in Colonel Gidney's Resolution, would insist upon his amendment being put to the vote, in order that the inquiry may be limited to the scope which Sir Deva Prasad would give to the inquiry which is to be held. As the object which he has in view is really met by Dr. Norman Walker's inquiry, I hope the House will reject both the Resolution and the amendment.

Mr. President: The original question was:

That this Assembly recommends to the Governor General in Council that he be pleased to appoint a Committee of professional experts, half to be obtained from the United Kingdom in consultation with the General Medical Council, and the other half

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from India, to tour India and to inquire into the training that is obtained in the various Medical and Surgical institutions, both official and non-official, and to submit recommendations with a view to bringing the Indian institutions, in all respects, on a level with those of the United Kingdom and thereby creating in India a suitable field of recruitment for its entire Medical Services.'

since which an amendment has been moved as follows :

'That the words from 'of professional experts' to 'of the United Kingdom' be omitted, and in their stead the following words be substituted :

'consisting of representatives of each of the Medical Colleges affiliated to Indian Universities and of the Government of India for inquiring into and suggesting improvements (in conjunction and consultation, if necessary, with the nominee of the General Council of Medical Education proposed to be sent out for the purpose) for teaching Midwifery in Indian Medical Colleges by means of inter-University practical training on lines prevailing in Europe and otherwise.'

The question is that that amendment be made.

The motion was negatived.

1 P.M. **Mr. President:** The question is :

'That this Assembly recommends to the Governor General in Council that he be pleased to appoint a Committee of professional experts, half to be obtained from the United Kingdom in consultation with the General Medical Council, and the other half from India, to tour India and to inquire into the training that is obtained in the various Medical and Surgical institutions, both official and non-official, and to submit recommendations with a view to bringing the Indian institutions, in all respects, on a level with those of the United Kingdom and thereby creating in India a suitable field of recruitment for its entire Medical Services.'

The motion was negatived.

The Assembly then adjourned for Lunch till Five Minutes past Two of the Clock.

The Assembly re-assembled after Lunch at Five Minutes past Two of the Clock. Mr. President was in the Chair.

RESOLUTION RE: EQUALITY OF STATUS FOR INDIANS IN AFRICA.

Mr. K. B. L. Agnihotri (Central Province Hindi Divisions: Non-Muhamadar): Sir, I beg leave to move the following Resolution :

'This Assembly recommends to the Governor General in Council that he do represent to the Imperial Government that the failure on the part of the Imperial Government to meet the lawful and modest claims of Indians, for equality of status of British subjects in all parts of Africa, will be regarded as a serious violation of equal status promised to Indians in the British Empire.'

Sir, the history of British rule in this country could be described by an extremist in two phrases, 'breach of promises, and the interpretation of promises in favour of the whites' and it was but natural that, from the experience of the past, many Indians had lost all faith in the promises

made by England or in the British sense of justice. It had been a deep-seated belief with many of my countrymen that British statesmanship would, under no circumstances, rise equal to the occasion and concede equality of civil rights and political privileges to Indians. But, after the acceptance of the 'Equality' Resolution by the Imperial Conference, excepting General Smuts of South Africa, I, for one, believed that the 'Equality' Resolution would be given effect to by the Overseas Dominions and the Colonies. I gave notice of this Resolution to lay before the British Government and, through them, the South African Government our feelings of deep regret and disappointment which the non-acceptance of that Resolution has caused in this country. The public was a little re-assured by the opening speech of Lord Reading in the Legislative Assembly at Simla.

But, Sir, little had I thought that I should so soon get one more instance of that breach of faith and betrayal of Indians, at the hands of the Colonial Office. The unsympathetic and tactless utterance of the Right Honourable Winston Churchill, His Majesty's present Secretary of State for the Colonies, has shocked public feeling to a very considerable extent. It has given Indians sufficient cause to be sceptical in taking English statesmen at their word. It has made them question whether, after all, the non-cooperators are not right. Sir, it now lies solely in the hands of the British statesmen themselves to remove the feelings of suspicion from the minds of Indians by the fulfilment of the pledges and promises given and the hopes raised.

It is a fundamental principle of every Government that its subjects shall enjoy equal rights and status, and be entitled to even-handed justice; and, in consonance with this fundamental principle, when the Crown took over the administration of this country from the East India Company, the late Queen Victoria the Good issued a Proclamation which has well been called 'India's Great Charter,' wherein she very graciously declared that Her Majesty held herself bound to the natives of her Indian territories by the same obligations of duty as bound her to all her other subjects. Indians were, in fact, to become true British subjects, with all the rights and privileges of British subjects. This promise was reiterated by Lord Lytton in 1877 in the Proclamation issued by him in the name of Queen Victoria; and was also adopted by His Majesty Edward VII. Our present Sovereign, His Majesty King George V, in his letter of 24th May, 1910, addressed to the Princes and people of India, graciously declared:

'These (i.e., the Proclamations of 1858 and November, 1908) are the Charters of the noble and benignant spirit of Imperial Rule and by that spirit in all my time to come I will faithfully abide.'

I need not say how these solemn promises were fulfilled by the British Government, so far as they affected the Indians in this country, but, for the present, I shall confine my attention to the question as to how far those solemn promises were kept in the case of Indian British subjects abroad. In Africa, the Indians are mostly domiciled in (1) South Africa, comprising the Transvaal, Orange Free State, Natal, the Cape Province and Zululand; and (2) East Africa, comprising Kenya, the British mandated territories of Tanganyika, and Uganda, and British Guiana.

According to Sir Benjamin Robertson, the Indian community in South Africa had its origin in the indentured labour which was introduced by Natal between 1860 and 1911 for the development of her industries, and more specially for the sugar and tea plantations. In the wake of the indentured labourer came the trader from the Bombay Presidency. He went to supply

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the wants of the labourer, but, when once established, he quickly extended his dealings to natives and Europeans. These Bombay Muhammadans have for centuries traded along the East Coast of Africa, the Persian Gulf, Burma, and the Further East. They are men of considerable enterprise; and spread into the Transvaal and the Cape Province, finding a favourable field for their activities in the pioneer development of the Transvaal which followed the gold rush generally. They maintain a close connection with India which they still regard as their permanent home. The Asiatic Inquiries Commission's Report says:

'They are born traders and have the reputation of being remarkably capable and astute business men and competent to hold their own against European competitors in that respect. Some are wealthy merchants with branch businesses in the districts.'

The majority of the emigrants have settled down in that country in various capacities, considerable numbers of them have taken to occupations such as household service, industrial labour, both skilled and unskilled, employment on railways, and under municipalities, clerical work, trading and the learned professions. South Africa has now become their home and few of the Colonial-born have seen India. Many of them cannot speak or understand any Indian language. There are about 155,000 Indians in all in the Union of South Africa of which about 60,000 and more were born there.

By Article 14 of the London Convention of 1884, entered into between the British and Republican Governments, 'all persons other than natives' acquired full liberty with their families to enter, travel and reside in any part of the Republic, and the right to hire or possess houses, manufactories, warehouses, shops and premises and to carry on trade; and they were not to be subject to any special taxation other than that to be imposed upon citizens of the said Republic. Indians thus got full rights of citizenship. But, to the great misfortune of Indians, this attitude of the Republicans changed soon after and the Government wanted to take away the rights assigned to Indians; and, with that view, addressed a letter dated 6th January, 1885, to the Imperial Government inquiring whether the proposed legislation would be regarded by Her Majesty's Government as being a contravention of the London Convention. Correspondence ensued and the Republican Government concluded that the British Government waived their right to the strict interpretation of the Convention of London and passed Law III of 1885 based on the general principle that 'no equality between the white and coloured races shall be tolerated.' That sealed the fate of Indians in that Province and took away all the rights of citizenship acquired by Indians there. It reduced them to the position of helots. It made them the target of the whites for cruel, unjust and disgraceful treatment. That was the greatest breach of trust and promise ever committed by the British Government in having thrown the Indians overboard. I am pained to observe that, at that time, the British Government and the Government of India forgot their duties and responsibilities to their Indian subjects abroad. There was practically no public opinion in this country at the time to press on the Government its duties. The Indian traders of the Transvaal protested and the British High Commissioner raised a very feeble protest against that law. It had its effect. An amendment was made to the law by the Republican Government. Law III of 1885 as enacted was to the effect that persons belonging to any of the aboriginal races of Asia, including thereunder the so-called Coolies (Indians are described there as 'Coolies,' it will be noted), Arabs (meaning traders), Malays and Muhammadan subjects

of the Turkish Empire, shall not acquire the rights of citizenship in the South African Republic, shall not be owners of landed property in the Republic, and the traders shall have to get themselves registered and pay £25 as registration fee, and the Government shall assign special places for their habitation, though they were free to live with their masters. After the amendment, the law, as it exists to-day, is to the effect that Asiatics cannot obtain the burgher right and cannot be owners of fixed property except only in such places as may for purposes of sanitation be assigned. The British High Commissioner wrote on the 24th September, 1886: 'Although the amended law is still a contravention of the 14th Article of the Convention of London, I shall not advise Her Majesty's Government to offer further opposition to it, in view of Your Honour's opinion that it is necessary for the protection of the public health.' On 4th November, 1886, the Secretary of State intimated that Her Majesty's Government no longer raised any objection to the legislation in regard to Asiatic traders having regard to the amendment introduced into Law III of 1885. What equanimity of mind? It did not strike them that 'sanitation' was only an excuse to hide the ulterior motives of the European traders of the Republic. The status and rights of British citizenship were quietly allowed to disappear and the gravest act of injustice was done to Indians in the Transvaal. I cannot find words strong enough to describe the remarkably indifferent attitude which the then Government of India adopted towards this.

Under this amended law, the trading, residential and owners' rights, in parts beyond those assigned, were doubtful, but somehow, either under the pressure of the British Government or owing to some other cause, the law was not strictly or immediately enforced. It also seems that the Government encouraged the Indians to purchase property in the name of Europeans and then to obtain mortgages from them. Later on, in the nineties, the Republican Government desired the enforcement of the law but, under the advice of the British Agent, the Indians disobeyed the law. The Indians' trading rights were further curtailed by the Gold Law of 1898. I do gratefully acknowledge here that the Government consistently opposed the restrictive interpretation of the law. Under this law, the Indians could not work up mines or do the diggings in the gold mines. The bad treatment of Indians was one of the avowed grounds of the Boer War and it will be interesting to know that the status of Indians suffered most after the war and during the period when the province was a Crown Colony. It was then that the old laws were enforced with the greatest rigour. The British authorities in the Colonies changed front after the war and introduced further restrictions on the Indians. Lord Milner, the then Governor of the Transvaal, wrote to the Secretary of State:

'I think that to attempt to place coloured people on an equality with whites in South Africa is wholly impracticable, and that, moreover, it is in principle wrong.'

The Secretary of State, in his reply of 20th July, 1904, emphasized that up to the outbreak of the war, the British Government had steadily maintained, at first as a matter of right, and subsequently to the award of 1895 by a diplomatic persuasion, the interest of the British Indian residents in the Transvaal, and that the treatment of these fellow-subjects formed part of the British case against the late South African Republic. After this, the proposed legislation for restricting further the rights of Indians was dropped.

In 1906, the British Government granted full responsible Self-Government to South Africa. The British Government, at this stage, also forgot their duty and responsibility to their Indian subjects in the Colony. They

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were fully cognisant of the Colonials' bitter feelings against the Indians. They knew that they could not, while in power, do much to safeguard or protect the Indians' interests in the Colonies; still, without any thought in the matter, they kept no reasonable safeguards to protect the interests of Indians under the new Government, but left the Indians helpless and at the mercy of the Colonials. This was another breach of faith and violation of trust on the part of the British Government. From that time onwards, the British Government's responsibility was confined 'to the tendering of friendly advice'—as was once said by Mr. Winston Churchill in the House of Commons in 1906. I believe that there is some provision in the South Africa Act governing the Union, relative to the reservation for Imperial consideration of enactments adversely affecting the interests of subject races as a class, but, like all such reservations, the provision seems to be a delusion in view of the established principle of non-interference in the internal affairs of a Self-Governing Dominion.

This conversion of once subjects of England into subjects of South Africa was a matter of grave concern, specially when it was effected without having consulted the wishes of the people concerned.

Immediately after the grant, in the very first session of the Union Parliament, Acts were passed for further restricting the rights of Indians, whereby the access to the Transvaal was further restricted. Indians were not allowed to get their wives and children from India, and were required to give thumb impressions at registration. Indian visitors and tourists, of howsoever high status they be, were not allowed to enter the province. The Indians, getting no assistance from the Indian or Imperial Government, had recourse to passive resistance and got some relief. Later on, the late Mr. Gokhale's visit to the Colony relieved the tension of feeling between the Government and the Indians. But the agitation continued and the Immigrants Regulation Act of 1913 gave an impetus to it, and passive resistance was started on a large scale under the leadership of Mahatma Gandhi. Later, an agreement, known as the Smuts-Gandhi Agreement, between Mr. Gandhi and the Union Government, was arrived at. An Indian Relief Bill was passed and the Indians, thereafter, enjoyed slightly better rights with respect to trade, leases, etc., and were allowed to get their families from this country. This state of affairs did not last long. The Union Government again resiled from their agreement and passed Act XXXVII of 1919 which had the effect of restricting the rights acquired after the agreement of 1914. It is now for the Imperial Government to exercise their wholesome influence in securing to Indians the rights of a British subject in the Colony.

In Orange Free State, the Indians are much worse off. By the laws of the former Republic, which are still in force, they are prohibited from trading or carrying on business of any description whatsoever.

In Natal, the Indians have always enjoyed the same rights and privileges as to ownership of land as Europeans. The same licensing laws are applicable to both, but the treatment accorded to Indians in the administration of those laws is different. In Natal, the Indians settled there mostly at the request of the Natal Government. According to the report of the Asiatic Inquiries Commission:

'The South African-born Indians form an intelligent, well-educated and energetic element of the Indian community both in Natal and the Transvaal.'

The Natal Government attempted to pass two drastic measures in 1908 which were destined to restrict the trading rights of Indians and had for their object the complete eviction of Indians. The Imperial Government expressed their views in very forcible language, and the laws were not passed. The Law, III of 1885, applies to the northern districts of Natal, where the Indians have the same restricted rights as in the Transvaal.

In Zululand, there is nothing in the law to debar Indians from owning lands, but it is said that they can neither reside nor trade there.

In the Cape Province, which is the only province where Indians have better rights, the Asiatics possess both parliamentary and municipal franchise. They cannot stand for election, though the Indians are on terms of equality with Europeans with respect to the rights of ownership and trade. There is no disposition on the part of the Europeans to deprive Indians of those rights except in certain municipalities which attempt to restrict the number of traders. The licensing laws are not administered properly by certain municipalities; the licenses to Indians are frequently refused. On the whole, the Indians are better off. My countrymen feel very grateful to the Europeans of the Cape Province for their just and sympathetic attitude towards our men settled there. In short, the position of British Indians in the Union of South Africa is as shown below :

—	Number of Indians.	Existing rights of privileges.	Existing disabilities.	Proposed or possible disabilities.
Cape Colony	7,000	Municipal franchise, political franchise, no segregation in law or practice. Colour bar not rigidly enforced.	Arbitrary treatment by certain local bodies of trading rights.	None.
Natal . . .	125,000	Municipal franchise, no segregation in law or practice, right of ownership and purchase of all kinds of property including land.	No political franchise. No actual representation on local bodies, Racial distinction in trading licenses and municipal bye-laws, Social ostracism, e.g., in respect of public and semi-public conveyances and places.	Restriction of acquisition of upland. Restriction of trading rights. Harsh treatment under immigration laws. Segregation (residential and commercial)—should be removed.
Transvaal .	15,000	Right to trade. No segregation in practice.	No political franchise. Racial discrimination in trading licenses and municipal bye-laws. Social ostracism. Segregation in law. No ownership of land direct or indirect.	Restriction of trading rights. Harsh treatment under immigration laws. Segregation (residential and commercial)—all these should be removed.
Orange Free State.	200	None except the right to live as domestic servants.	Absence of all rights.	These rights should be allowed.

Sir, General Smuts' assurance at the Imperial Conference in 1917 had raised some hopes in our hearts and it was believed that in future the Indians in South Africa would get better treatment. In the Imperial Conference, in 1918, Lord Sinha, who went as a representative from this country, moved a

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Resolution known as the 'Reciprocity Resolution,' and it was accepted by the Imperial Conference. It may be that he may have moved it probably with a view to secure such rights as could amicably be got, but many of my countrymen thought it to be an unwise compromise. It was inconsistent with the principle of equality of status in the British Empire. It empowered the Colonies to prohibit and restrict immigration, which is the inherent right of every British subject to move within the Empire. The speech which Mr. Burton delivered, while accepting the Resolution on behalf of the Union, further raised our hopes for a satisfactory solution of the problem. Shortly after, these hopes were cruelly dispelled by Act XXXVII of 1919, introduced by General Smuts himself. It took away much of the vested rights as stated above. It caused much dissatisfaction among the Indians; and the Asiatic Inquiries Commission was appointed to inquire and report on the rights of Indians with respect to ownership, trade and business. The recommendations of the Commission are far from satisfactory. The repressive measures complained against for decades past have all been fully confirmed by the Commissioners, and more, the veritable relic of barbarism, the Transvaal Law, III of 1885, which relegates Indians to locations and ghettos is to be continued and applied to certain northern districts of Natal. Natal Indians are to be deprived of rights they have enjoyed for 50 years, rights to own and occupy land anywhere within that province. Indians are to be given facilities for purchase of land in the coastal belt. The report is veritably a retrograde measure; as one of the Commissioners, Mr. Baxter, noted in his Minute of Dissent:

'It seems to me a retrograde proposal, inconsistent with other recommendations in the Report which are founded on an idea of voluntary separation, and not compulsory. It is also a restriction of existing rights of ownership and, in the case of ex-indentured Indians and their descendants a breach of the conditions of recruitment which I think should be scrupulously adhered to in the interests of good feeling and a sense of fair-play, so necessary in our relations with the Indians in South Africa and the Government of India.'

The Government of India sent a very strong memorandum setting forth their views as placed before the Imperial Conference in 1921. We feel very grateful to the Government of India and to the Right Honourable Srinivasa Sastri for the able way in which they championed our cause in the Imperial Conference. It was a surprise to learn that General Smuts could not see his way to accept it. I believe he is very sympathetic to us but is handicapped by his countrymen. Still we believe and trust that he will leave no stone unturned to concede to us our just and legitimate rights.

In East Africa, the Indians have a greater cause of complaint against the Imperial Government. Being a Colony under the direct control of the Imperial Government, the Indians naturally expected that the principle of equality of rights would, as a matter of course, be applied to them; moreover, it is a province in which, by reason of long stay also, they are entitled to them and to more even.

The Indian trade connection with Zanzibar and East African territories is about three centuries old. From the time of Lord Canning, British Indians and the Government of India have taken a very active part in the development of that country. This fact was also admitted by Sir John Kirk before the Sanderson Committee in 1910.

He said :

'But for the Indians we should not be there now. It was entirely through being in possession of the influence of these Indian merchants that we were enabled to build up the influence that eventually resulted in our position.'

Here the Indians were pioneers. Here the Indians had arrived long before the European settlers. The Indian traders and settlers have been the chief contributors to the development and prosperity of this province. Here the Indians were helpful in civilizing the Africans. One of the grounds for the grant of the Royal Charter to the Imperial British East African Company in 1888 was, that it was calculated to be advantageous to the 'commercial and other interests' of the British Indians and that 'the possession by a British Company of the East African Coast Line' would 'protect British Indian subjects from being compelled to reside and trade under the Government and protection of Alien powers.' Indians also had a leading share in the late war, in defending this part and winning German territories. The territory was primarily meant for Indian emigration and settlement. Mr. Baker stated to the leader of the Indian deputation :

'When the Government was approached to make the Railways, they were rather reluctant to do so on account of the cost, so Sir F. Freeguard, General Macdonald and Mr. Gerald Portal were asked to see the Manchester Chamber of Commerce, Liverpool Chamber of Commerce, Glasgow Chamber of Commerce and the Birmingham Chamber of Commerce. They came to Manchester first. Mr. Arthur Hutton, Chairman of the Cotton Growers Association and myself as representing the Chambers were deputed to meet them. This resulted in recommending the Government to make the railways, almost solely on account of releasing the congested districts of India, otherwise it would not have been proposed by us.'

In East Africa, there are Indians in the ratio of 4 to 1 European. Indians control the greater part of trade and pay a larger proportion of taxes than the Europeans. They had the Indian currency and had the Indian Law administered, until recently. The relations between Indians and Europeans before the immigration of Dutch from South Africa were pleasant. The troubles of Indians commenced with the transfer of control from the Foreign to the Colonial Office. The fact of development of the country by Indians has also been admitted by Mr. Winston Churchill in his book 'My African Journey.'

In 1907, the Land Board of the Protectorate recommended that Government land in certain areas should not be allotted to Indians and be reserved for Europeans. Unfortunately for Indians, Lord Elgin said :

'With regard to the granting of land to Indians it is not consonant with the views of His Majesty's Government to impose legal restrictions on any section of the Indian community, but, as a matter of administrative convenience, grant should not be made to Indians in the Upland areas.'

It was thus that, in the name of 'administrative convenience,' a death-blow to the status of Indians in East Africa was given by the Secretary of State for the Colonies. Here also, as in the case of South Africa, the Imperial Government deliberately subordinated the rightful and just interests of Indians to those of Europeans, and cannot get over the charges of injustice and favouritism to a section. Since that time the feelings between these two races became more marked. Professor Simpson advocated the segregation of Indians. He says :

'Unless measures of this kind be taken for Nairobi, it will lose the opportunity of becoming mainly a European town, as the centre of the European district, and as the capital it by right and destiny is to possess.'

[Mr. K. B. L. Agnihotri.]

What a sound reason for turning out the Indians from the town? This caused much anxiety to Indians, and the Government of India, in a strong despatch, exposed the racial prejudice underlying it. In 1919, the East African Government appointed an Economic Commission of European officials and non-officials, which, blinded by race prejudice, reported injuriously to the Indian interests and in most offensive and provocative language maliciously slandered the Indians settled there. The report justly created great indignation and exasperated the feeling among the Indians in East Africa and this country.

The Mining Ordinance, 1912, excluded Indians from the Mining Industry. The Crown Lands Ordinance, 1915, practically excludes Indians from the farming industry. The Municipal Corporation Ordinance, 1919, and the Electoral Representation and Nomination Ordinance, 1919, are designed to give over-representation and majority to the Europeans. The Public Health Ordinance restricts the rights of ownership and trade of Indians. Even in the past war, rewards were given only to Europeans. Even Lord Milner defended the policy of segregation and expressed his determination to extend it to neighbouring territories. The condition is becoming intolerable. But the only redeeming feature is that the Government of India are strenuously trying to secure the just and legitimate rights of Indians whose demands also are quite just and fair.

The recent speech of Mr. Churchill has created another cause of anxiety. It has added insult to injury. It is the Colonial Office that has often been the cause of denial of just rights to Indians abroad, and it is well that the Imperialists should realise that peoples will not now remain mere hewers of wood and drawers of water. The Indians regard the Kenya problem as an acid test of Imperial good-will and fairmindedness towards our countrymen. The Government of India has also assured us of their whole-hearted sympathy in our demand for equitable treatment to Indians abroad.

If the Indians cannot get equal rights with their fellow subjects in the British Empire, of which they form a part, with what grace would the Imperial Government ask for those rights in the territories under foreign control? The Imperial Government has betrayed the trust and confidence reposed in them by allowing the South Africans to mete out undignified and disgraceful treatment to us and I am afraid they are going to throw justice and fairmindedness to the winds in the case of Kenya also. Could such flimsy grounds as administrative convenience, sanitation and social amenities take away the cherished and fundamental rights of the subjects? As the Imperial Government had betrayed us in the past, it is but proper that they should redeem now by influencing the South Africans to restore us to our legitimate status and should themselves see that we are in every respect treated on terms of equality in East Africa also. Political hypocrisies are very disgraceful and will ruin the Empire in no time. Are these the principles for which England entered into the Great War? At that critical period British statesmen were not ashamed to regard us on terms of equality and brotherhood but would they now relegate us to terms of inferiority? Let the warning be taken in time. No Indian can tolerate this insult any further.

In Uganda and Zanzibar, so far, Indians have been enjoying equal rights, but it is feared that the infection from Kenya might spread there too. In the Uganda Railway, Indians are not allowed to travel by first class unless the station master so pleases.

In Tanganyika, under the Law of Mandate, Indians have the rights of equality, but it is just probable that, here too, the interpretation and administration of the law may be injurious to our interests. Justice, fair play and equality in treatment of subjects are the cardinal principles of the Empire and the fabric of the Empire is bound to shatter the moment these are given way.

In conclusion, Sir, I again take the opportunity of thanking the Government of India for the noble and bold representation of our case, and we feel confident that they will continue to press our rights. His Excellency Lord Reading said:

'It cannot be doubted that they have secured a notable recognition of the status of Indians in the Empire. It may be a tardy recognition but it establishes beyond all question, and authoritatively, by the conclusions of the Premiers assembled at the Imperial Conference, with one dissentient, the equal status of Indians in the Empire; secondly, the attitude of His Majesty's Government and their recognition of this principle will mean that it will be applied in other parts of the Empire which are not under Dominion Government and notably in East Africa.'

and, I appeal to the British Government to stick to these words and give us equal rights and status in South Africa as well as in East Africa.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): Sir, while associating myself with most of what has been said by the Honourable Mover of this Resolution, I wish to dissociate myself from his remark that it is the Imperial Government that is responsible for what is contained in the speech which Mr. Winston Churchill has made. I do not think it is permissible, from the utterance of any responsible Minister of the Crown, to anticipate the view which the British Cabinet may ultimately take. Those who have been careful to analyse the career of that glorious Minister know that, some months ago—or the year before last it was, I think,—he made a pronouncement in favour of the Bolsheviks in Russia, and the Prime Minister was compelled to say, in a public speech, that he repudiated that pronouncement as the bankings of his lieutenant. Those who remember again, the pronouncement that he made, when the controversy was at its height, in favour of the nationalisation of Railways, know also what fate it met with at the hands of the British Cabinet. And I take it that his recent pronouncement at the British East African Banquet will receive a similar burial very soon at the hands of the British Cabinet. But, Sir, I wish to rivet the attention of this House and of the authorities on the amendment of which I have given notice. It is this:

'At the end of the Resolution add the following:

'and in particular that he do cable to the Secretary of State for India and through him bring to the notice of the British Cabinet the Assembly's feeling of indignation at the pronouncement reported to have been made recently by the Right Honourable Winston Churchill at the East African Dinner in London.'

My object in bringing this amendment forward is to let it be known to the British Cabinet that this pronouncement of a responsible member of the Government has produced in India a feeling of indignation. Why? Because, while the Government of India was fighting the battle of Indians in Kenya and had sent a despatch to the Secretary of State for India. While that despatch was placed before the Joint Parliamentary Committee

[Mr. N. M. Samarth.]

for its consideration, while the Joint Parliamentary Committee upheld the views which the Government of India put forward in that despatch, and while negotiations were going on, here comes a Minister of the Crown, no less than the Colonial Secretary, at an East African Banquet, in a post-prandial speech, giving the go-by to all the recommendations and all the proposals which the Government of India and the Joint Parliamentary Committee had made. The Government of India asked for a Royal Commission to go into the whole of the details of this question in order that a satisfactory solution may be arrived at. The Joint Parliamentary Committee accepted that as the right solution and asked also for a Royal Commission. While this proposal is being discussed and has not yet been finally decided upon by the British Cabinet, Mr. Winston Churchill comes to the East African Banquet and makes a pronouncement that the highlands in Kenya will be reserved for all time for European settlers. I am taking Reuter's report, and I take it that it is fairly accurate. If afterwards it is repudiated, then I would say that my condemnation also will be of no avail. But I take it that Reuter could not have given an inaccurate and incorrect report, and upon that I proceed. Reuter says:

'Mr. Churchill proceeded to emphasise that the highlands of East Africa should be reserved exclusively for European settlers. The decision must be regarded as final and it was not intended to depart therefrom—(as though he was giving the law over the head of the British Cabinet)—He further wished to apply broadly and comprehensively as far as practicable, Cecil Rhodes' principle of equal rights for all civilised men, meaning that natives and Indians who had reached and conformed to a well-marked European standard would not be denied the fullest exercise of the enjoyment of civil and political rights.'

And who was to determine that standard, and how was it to be determined?

'The standard to be adopted', he proceeded to say, 'was certainly a matter in which the European community would be fully consulted.'

Now, Sir, that constitutes, to my mind, a betrayal of the whole promise that had been made to us that the question would be fully considered and ultimately decided upon by the British Cabinet. The Honourable Mover of the Resolution has already placed before you certain facts, namely, that it was by Indian industry and labour that the Uganda Railway had been constructed, that the Indian trader had gone there and settled there long before these European settlers came, that it was by Indian enterprise that what is known as the Kenya Colony to-day had been developed; and yet he is to be squeezed out of the land where he has toiled for the benefit of the Empire! My answer to the Colonial Secretary, Mr. Winston Churchill, in brief, is this. I will tell you afterwards who is the author of that answer. My answer is this:

'It was the Sikh soldier who bore an honourable part in the conquest and pacification of these East African countries. It is the Indian trader, who, penetrating and maintaining himself in all sorts of places to which no white man would go or in which no white man could earn a living, has more than any one else developed the early beginnings of trade and opened up the first slender means of communication. It was by Indian labour that the one vital railway on which everything else depends was constructed. It is the Indian banker who supplies perhaps the larger part of the capital yet available for business and enterprise, and to whom the white settlers have not hesitated to repair for financial aid. The Indian was here (that is, in Kenya) long before the first British official. He may point to as many generations of useful industry on the coast and inland as the white settlers—especially the most recently arrived contingents from South Africa (the loudest against him of all) can count years of residence. Is it possible for any Government with a scrap of respect for honest dealing between man and man, to embark upon a policy of deliberately squeezing out the native of India from regions in which he has established himself under every security of public faith?'

Whose utterance, do you think, is this, Sir? It is Mr. Winston Churchill's in his 'East African Journey'. It is again a case, and a very strange case indeed, of the strange story of Dr. Jekyll and Mr. Hyde. Whom am I to believe? Mr. Winston Churchill who advocates the Indian cause with all the fervour that an Indian can bring to the advocacy of it, or Mr. Winston Churchill who sold away that Indian cause a few days ago in the East African Banquet? I ask the Minister of the Crown, the Colonial Secretary, the same query which he put in that quotation from his book on his East African Journey. Well, Sir, apart from these things, one thing which really pains me is this. The Government of India has advocated the Indian cause—no national Government even could have done better in this matter—It is fighting our battle. It is at the same time confronted with difficulties of a very delicate character at the present moment;—and yet here is a responsible member of the British Government indulging in an indiscreet, unwise, reckless and irresponsible utterance. Surely, it is due to the Government of India that no responsible Member of Parliament, much less a responsible Minister of the Crown, should say or do anything to intensify or accentuate the situation in this country and make the position of the Government of India more burdensome and more trying than it is at present. There is another reason, Sir. I belong to that party,—I take it that every Member of this Assembly belongs to that party, whichever label it may have—we are here, and there is the bulk of the thinking public outside in the country also,—whose dominating idea and guiding principle is that Englishmen and Indians should join hands and work together in a spirit of *camaraderie* in order that by their joint efforts India may be speedily uplifted into a self-contained, self-respecting and self-governing unit of the British Commonwealth,—a unit of the British Commonwealth in the rights and responsibilities of which, in the burdens and privileges of which, in the glory and benefits of which, His Majesty's Indian and European subjects alike would be partners and participators on a footing of perfect equality. We are striving for it. And, as everybody knows, there is a large party outside against us, and, surely, Members of Parliament, in responsible positions in the public life of England, ought to know that they should say or do nothing at this juncture, or hereafter even, which is calculated to thwart the progress and arrest the development of this party. I feel indignant,—I use the word 'indignation' in this amendment, and I use it deliberately,—I really feel indignant that a Minister of the Crown should be so oblivious of considerations of this character. But, Sir, there is one more thing which I wish to say. I have no doubt that the Government of India will cable, if this amendment is adopted, to the Secretary of State, in whatever terms they like, in whatever phraseology they adopt, the feeling of this House on this matter. I am anxious that they should do so immediately in order that the British Cabinet may not uphold and endorse the view which Mr. Winston Churchill has held forth before the East African Banquet. If the British Cabinet unfortunately comes ultimately to the same conclusion, all I need say is,—it is hard to say so, but I think sometimes it is no use mincing matters—I can scarcely help saying that, if the British Cabinet does ultimately uphold the decision and the views adumbrated in Mr. Winston Churchill's East African Banquet speech, then its decision and action will stand out in the pages of history,—to use the apt phraseology employed on another occasion by a statesman, writer, thinker, philosopher, and a great master of diction who was for some time the Secretary of State for India,—it will stand out in the pages of history as 'a masterpiece of melancholy meanness.' I feel confident that the British Cabinet will never

[Mr. N. M. Samarth.]

do anything of the kind, but let me give a warning to the British Cabinet that, in matters of this kind, they must be very careful to see that nothing is done, in a Crown Colony at any rate, by which the rights and privileges of Indians are subordinated to those European settlers who came there afterwards.

One word, Sir, and I have done. The Honourable Mover of the Resolution referred to the lessons of the Great War. One great lesson which stands out in the philosophy of history and will be recorded by the historian in future is this, that the Great War illustrates once again the truth that there is, in the case of individuals as well as of nations, such a thing as the operation of the moral law. A deviation from the moral law,—a violation of the moral law—is bound to bring about its own retribution in God's own time. The lesson of the Great War was that righteousness exalteth a nation. The absence or the reverse of it, Sir, degradeth it.

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): Sir, Mr. Samarth in moving his amendment has asked the House not to fix the Cabinet of England with responsibility for the speech of one of its Members. Sir, at the same time, he must remember that the Cabinet at times allows one of its Members to offer a feeler to the public. They, first of all, want to feel the pulse of the public and, if they find that opinion is against them, they would conveniently disown the speaker, but, if there is no strong opinion against it, then they would adopt it. Can we not regard this statement of Mr. Winston Churchill as a feeler by the British Cabinet in regard to a matter which is vitally interesting the whole of the Empire? Moreover, it ought not to be forgotten that Mr. Winston Churchill is the Colonial Secretary and one who has got authority to speak on the subject. The second qualification which he has is this, he is the rising hope of the nebulous new party which is being formed in England; that may have been the reason why he has chosen this occasion to say a few words upon a subject which is troubling the British mind considerably. Therefore, Sir, while I agree with my Honourable friend that we should not attach too much importance to the words of one Cabinet Minister, we must not forget that what is said by a Cabinet Minister to-day may become the opinion of the Cabinet itself to-morrow; therefore, we have to guard ourselves against the speech being accepted with equanimity by the people of this country; and, I think, my Honourable friend was justified in moving the amendment of which he has given notice.

Sir, I wish to give a concrete instance of the meanness and of the indefensible way in which the European settlers deal with
 3 P.M. Indians in Kenya. I believe Nairobi is the capital of the Kenya Colony. It consists, I believe,—I read of it the other day,—of 8,500 inhabitants, of which 5,700 are Indians and 1,600 are Europeans, and the rest are Dutchmen and so on. Now, there is a municipality there which consists of 18 members, if I remember aright. According to property qualifications, two-thirds of the taxes are paid by Indians and, therefore, they would ordinarily be entitled to 12 seats out of the 18. If you apply the educational test, I am informed that out of the 5,700 Indians 1,400 can qualify. That would again give the Indians about 7 out of the 18 seats. What is it that they have actually got? They have got only one seat and they have been

promised two (*An Honourable Member*: 'Promised 4 seats interim'): well, they have the promise of four seats. Now, Sir, is there any justification for this treatment? Look at it from the point of view of the Indian paying the municipality, enriching it and enabling it to carry on the administration. Look at it from the point of view that he is an intelligent person who is able to take part in the municipal administration. Is there any justification for not giving the Indian his rights according to property qualifications or according to the educational test? Is there any justification for withholding from him his franchise and asking him to accept only four seats? That shows, Sir, that our friends in South Africa are not prepared to deal with him honestly and fairly. Sir, when people become restive in consequence of such unfair treatment, another Cabinet Minister rises up and says that the hard fibre which won the Empire for England will still be able to maintain that Empire. Everybody knows that the hard fibre of the muscle of the English people would be able to maintain the Empire, but Lord Birkenhead and others had better be told that, if they employ the hard fibre of the arm, it will have to be done at the expense of some finer fibre of some more important part of the body. This would create a great deal of discontent in this country; it must not be forgotten that, in recent years, very many of the troubles which have arisen owe their origin to statements made in the House of Lords or in the House of Commons. It is because of statements like those made by Mr. Churchill and Lord Birkenhead that the unrest in this country has been intensified, and it is for this reason that we, as representatives of the people, are bound to raise our voice against them. Sir, I was reading yesterday, while I was coming from Bombay, a novel in which an Australian tells a British Member of Parliament that the best way of dealing with the Indian problem in South and East Africa is to tell the Indian that he must confine his energies to some place north of the Tropics of Capricorn. There the Indian can work and the Englishman cannot work. If the Indian is relegated to the north of the Tropics of Capricorn, there would be no trouble at all in South or East Africa. If that had been told honestly, probably it would ease the situation much better. If we are told that we have no place in South or East Africa, that we are not wanted there, that there is no use in our toiling for the benefit of ourselves and for the benefit of the Empire, probably a great deal of the unrest which is now prevailing in the country could be mitigated; but we are told that we are citizens of a great Empire, of an Empire, as Lord Palmerston once said, the citizens of which have as great and valuable a right as the citizens of ancient Rome. We are told that we have equal status, self-determination and that, wherever we go, our rights will be respected. After telling us all that we are now told that we cannot acquire land in the Highlands, that it is reserved for the European settlers, that we must take houses ourselves in the dirty quarters of the place, that we cannot be expected to exercise all the rights which the Europeans are entitled to exercise, and that our status is not as high as that which has been deliberately conferred on the European settlers in that country. Now, Sir, if an honest statement is made that we have no rights equal to the rights of Europeans, probably we in this Assembly will not be able to raise our voice; because we may find ourselves helpless when such an ukase has gone forth but, after having told us that we can go there and work there, to tell us now that, though we have worked there and have enriched the

[Mr. T. V. Seshagiri Ayyar.]

country, we should not acquire certain rights, seems to me one of the meanest things that can be done in the name of justice and fair play.

I do not want to take up any more of the time of the Assembly, because I know that, even on the Government Benches, the same feeling prevails as amongst us. I may say this much that, ever since I heard the famous speech of Lord Hardinge in the Banquetting Hall in Madras, where, with fine enthusiasm, he condemned the policy pursued in South Africa, the people of this country have been rallying round the Government of India on this subject at least. The Government of India have done a great deal for us. Successive Viceroys have done their very best to ease the situation, but, Sir, they have to fight against the Cabinet at Home, a Cabinet which is looking to the interests of the settlers in South and East Africa, namely, the interests of the land-owning classes. They seem to think that Indians can have no rights and they should not be encouraged to claim rights. That is, unfortunately, the position which confronts Government and confronts this Assembly and it is time that we, both Government and the people, raised our voices and warned the Cabinet that, if they go on at this rate, they will find it impossible to govern the country, and that there will be more serious unrest than they are facing now.

Sir Frank Carter (Bengal: European): Sir, the Resolution proposed by the Honourable Mover deals with Africa as a whole. I do not propose to refer to Africa as a whole, but I will confine my remarks to East Africa only. Let me say, at the outset, and I do not want to be misunderstood by my Indian friends, that I sympathise with their natural aspirations and I fully agree that they should be treated on an equality in other parts of the British Empire. I take it from the terms of the Resolution that this has been promised to Indians in East Africa.

You will all recognise that there are two sides to every question and it is the opposite side to which I should like to draw attention. I am sorry to have to disturb the harmony of the House, but it is only fair to put the European side forward. The Government of India have done all in their power to get Indians recognised and to get them equal status in East Africa. They sent Sir Benjamin Robertson to inquire into the condition of Indians in East Africa and I understand that he reported favourably. Now, what is the situation in East Africa? There are, I believe, at the present time about 35 thousand Indians and nine thousand Europeans. That is in 1921. In 1911, there were roughly nine thousand Indians and two thousand Europeans, so we may say that the increase on both sides has been very much the same. I beg to differ from the speakers who have preceded me, and I say that these Europeans are the founders of East Africa. They are the pioneers of the country. The Colony has been made by these pioneers and by British capital and not by the Indians who are only traders and artisans. I do not think Members of this Assembly recognise that these Indians in East Africa are not Sastris. I assure you they are not. They are artisans. Now, do they want a change in the constitution? I do not believe it. Has anybody in this House been to East Africa? Has anybody gone there and studied the question? It is merely the agitators now in India who are going about the world and stirring up these traders to demand rights which

they do not really require. I believe I am right in saying that the Highlands of East Africa have been definitely promised by Lord Esher, and again by Lord Milner, to Europeans, and, when the war was over, facilities were given to ex-soldiers to go and settle there. The area of the highlands is about 40,000 square miles and the area of the rest of Africa is about 200,000 square miles, so that it is really a fifth that the Europeans want. They do not want Indians to buy land there. (*A Voice*: 'Why not?') Well, you can say 'why not.' I shall bring forward the case of Kashmir where we Englishmen cannot buy land. (*A Voice*: 'That is not British territory.') Well, I cannot buy land there. But, apart from that, no European foreigner is allowed to buy land in East Africa unless it is with the consent of the Governor General. Now, the Honourable Mover has referred to what was done by the Indians in East Africa during the war. I should like to refute that statement. I have here a copy of the '*United Empire*.' This is what it contains:

'Local Indians joined 1,100 (mostly as clerks, drivers and sweepers) wounded *ni*; killed *ni*, shot or hanged as traitors 12.'

That is the record, as I have it, of what the Indians in East Africa did during the war. I do not think you realise that the people whom you are fighting for are not worth all this trouble. Now, as regards the African himself, how does he view the situation? I have not had a chance of speaking to him, but I am told that he does not like the Indian at all, and, that if the Europeans clear out to-morrow, the African would clear the Indian out. Whether that is correct or not I do not know. (*A Voice*: 'Does not matter'.) But, apart from all that what is the chief deterrent to East Africa being recognized at the present time as an equal part of the British Empire? It is this Gandhi non-co-operation. I call it revolution. Can any Member of this House say that this open preaching of sedition is not a deterrent, a very severe and serious deterrent, to the aspirations of all right-thinking Indians? Much as I desire the unity of the Empire, I do not think that we can ask any of our Colonies to conform to the vagaries of agitators such as Gandhi, and that is what, if these agitators are in East Africa as I understand they are, you are asking this House to do. Until we can put our house here in India in order, we cannot expect that other parts of the British Empire will accord to us what we know is our due. We must look to our own home first, and, until we do this and realize that British rule is prevalent throughout the country, we cannot expect the Colonies to treat us as a trustworthy part of the British Empire. We must not sit on the fence; we must come down on one side or the other, and the sooner we do it the better.

I was reading a letter the other day from a man in New Zealand. I do not know if Members of this Assembly realize that there is a growing feeling in the Dominions that, if the conditions at present prevailing in India continue, they seriously doubt the feasibility of being able to pull in the same boat with India. I do not want that and you do not want that. But the Dominions are afraid of India upsetting the equilibrium of the relationship between the self-governing peoples of the Empire.

There is an amendment to this Resolution by Sir Sivasawmy Aiyer, which, had he been here, I would have liked to have supported. I can say

[Sir Frank Carter.]

this, that I would far prefer to vote for a Conference between the representatives of the South African Union and the representatives of the Government of India and the Indian Legislature than the Resolution of the Honourable the Mover, but there is little use in calling such a Conference until, as I have said, India has set her house in order.

Mr. Jamnadas Dwarkadas (Bombay City: Non-Muhammadan Urban): I rise, Sir, to support the amendment moved by my Honourable and esteemed friend, Mr. Samarth, and, in doing so, I wish to associate myself with every word that he has spoken in support of that amendment. I am sorry, Sir, that my Honourable friend, Sir Frank Carter, whose sympathy ordinarily with Indian aspirations is well known to this Assembly, should have thought it proper to take the attitude that he has taken. What does Sir Frank Carter say? Sir Frank Carter says that the demand has never come from Indians in East Africa, that it is the work of agitators who would give them something that they do not want. Sir, as far as I am aware, I have reason to believe that the demand for the rights of citizenship has always come from the people concerned. But, if it is true, assuming for one moment that it is true, that a band of people, backed up by the united opinion of the Indian people, demand for their countrymen the free rights of citizenship that have been denied to them, it does not behove either the British Government or any European Member to come forward and say that the right of citizenship will not be granted because it is not demanded by the people concerned. (Hear, hear.) It is a question of self-respect for us. It is a question for us of demanding the right that every subject of the British Government has a right to demand. (Hear, hear.) And it does not lie in the mouth of any one, either the Minister of the Imperial Crown or any European in any part of the British Empire, to deny that right to any British subject, however humble his position may be. Sir, we are asked by Sir Frank Carter to set our house in order before we ask for the rights of Indians in other parts of the Empire. Who can deny that the Members of this Assembly and many outside this Assembly in the country are trying their best against all odds to set the house in order? Is His Majesty's Government going to help us in setting this house in order or is His Majesty's Government, by allowing a responsible Minister like Mr. Winston Churchill to make statements of an irresponsible character, going to co-operate with Mr. Gandhi in fanning the flame into a fire? I submit, Sir, that every sensible Indian, every Member of this Assembly, is anxious to set the house in order. I agree that Mr. Gandhi would set fire to this house. I do not want, in the interests of this country and in the interests of the British Empire, that a responsible Minister of the Crown should be a party in co-operating with Mr. Gandhi in setting fire to this house. One word more, Sir, and I will have done. My friend, Mr. Seshagiri Ayyar, has referred to the memorable speech that Lord Hardinge, late Viceroy of India, made on a memorable occasion in Madras. I wish the Government of India at this moment to come out like Lord Hardinge and proclaim, as Richard II proclaimed in olden times, that they would lead in this matter, that they would fight our battle in England and that, with the help of Mr. Montagu, in whom we have absolute faith, and with the help of Lord Reading, they would defeat the mischievous designs of Ministers like Mr. Winston Churchill. I hope, as Mr. Samarth has rightly pointed out, that the statement is a statement of the Minister and that it will receive no support from

the Imperial Government. It is unnecessary to point out that, if the British Cabinet backed up the statement made by Mr. Winston Churchill, the state of affairs that would be created in this country would be something that it is impossible for us to describe. With these words, Sir, I support Mr. Samarth's amendment.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadian Rural): Sir, the words 'equal partner of British citizenship' have been dinned into our ears and the simple question I ask is, is the British Cabinet, the British Government, going to stand by those words or is it going to whittle down the essence, the substance and the meaning of those words? That is a simple proposition I put before this Assembly to consider. Are those words unmeaning words, merely words and nothing more than words? If we are citizens of the Empire, no portion of the Empire, no part of the Empire shall say: 'You are not members; you shall not enter our territory.' Excluding the Indians from any portion of the Crown Colonies territories means destroying the meaning and import of those words. I take my stand—and my countrymen take their stand—on those words, and this action is the breaking of the meaning of those words, and this has been the substance and the motto in every agitation against Government.

Now, Sir, Sir Frank Carter said something about the Indians in Kenya Colony. I will read only the following sentence:

'The claim of the Indian community cannot be lightly disregarded, seeing that they were in the country long before Europeans had settled there; and that, but for Indian labour, the Uganda Railway would not have been constructed: that most of the trading wealth of the country was in the hands of the Indians; and finally, that Indians were British subjects.'

I think this sentence sums up the whole of the case for the Indians. We have all the three points, capital labour, intelligence and enterprise emanating from the Indians, and their being in the country before the European. This I quote not from an irresponsible paper, but from a statement of the Kenya Commissioner of Lands in 1907. I think this is enough to support the case we have got.

Mr. N. M. Joshi (Nominated: Labour Interests): Sir, I shall only confine my remarks to the criticisms which my Honourable friend, Sir Frank Carter, has thought proper to make on this occasion. In the first place, he said that East Africa was developed with the capital of the Europeans, and, therefore, they have a better right to settle in that Colony. Sir, I doubt the accuracy of that statement. Mr. Winston Churchill himself says that the Indian traders financed a large number of Europeans, and, moreover, my friend, Sir Frank Carter, himself knows that in East Africa you do not find a very large number of Indian labourers, but a very large number of Indian traders. But, accepting for the moment that it is British capital that developed East Africa, I say, when you do some work of construction, is it only capital that can achieve it? Has not labour any responsibility for that work? Let him answer my question frankly.

Then, Sir, admitting that Europeans in East Africa have got a very large capital, where then is the difficulty for the Europeans buying up the highlands in open competition and retaining it for themselves? If they do it, the Indians will not be able to get any portion of the highlands. But what the Europeans want is not to buy up in open competition but to get the lands cheaper by reservation. They are afraid that the Indians will

[Mr. N. M. Joshi.]

beat them in the competition, and, therefore, they want the Government to make a preserve of the highlands.

He also referred to the war services of the Indians and said that the war services of the Indians in East Africa were not very considerable. They may not have been very considerable, but whose fault was it? Let him answer whether the educated Indian can get the same privileges in the Army, even in the Indian Army to-day as the Europeans gets. You will not, I say, get the educated Indian to join the Army on terms of inferiority. If the educated Indians, merchants, barristers and pleaders, were given the same opportunities which Europeans in similar circumstances had, I am quite sure my countrymen would not be found lacking in the military spirit.

With these words, Sir, I support the Resolution as well as the amendment.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, the historical sequence in Sir Frank Carter's remarkable speech is puzzling, and, unless the matter is cleared up, his case will not be very much strengthened. If I understood him aright, one of the deterrents in the way of the Indian settler being allowed rights of equal partnership in the Colonies is the revolutionary movement in India, to which my Honourable friend has referred. The troublous Colonial question has, I am afraid, been with us long. This infant revolution, though sufficiently terrible, like that other terrible infant, Mr. Winston Churchill (Laughter), has been of far less long standing. In fact, some people would be inclined to say that the germ and the seed of the present revolutionary movement lay in the South African troubles, when there was persecution untold of Indian settlers which were not settled in time nor satisfactorily. And, but for that chapter there, a chapter that we cannot recall to mind with any pleasure or pride, probably the virulence of the movement here would have been less, following constant blundering on one hand and scheming on the other, though, in the march of events, revolution of a more or less troublesome type was bound to come. Sir Frank Carter says that these people are not all Sastris, and are not worth it for they are traders—shall I say *boz wallahs*? Is he at all sure that those who are hailing from his country and are claiming exclusive rights are all Sastris or anywhere near Sastris of non *boz wallahs*? (Laughter.) Why, Sir, one of the boasts of some Colonial settlers in former times was that their ancestors had been selected by 12 British men, good and true. (Laughter.) That was the origin of some of these settlements, where we now hear of a white settlement. If you are to be really white and all white, there must be a judicious balancing, a balancing of the white with the black and the brown. That is what is practically told us, day after day, in proclamation after proclamation, and, if you cannot get that stand the test in other parts of the British Empire, faith in those professions will be getting less and less every day. We have been told: 'Why talk of exclusion of Hindus or Muhammadans from India? European foreigners cannot get settled there unless the Governor General in Council agrees.' But, where is the difficulty in the Governor General in Council agreeing to the right kind of foreigners coming there? There may still be a desire, for good reasons or bad, to keep the German or the Austrian out, and that is why a clause like this may have been necessary; but that is no answer, so far as British subjects are concerned, whether Indians or others. Do you say that the Australian will have to get the same sort of concession, or the Canadian,

or the South African or the Irish, for the matter of that? No such thing. Why then apply this to the British Indian, who has done and suffered so much there? It may be that the whole of the highlands had been bespoken in favour of, or given away to, the European, though this should not have been done. Does that bar the Indian acquiring by purchase or otherwise property in the market, let alone the question of open competition and auction sales, such as Sir Sydney Crookshank's department is going to have at Raisina at the end of the month. He might as well lay down, as one of the terms of sale, that undesirables of a certain kind shall not have the right of bidding, especially if they hail from Bengal (Laughter) 40,000 square miles of land and 9,000 men.

Mr. R. A. Spence (Bombay : European) : The 9,000 can increase.

Sir Deva Prasad Sarvadhikary : If the 9,000 can increase, so can the land, because by bringing the land under cultivation and making it fit for human habitation, you can go on indefinitely expanding a country like that. Well, we are told they are pioneers; they are founders of the Empire (which has been challenged), British capital, enterprise and suffering. Every stock argument of that kind has been brought forward, in defiance of the moral of the 'belly and other limbs' story. Excellent condemnation this of all that Viceroy's and Governments of India have done up to now, from Lord Hardinge downwards, in advocating reasonable rights for Indians on whose behalf similar claims are to the fore. We are now to begin a new chapter. A Member of this Assembly, representing certain strongly canvassed interests, says all this is wrong and whatever may have been done in the past by Viceroy's and Governments of India cannot be upheld; there cannot be any grievance with regard to Indian exclusion and you have got to begin a new chapter. Well, that will not be helpful from the points of view of peaceable settlement or good faith. To-day's debate and yesterday's make one very sad. Viceroy's may be with us; Governments of India may be with us, whether with regard to the Khilafat question, the Colonial question or any question outside India in which Indians may be interested; yet, if there is a strong counter interest, there is no guarantee that we can achieve much. Viceroy's and Governments are as helpless as ourselves whose importance makes some wonder whether other means have not to be employed, which by itself is another seed of revolution. If a balanced black, brown and white East Africa is impossible, a similar impossibility will be naturally overtaking us in other parts of the Empire, in spite of compacts and conferences. In the ideal of Swaraj that many of us have in view, the Britisher, Christian or otherwise, the Hindu, the Muhammadan, the Jew, the Parsi, the Jain, the Buddhist, is to have an equal place according to his title. Why should that be denied elsewhere? We are told that, because some or many of us have been misbehaving, the whole of the Indian people is to be condemned to penance, and, after due penance and purification, probably their claims will be taken into consideration—By the time that is achieved, may not more be driven to the misbehaving? Mr. Joshi was very anxious the other day for his labour emigrants and wanted liberty of action for them. What is the value of that liberty if that is the sort of thing that is allowed to prevail where he will emigrate? Canada, Australia and the older Colonies put forward certain demands by virtue of their constitution. Is that sort of thing to be allowed in the case of the Crown Colonies also, where considerations which exist in Canada and Australia cannot arise? That would create an impossible position. Mr. Samarth has quoted from Mr. Winston Churchill. That, I suppose, was

[Sir Deva Prasad Sarvadhikary.]

not a quotation from an after-dinner speech which probably may account for the difference. Mr. Seshagiri Ayyar, with his usual acuteness, has suggested that this might have been a little feeler thrown out to see how the land lay, and that a man who has been often enough discredited by a Cabinet would not be hurt by being discredited once more. I am afraid that that cannot be said of one who is the Colonial Secretary for the time being, and he could not have said things which had not the tacit consent of the Cabinet. The position, therefore, is all the graver; and the earlier we can make strong representations through the Government which has sought to be helpful, and, the firmer the representations are, the better chances we shall have of finding some solution.

Mr. R. A. Spence: Sir, I rise to support the expression of opinion given by my Honourable friend, Sir Frank Carter, because I feel that that expression of opinion was given in the spirit which was mentioned during this debate by my Honourable friend, from Bombay, Mr. Samarth. We are all actuated by the spirit of *camaraderie* to work together here and we feel that, if we do injustice to the British in one part of the Empire, that spirit will not prevail. My friend, Sir Deva Prasad Sarvadhikary, who has just spoken, said that Sir Frank Carter had got his historical references in wrong sequence. Well, I cannot speak for him because I have not had an opportunity of consulting him; but I think that Sir Frank Carter was speaking of present day conditions and not of the conditions of the past. I think he was referring to what is happening at the present time and that is why he mentioned that subject. Now, in the Resolution which was introduced by the Honourable Mover, it struck me as rather curious how he seemed to harp on the question of breach of promise and breach of faith. I ask you to look upon this subject from the point of view of the white settler in Kenya and how he regards a breach of faith made to him. He went out to Kenya on the promises made to him by Lord Esher and by Lord Milner. He went out after fighting in the war for us, after four or five years of service in France, or possibly in Mesopotamia, or on this Indian frontier of ours; he goes out to Kenya to settle. It is not a tropical country—these highlands; it is a place where those of us who live in, shall we call them 'temperate,' though at the present time they seem rather 'intemperate' climates, people, for example coming from Canada and from Great Britain and the colder parts of the world, can settle. There are 45,000 square miles of highland; there are 160,000 or 200,000 square miles of other land. This British soldier or officer goes out to that country, buys his farm and settles there because of the promises made to him by the British Government, by the British Government, I say, because there seems to be a sort of feeling that the statements made by Ministers are not those of the British Government, but made by a member of the Government. What sort of feeling is that man going to have if that promise is broken? And I really do not see why we in India should want that promise to be broken. It is perfectly true that Indians have worked for the development of Kenya and East Africa. I do not suppose there is any one who would deny it; but would they have been able to do anything for that country if it had not been for the British there?

Mr. N. M. Samarth: The British came after.

Mr. R. A. Spence: Who were the people who went there first? The Arab slave-dealer is the one who went there first; do you want to recommend that the country should be restored to him? The original Asiatic

who went there was the Arab slave-dealer and it was the Britisher who put down that traffic, and the trader came along with the Britisher. That is not a reason why the Englishman should not be allowed to have land in that part of the country.

There is no doubt about it that, by this Resolution that has been proposed, an attack has been made at Kenya, and, to bolster up that attack at Kenya, the Mover of the Resolution has spoken a tremendous lot about South Africa. He finds he cannot do anything against South Africa. Even the great General Smuts cannot settle things, and so my Honourable friend goes against a little Colony which has been established only 17 years ago, and says: 'Oh, yes, we will make this a test case.' I should have preferred him to have gone for the South African Government, who are a big people, who can fight well, and not against the small community in Kenya.

Then, in the course of his observations, my Honourable friend said that 'blinded by race prejudice, the Economic Commission of European officials and non-officials reported injuriously to the Indian interests and in most offensive and provocative language maliciously slandered the Asiatics settled there.' Why should he say that the European officials and non-officials were blinded by race prejudice and maliciously slandered the Asiatic settlers? Surely, there is a bit of race prejudice in that statement of his.

Then, there was a reference in his speech to the principles on which the British Government entered the War. It was for those principles that the white settler in Kenya fought, and it was because he fought for those principles that he was promised his land. We did not dispossess any Indian. Can any of my friends here say that we have dispossessed a single Indian from the highlands of Kenya? Not one. Nor does any one in this Assembly wish to dispossess any man who is there. I do not think anybody in Kenya wishes to do so either. The whole attack seems to be against Winston Churchill. What is the gravamen of Mr. Winston Churchill's post-prandial speech? He has said that the highlands of East Africa should be reserved for the Europeans exclusively and that elsewhere there should be equal status and rights. I have got the Honourable Member here (Dr. Gour) waiting to correct me. I am sure he will put me right if I am wrong. It seems to me that that is the gravamen of Mr. Winston Churchill's speech, and because he has done that we have got all this accusation. Sir, these sort of speeches, as my Honourable friend, Sir Deva Prasad Sarvadhikary said, are likely to stir up ill-feeling.

Sir, before I sit down, I should like to say, that I should agree with Sir Frank Carter when he said that he would have supported the amendment that stands in the name of Sir Sivaswamy Aiyer; it is a very much better motion than the original Resolution, and I think it is more in keeping with the dignity of the Mover of the amendment than the amendment moved by Mr. Samarth.

Munshi Iswar Saran (Cities of the United Provinces: Non-Muhamadan Urban): Sir, in my young days, I had heard a story and it was this. A poor little lamb was drinking water at a stream towards the end. Some time after, came a tiger and began to drink water near the source. A few minutes after, the tiger looked at the lamb and said: 'How dare you defile the water of this stream?' The poor lamb said, with folded hands: 'Sir, I have been drinking water here long and the water is

[Munshi Iswar Saran.]

flowing my way; surely it is not going to you'. The tiger said: 'Nothing of the kind: This is impertinence for which I am going to punish you'. The punishment the poor lamb did receive and it was that he went inside the tiger. Now, these Indians, artisans, 'men who do not count,' in the words of my Honourable friend, Sir Frank Carter, who gave expression to this sentiment with great vehemence in answer to an interjection of my Honourable and esteemed friend, Mr. Samarth. He said: 'They do not matter; you need not bother about them'. These Indians are traders, shop-keepers and I suppose, coolies, whom my friend, Mr. Joshi, represents here. These were the men who were living and working in Kenya. A long time after comes the white man and says: 'Good gracious. How impertinent these black men are. These black men living here have the impudence and audacity to dream of occupying land in the highlands! Nothing of the kind. We have built this Island out of our capital. We have fought this Great War'. All these arguments are being trotted out in order to deprive the Indian of his right to acquire land in the highlands. My Honourable friend, Mr. Spence, says: 'Why should you deprive the Englishmen of the highlands?' Good gracious! Deprive the Englishmen! Even the wildest amongst us has not got the courage to dream of depriving the Englishmen of land in the highlands. What the poor Indian, who does not count, who does not matter, according to Sir Frank Carter, is struggling for is to have his little right recognised to a little share in those glorious highlands. That is all. We are not seeking to oust the Englishman. It is our claim, it is our prayer, it is our appeal, that we should have our share in them. Sir, I am exceedingly obliged to Sir Frank Carter and to my Honourable friend, Mr. Spence, for the speeches they have delivered. They have made the position of the Britishers in this country quite clear. We now know where they stand. Sir Frank Carter, as is usual, started with an expression of sympathy with our aspirations. That, Sir, is the approved style now of doing things. With apologies to the Honourable gentlemen occupying the Government Benches, whenever they want to defeat a Resolution, they get up and say: 'Oh I can assure this House that Government is in considerable sympathy with it, *but*'. You wait for the '*but*' and when it comes, the result is that the Resolution is destroyed. And no one, by the way, is a greater adept in this art than my Honourable and esteemed friend, Sir William Vincent. (Laughter.) Now, Sir, the non-co-operator is the whipping boy of this Council. If there is a collision between two trains, the non-co-operator is in some mysterious way responsible for it. Had it not been for these wicked non-co-operators, the trains would have gone on all right. Had it not been for non-co-operation, the British settlers and the white people in Kenya would have said: 'Hullo, my friends, Indians, we have been dying for you. We are trying to do everything for you. What nonsense? You are such silly dears. We can't get on without you. Highlands, you take them. We go to the lowlands.' But now they say: 'Look here! We would have done everything for you but for this non-co-operation'. And Sir Frank Carter tells us: 'Set your house in order'. To be serious, Sir, Sir Frank Carter once was perfectly right. Unless and until you set your house in order, you cannot expect your people to be respected out of India. It is in India that the real battle has to be fought. It is in India that your right has to be recognised, and, if it is recognised, no one, not even that oppressed individual, the Britisher in Kenya, will have the courage to get up and deny our right, which is the inherent right of every British subject. Sir, the Right Honourable Winston Churchill has been taken to task. I

do not agree with my Honourable friends at all. You must make allowance for post-prandial speeches. There are various reasons why a man in a post-prandial speech sometimes says more than he really means to say. I have not the honour of the acquaintance of the Right Honourable gentleman, but it may be that there are causes which are not known to the public why this speech was made. Sir, I wish to express my entire sympathy, not sympathy of the Carter brand, but really genuine sympathy, with the observations of my Honourable friend, Mr. Samarth, who, if I may say so, has delivered an admirable speech and has put the Indian point of view in very clear and forcible language before the House. Sir, the question which this House has got to consider, and which Government has got to consider, and which the Colonies have got to consider, is this: Is all this talk of equal partnership in the Empire a camouflage, or is it a reality? If it is a reality, then Indians claim, and, I submit, rightly claim, that their rights, in the Dominions and in the Colonies and everywhere, should be equal to that of any other British subject, be he dark, be he white, or be he brown. If that be so, then I submit that there is absolutely no justification for the Right Honourable gentleman saying that the highlands will be reserved for Europeans and this decision is final. May I tell him, in all humility, that to say that any decision in politics is final is a mistake. Many a final decision has been upset. It has been upset in India. It has been upset in other countries, and I may say that it will be upset in future. Sir, this is a question on which there is absolute unanimity between Indians of all shades of thought and opinion. They consider it to be the test of the sincerity of the statement that Indians are the equal subjects of the King. If they are the equal subjects of the King, they want equal rights and they are ready for equal responsibilities. It behoves us, it behoves the Government of India, and it behoves the authorities in England, to recognise this fact clearly, so that the non-recognition of this principle may not lead to trouble—trouble which we may not be in a position to clearly foresee at present.

Sir, before I sit down, I wish to say that our grateful thanks are due to the Government of India for the bold fight that they have put up on our behalf as far as this question is concerned, and we wish to say nothing, and to do nothing that might embarrass them in their fight. We wish in this matter, to strengthen their hands, so that they may fight our battle,—the battle for the absolute equality of the whites and non-whites within the Empire.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): In speaking to this Resolution, I shall not take my cue from the facts of the casual correspondent, a South African European resident of Kenya, who contributed his effusion to a journal, from which my Honourable friend on the left has given a garbled quotation. Due to his courtesy, I am in possession of this magazine and I shall complete the quotation which he left imperfect. That very correspondent, putting up an appeal for the Kenya European, in the very next sentence after the one quoted by Sir Frank Carter, admits that 'with the exception of these Indians'—and I give to the House his *ipsissima verba*:

'Other types of Indians did their duty well during the War. But undoubtedly that is not the type who are going to be affected by the decisions.'

[Dr. H. S. Gour.]

The correspondent admits that the Indians as a class have served well during the War, but he says that, because the Indians then resident in Kenya have not served as well as he should desire, therefore the Indian nationhood in this country and elsewhere must be denied the common right of citizenship within the Empire.

My friend, in championing the cause of the few straggling settlers of this Colony, said: 'Let us set our house in order.' My friend, no 4 P.M. doubt, claims India as his home, but he tells us that India is the home of himself and me, but Kenya is his home but not mine. That is the position of the Europeans with reference to the Colonies of the Empire. They are the citizens of the British Empire, but the Indians are denied the right in any of the Colonies of the British Empire. We are told—this is your home, settle your differences and, after you have settled your differences, make a claim upon the Kenya Colony.' My esteemed friend on my right (Mr. Spence) stood up to reinforce this argument by saying, upon what authority I know not, that the Kenya Colony highlands had been promised to returned British soldiers. Now, Sir, wherever he got his fact from I know not, but Members of the House will bear with me when I repeat that in the House of Commons, on a memorable occasion, when the Colonial vote was under discussion, this very question was raised by the Members of Parliament, and Mr. Winston Churchill, speaking from his place, not at a banquet, but from his place in the House of Commons, solemnly declared as the unaltered and the unalterable will of Parliament to treat the Indians on an equal footing with the citizens of the Empire. Let me quote to you the words which he used not many years ago but only in the month of July last. When this question was raised he said this:

'The case of the Indians is one of very great difficulty, first of all because of the relations between the Indians and the whites, and secondly, because of the relations between the Indians and the native, which are by no means so ideal as is sometimes suggested. In the main, we must make a continuous effort to live up to the principle that racial distinctions do not determine the status or position of any man in the British Empire, a person who is otherwise qualified to occupy a position or exercise a function of responsibility.'

That is the line on which we shall endeavour to proceed. These are the memorable words of the Colonial Secretary uttered in the House of Commons when the direct vote of the Colonial Office was challenged by the responsible Members of the House.

Now, at the end of that very year, this question was agitated in the House of Commons, and Mr. Winston Churchill was asked why the claims of Indians in South Africa were not settled, and a suggestion was made for the appointment of a Royal Commission. In the debate, which took place on the 14th of July, 1921, Mr. Winston Churchill expressed a desire that the Government of England would settle this question upon the basis of equality; and he, further, gave an assurance to the Members of the House that, if he was unable to settle this question to the satisfaction of the Indian people, he would submit the whole question to a Royal Commission. At the end of the month, this promise was once more alluded to, and the reply that Mr. Winston Churchill gave was:

'I am perfectly agreeable to submit this question to a Royal Commission, but I am hopeful of a just and honourable settlement.'

This was the utterance made by Mr. Winston Churchill late in the month of July last. Now, my friend, Mr. Spence, tells us that responsible Ministers like Lord Esher and Lord Milner had promised the highlands of Kenya to European settlers. I am perfectly certain that my friend must be under some delusion, because Mr. Winston Churchill explained to the House of Commons that these highlands of Kenya, situated as they were at the high altitude of 6,000 and more feet, were not suitable for European settlement. . . .

Mr. R. A. Spence: There is some mistake.

Dr. H. S. Gour: And it was pointed out that a number of Europeans who had taken land on the highlands of this Colony had to mortgage and give them up, because they were not able to manage them. This was the statement he then made.

Mr. R. A. Spence: A terminological inexactitude.

Dr. H. S. Gour: Then, Sir, followed the Imperial Conference; and in that Imperial Conference we were told that the rights of Indians in all parts of the British Empire would be respected. General Smuts, as a matter of formal protest, entered his dissentient note. But it was understood, and understood by all concerned, that it was merely a formal protest and that adherence would be given to the deliberate Resolution then arrived at. This was the situation when, all of a sudden, at the East African dinner, Mr. Winston Churchill completed another of these somersaults for which the Colonial Secretary has made himself notorious. As pointed out by Reuter, he told us that, as a curious result of the war, the discontented agitators in African and Asiatic countries seemed to think that they had only to express the wish that Britain should lay down the Government and Britain would comply; that it was high time it was made clear that this was not the rule Britain intended to follow. Then, referring to South Africa, he did not say what his wish was, but he evidently meant to imply that he was publishing the conclusions at which he had arrived, but whether in consultation with the other Members of the Cabinet or on his own responsibility, I know not.

I give you his exact words as reported by Reuter:

'Mr. Churchill proceeded to emphasise that highlands of East Africa should be reserved exclusively for European settlers; that decision must be regarded as final and it was not intended to depart therefrom.'

Now, Honourable Members here have been referring to the fact that this is a post-prandial effusion. Well, Sir, I should be extremely delighted to hear that it was nothing more. But, I submit, it has sent a thrill of indignation coupled with consternation throughout the length and breadth of this country when my fellow-countrymen read that the Colonial Secretary had announced to the assembled East African people that decision, which might be the decision of the British Cabinet, excluding them completely from the highlands of Kenya. If this were all, there would be some doubt. Later on he said:

'The interest of the British settlers and native population alike require that the future emigration of Indians should be strictly regulated.'

Here was the benefactor of mankind. Winston Churchill, speaking in the interest of the natives of East Africa, was safeguarding their rights and

[Dr. H. S. Gour.]

preserving their liberty by squeezing out the Asiatic. We are not unfamiliar with these benevolent people. I have two such benevolent gentlemen sitting on my right and on my left. The Honourable Mr. Spence, speaking on behalf of the people of Kenya, tells us that the British soldier would be at sea unless this Colony is reserved for him. The Honourable Sir Frank Carter tells us: 'You would have certainly got all the rights you want, had it not been for that mad Gandhi.' Now, Sir, the connection between Mr. Gandhi and his non-co-operation movement and the claim of the British Indians in Kenya is as intimate as Mr. Gandhi's relation with the sun spots. My friend tells us that this non-co-operation movement is responsible for our not getting the rights in Kenya. I ask my friend, is he not fanning the flame of the non-co-operation movement by denying to the people of this country that elementary right? (Hear, hear.) Can he deny that we, the people of this country, are subjects of the British Crown? Can you deny that as subjects of the British Crown our home is not Calcutta or India, but the British Empire? It is upon that standpoint that the Britisher and the Indian must look to their common Government and to the common Crown.

My friend on the other side tells us that India is our home. I welcome that statement, but let him not deny the consequence which that statement leads to. If India is to be the home of the Britisher, let the Britisher admit that the Indian has equally the right of settling down in any part of the British Empire. This, Sir, is a basic principle; this, Sir, is a fundamental law. Can my friends deny it; can my friends assert that, while they are free to settle and enjoy rights of equal citizenship, and even shake—as my friend on the left has shaken—the pagoda tree in this country, we the people of this country, are to be denied the elementary right of making a decent living on the highlands of Kenya. Mr. Winston Churchill said that that was a country that needed development. I ask the Honourable Members whether it is not the case that we, the people of this country, have been the pioneers of Kenya, who have populated it, who had settled there before the British appeared upon the scene, and who have, by reason of their priority, the greater claim.

We appeal, Sir, not only to the Indian Members of this House, but we appeal to my friends, who are the sponsors of the British interests in that Colony, to reconsider that view and not deny the people of this country the rights of common British citizenship.

The Honourable Mr. B. N. Sarma (Revenue Member): Sir, the House has had a very good opportunity of hearing the views of non-official Indian, as well as European Members, and I am particularly glad that Sir Frank Carter and Mr. Spence have put forward before this Assembly what they considered to be the views of the European community in Kenya, and supported them by such arguments as appeared to them to be just and reasonable. I say, I am glad they have done it, because it would have been a useless debate if the House had not an opportunity of hearing both sides of the question threshed out and had not an opportunity of arriving at a reasonable decision.

I shall not deal at any great length with the original Resolution, because, from the attitude of the Assembly, it is clear that they have concentrated their attention, not so much upon South Africa, as upon Kenya. The Honourable Mover of the original Resolution has dealt with the ancient history of the whole question of South Africa. He has charged the British Government with breaches of promise, or at any rate with lukewarmness in carrying out promises; charged the Indian Government with negligence in defending the interests of the Indian community in South Africa, and, finally, asked for a recognition of the full rights of citizenship in South Africa for all Indians settled down there. It is unnecessary for me at this juncture to go into the ancient history and to show how His Majesty's Government have tried, amidst numerous difficulties, to uphold and preserve the interests of the Indian community in South Africa; and how the Indian Government, with equal ardour and zeal, tried to uphold, against odds, the position of the Indian community; and, if they have not succeeded to the fullest extent possible, it was by reason of overwhelming forces confronted against them and the spirit of compromise which must naturally guide the deliberations of an Empire where the interests, not of one, not of two, not of three partners, but of numerous partners, have to be taken into consideration. But it is useless now to take up the old tale because every one knows full well and recognises that the Indian Government are fully at one with the aspirations of the Indian people with regard to the rights of lawfully domiciled and resident Indians in South Africa. Recently, we sent a despatch to South Africa, explaining the position of the Indian Government with regard to this particular matter and chiefly dealing with the several proposals made by the South African Inquiry Committee, and we have every reason to hope that prejudice will be slowly conquered and that the Indian will come into his own in the not distant future in that Commonwealth of the British Empire. (Hear, hear.) Well, while matters are in the stage of negotiations, it is unnecessary for me to dilate at any great length upon those negotiations, and we shall leave it at that.

Now, coming to the Kenya question, Honourable Members have in their hands the despatch which the Government of India submitted to the Secretary of State on the 21st of October, 1920, giving a reasoned exposition of their views on the subject, and to every one of those views the Government of India does adhere without any equivocation or without any departure therefrom, either in word or in spirit. We said there:

'There is no justification in a Crown Colony or Protectorate for assigning to British Indians a status in any way inferior to that of any other class of His Majesty's subjects.'

We pleaded there for a common electoral roll and a common franchise on a reasonable property basis plus an educational test, without racial discrimination, for all British subjects. We have protested against segregation of any type or form and stated that the whole position can be met by the enactment and enforcement of proper and strict sanitary and building laws; and, with regard to the acquisition of land, we said that we were unable to agree that the Indian claim to acquire agricultural land anywhere in the Colony is either unjust or unreasonable. It is useless now, and it would serve no purpose, to argue the point as to whether the Kenya Colony owes more to the Indian settler or to the British settler, as to whether either of those communities has acted

[Mr. B. N. Sarma.]

recently with due regard to the interests of the Empire as a whole or have not, for this simple reason that, where there are two partners, it is just possible that one partner does a little more work than the other. It is recognised that both the European as well as the Indian have built up that Colony, and it is idle to suggest, as some people seem to do, that the Indian alone is mainly responsible for the present prosperity of the country. I think Sir Frank Carter was perfectly right in saying that, although the Indian might have been the pioneer and have considerably assisted in enterprises there, although it may be true that but for him the progress which has been achieved might not have been achieved, still there is no gainsaying the fact that British enterprise, British labour, British capital and British *personnel* were equally, if not to a larger extent, responsible for the result. But I deprecate any comparison as to whether one party or the other party has done a little more or a little less in bringing about the existing state of things, for we feel that the country would be incapable of any great progress in the future unless both the British and Indian communities work together in harmony, mutual co-operation and a spirit of goodwill; and the Empire itself as such, as it stands at present, cannot be preserved unless equal status for all British subjects of His Majesty is maintained, with the reservations the Government of India agreed to at the recent Conference, namely, that, so far as the Dominions are concerned, the Government of India do recognise the right of those communities living in these Self-Governing Dominions to say with whom they will associate, whom they will admit into partnership with them; but subject to this provision that, so far as British Indian subjects settled there are concerned, they shall possess and enjoy absolutely equal privileges with the rest of His Majesty's subjects. (Cheers.) Therefore, Sir, I do not think that there need be any very great dissection of original principles. The real difficulty comes in when these principles have to be translated into practice. The outstanding differences with regard to Kenya appear to be with regard to the highlands, with regard to franchise and segregation, and more recently immigration laws. With regard to the highlands, there seems to be a great deal of misconception. It is unnecessary to say whether any legal pledge has been given to Europeans in Kenya promising them the whole of the highlands or not; but a course of conduct spread over a number of years is stated to have induced the European community settled there to believe that such a pledge has been given, and that is the position which His Majesty's Government had to face and which Mr. Churchill had to face. The problem, according to the Government of India, in so far as that aspect of the question is concerned, is not of very vital importance, because, either under a free gift policy or a policy of purchase and sale, practically the whole of the land in the highlands has passed into the hands of the European community and there is no longer any question of a gift or sale of land by the Government to the Indian community.

Dr. H. S. Gour: They want to sell all that land: the Europeans are hard up.

The Honourable Mr. B. N. Sarma: But the essential point of difference is whether an embargo need be put upon the European community prohibiting them from alienating the land to Indians or to any other community that they please.

I shall not try to prejudice the position of either party, except to say that certain prominent reasons seem to urge a reconsideration, even

from the European point of view, of the position that they have assumed. As I said on a former occasion, it is only uncultured, ignorant, weak communities that have to be protected by legislation of this type against individual members of that community doing things which are prejudicial to that community; and I have not heard of any legislation preventing such strong civilised cultured men as the Europeans from doing such foolish things which they consider to be prejudicial to the interests of their community as alienating lands to the Indian community. I mean, it is a privilege of the weak or a defence of the weak to have such laws on the Statute Book or recognised in practice, and we have every reason to hope that the European community themselves will soon recognise, if they do not recognise it now owing to prejudices or passion, that it will pay them to have the right of free sale in order to be able to realise the best price for their farms in case any one of them happens to sell or lease his farms to outsiders. A wider market would promote enterprise, would promote investment of capital in land and it will, I am sure, be very soon recognised that it is so; and I am hopeful that, even without any persuasion from the Indian Government or the Indian people, the problem will solve itself. But I ask Honourable Members to be patient and not to look to this alone as an acid test and to recognise also the difficulties of His Majesty's Government, when they are confronted by strong prejudices and passions of such a powerful community as that settled down in Kenya. I am not for one moment weakening in the position which the Government of India is assuming; I am only putting it to this Assembly that the Indian public also, on their part, should have patience and recognise the difficulties in which His Majesty's Government is placed on this question. But we shall convey to His Majesty's Government the views of this Assembly, which are our views, that there is no justification whatsoever for this restriction being placed upon the Indians being able to purchase lands in the highlands from the Britishers, or, in other words, a disability being imposed upon the European community there in their present supposed interest which is really detrimental to them as well as to the interests of the whole Colony.

On the other important questions of franchise and segregation, we have every reason to hope that the recommendations made by the Government of India would be substantially agreed to, and that there would be no reason whatsoever for any dissatisfaction being felt with regard to the decision of His Majesty's Cabinet upon this point. Before passing further, I may state that we have reason to believe that Mr. Churchill's pronouncement on the outstanding differences on important points have not yet been decided by the Cabinet and I may say affirmatively that it would be unjust to state that the Cabinet or any members of the Cabinet are using Mr. Churchill as a feeler to see as to whether there is really any indignation in this country on that point. That is so far as the segregation and franchise questions are concerned. With regard to immigration, I feel sure that the present policy of His Majesty's Government would be adhered to. As I have said, there is no justification in a Crown Colony or Protectorate for assigning to British Indians a status in any way inferior to that of any other class of His Majesty's subjects or for restricting their entry into it for lawful purposes, and I do not think that could have been the meaning of Mr. Churchill's statement. If Mr. Winston Churchill, as an individual, hoped for a particular future with regard to East Africa's constitutional development, we have no reason to quarrel with him, and I am sure, if he stated that he looked forward to a federation of the type existing in

[Mr. B. N. Sarma.]

South Africa being established in Central and East Africa, he could have been expressing, not the views of the Cabinet, but only his own views as to what he felt was the proper course. I am not minimising the importance or significance thereof by suggesting that the views of a Minister in charge of the Colonies are not entitled to weight, but at the same time individual members cannot altogether be fettered in giving expression to their personal views in post-prandial speeches as to what they hope would be the state of the country under their charge. I think we must leave it at that.

Then, with regard to immigration also, we have made representations to His Majesty's Government to protect absolutely the existing privileges of Indians entering East Africa, and we have no reason to suppose that our representations would not be acceded to.

Then, there are one or two statements made by Sir Frank Carter which I think I might deal with roughly. (Laughter.) By 'roughly' I necessarily meant 'generally' and not in great detail. The Honourable Member may perhaps be in possession of information of which we are not, as to the state of the feeling of Indians in East Africa. But we have received numerous representations from East African Indians with regard to their attitude on the several questions which I have mentioned now, and I may state to the House that it was with considerable difficulty that we were able to persuade the East African Indian Community to comply with our wishes and not to make the position of His Majesty's Government or of the Secretary of State difficult by any obstinate behaviour on their part. Well, I am only mentioning that for the purpose of correcting any misapprehension that may arise that I have not stated what I knew or rather what we have reason to believe is the state of things in East Africa. Sir Frank Carter may be right in his statement that the vast majority of those people are merely following one or two leaders who take a particular view of the whole question, but so far as can be judged, they seem to follow rather solidly their leaders, and the opinion seems to be all one way, and there is a sharp tension which the Government of India is trying as far as possible to soften and smooth down.

As regards the attitude of the East African Indians with regard to the war, I think we need not expatiate upon that. They have done what they could. It is possible that some of them might not have come up to the mark. There is no gainsaying the fact, and I think that it is recognised by all, that the Indian community has done yeomen service in preserving that part of His Majesty's Dominions for the British Empire and I think that was one of the reasons why the British sentiment so strongly veered round in favour of Indians when Mr. Montagu elaborated his proposals for conferring self-governing institutions upon India.

I come now to another part of Sir Frank Carter's statement which has very great force in it; and that is, that the present political troubles in India are making it difficult for the Government to defend their interests to the same extent as perhaps they might have done but for those troubles. I am not saying that this is an adequate reason for not treating the Indians in the way in which they ought to be treated or for denying them equal status, which is their due. But I am only putting it to the House that the view that sometimes prevails, that the greater the agitation the greater the benefit, is not a correct view, and that Mr. Montagu will feel necessarily

embarrassed when he finds his hands weakened by the unrest prevailing in India. I, therefore, appeal that on this point we should do all that we can to strengthen the forces which are fighting for the Indian cause in the British Cabinet and in the Empire generally, and that we should not *pooh-pooh* or set at naught or treat lightly the statement made by the European representatives here that this unrest is having a disastrous effect upon Indian aspirations in the rest of the Empire. I feel sure that, as we grow stronger, both politically, economically as well as socially, by the removal of racial restrictions which exist amongst ourselves, and, as we evince by action, thought, demeanour and word that, with the growth of our strength, also grows our attachment and allegiance to the British Throne, and the British connection, any racial differences and discriminations and misunderstandings which may exist are bound to disappear, if we only have patience and recognise that, there is not the slightest doubt that these troubles which are confronting the statesmen in the various parts of the Empire will find an easy solution, and a satisfactory solution. Therefore, I ask again, that the Members of this Assembly, while perfectly entitled to express their indignation or rather their dissent, should have some consideration for the difficulties of Mr. Churchill and others who have to uphold the privileges of the other subjects of His Majesty in Kenya, in conformity with, and without invading, the rights and privileges of the Indian community. We have not got a full text of the speech of Mr. Churchill authoritatively published. The 'ifs,' 'buts,' and the 'alsos' may have a significance. The whole report is not before us. It is just possible, speaking for the Colonies and speaking as Colonial Minister, and having particular regard, I suppose, to the dinner he was participating in and the society he was addressing, emphasis was laid on certain aspects of the question which prominently rushed to his mind. At any rate, we should not, with the information that we have, come to any decision or any hasty conclusions, and all that may be done now is to proceed on assumptions and give expressions to the Assembly's views, so that the Cabinet may know exactly the strength of Indian feeling here. Mr. Jamnadas Dwarkadas has asked me as to whether the Government of India would put themselves at the head of the people and identify themselves with their cause in this respect or would treat the matter in a lukewarm spirit. I have no hesitation in answering for the Government of India that the policy which has earned the commendations and plaudits of the Assembly and the people is the policy of the Government of India, and will be the policy of the Government of India, and, if they fail temporarily, it will only be a temporary failure. There is no doubt whatever that, in adopting that policy, the Government of India are not adopting a selfish policy on behalf of India but are adopting a true Imperial policy (Hear, hear), a policy which would weld the Empire into a strong and indissoluble whole, which would keep in check and subdue the various disintegrating forces, and there is no hesitation, as I have said, in giving an answer, the only answer that can be given to such a question as that. But that does not mean that the Government of India may not have to consider any reasoned statements of the difficulties of the Colonial Office with regard to the position of Europeans there, or any compromise which may have to be entered into, without coming into essential conflict with the principles which are guiding our policy and whittling down really in substance the things for which we stand out.

[Mr. B. N. Sarma.]

Well, Sir, I have little else to add. I am sure the British Cabinet and the Members there realise as much their responsibility as we think they ought to, but, before I deal with the question as to what is to be the Government's attitude to-day, I would suggest to the Mover that he might consider as to whether this form would suit him:

'This Assembly recommends to the Governor General in Council, that he do represent to His Majesty's Government that any failure in His Majesty's African territories to meet the lawful claims of Indians to equality of status with all other classes of His Majesty's subjects will be regarded as a serious violation of the rights of Indians to citizenship which were recognised and affirmed so recently as at the Imperial Conference of 1921.'

With regard to the amendment, moved by Mr. Samarth, I would suggest that it would be more consonant with the dignity of this House and possibly the position of Government here would drop the words 'feeling of indignation' and use the words 'protest' or 'strong protest' as the case may be. The Government of India, I may state, have already been in communication with His Majesty's Government regarding the attitude which Mr. Churchill has chosen to adopt and have given expression to the views which, I have already said, have been the guiding principles of their policy, and nothing would be gained, I think, by being unnecessarily strong in the use of language, especially when we are dealing with such an exalted personage as the one whose pronouncements are the subject matter of the controversy to-day.

Mr. President: Does the Honourable the Revenue Member move that as an amendment?

Mr. N. M. Samarth: I have given sufficient expression to the feeling of indignation of this Assembly on this subject and it does not matter now if the expression 'indignation' goes out of the amendment, and I should be quite satisfied with the words 'emphatic protest.'

Mr. President: Amendment moved:

'In lines 3 and 4 of the amendment for the words 'the Assembly's feeling of indignation at' substitute the words 'the emphatic protest of the Assembly against.'

The motion was adopted.

Mr. K. B. L. Agnihotri: Sir, I am much obliged to the Government of India for the sympathetic attitude that they have adopted towards the Indians in South Africa and East Africa and for having taken up their cause.

As the House and the Government have sympathetically received the Resolution, I have not much to say in reply, but I have to reply to one point raised by the Honourable Mr. Spence with regard to my speech. He charged me for being myself actuated by racial prejudice in declaring the Report of the Economic Commission to be the outcome of racial prejudice. Probably it may be news to Mr. Spence that the Government of India in the despatch dated 27th December, 1920, to which the Honourable Mr. Sarma has referred, had characterised the Report of that Com-

mission in the same words as I have done in my speech. In paragraph 15 of that despatch, the Government of India have said:—

‘It is unfortunate, however, that the policy of segregation as advocated by Europeans in East Africa is animated by the racial feeling which marred the Economic Commission’s Report.’

As for Sir Frank Carter’s point about the development of East Africa by the Indians, I have already given sufficient authority in my speech but, were it necessary to satisfy him further, I may quote one more, the authority of Sir Harry Johnston, the famous explorer, Special Commissioner, Commander-in-Chief and Consul-General of Uganda. He says:—

‘Indians traded with East Africa soon after the commencement of the Christian era. The presence of large numbers of British Indians on the Zanzibar Islands and coasts was 100, 80, 70, 50 years ago the main excuse and justification for British interference with those regions, and, without the help, the bravery and the discipline of Indian soldiers, I doubt whether we should easily have got the better of Arab hostility, have suppressed slavery or the slave trade, or have acquired the magnificent empire over East Africa that we now possess.’

I hope this will fully satisfy my friend, Sir Frank Carter, that Indians had developed East Africa. Englishmen went to East Africa in 1888 when the Charter was given to the British East Africa Company. Sir, I accept the suggestion made by the Honourable Mr. Sarma and accept the change of words in my Resolution which he has suggested.

Mr. President: The original question was :

‘That this Assembly recommends to the Governor General in Council that he do represent to the Imperial Government, that the failure on the part of the Imperial Government to meet the lawful and modest claims of Indians, for equality of status of British subjects, in all parts of Africa, will be regarded as serious violation of equal status promised to Indians in the British Empire.’

Since which an amendment has been moved :

‘To add at the end of the Resolution the following :

‘and further that he do cable to the Secretary of State for India and, through him, bring to the notice of His Majesty’s Government *the emphatic protest of the Assembly against* the pronouncement reported to have been made recently by the Right Honourable Winston Churchill at the East African Dinner in London.’

The question is that that amendment be made.

The motion was adopted.

Mr. President: A further amendment moved is to substitute for the first four and a half lines of the amended Resolution the following :

‘That this Assembly recommends to the Governor General in Council that he do represent to His Majesty’s Government that any failure in His Majesty’s African territories to meet the lawful claims of Indians to equality of status with all other classes of His Majesty’s subjects will be regarded as a serious violation of the rights of Indians to citizenship which were recognized and affirmed so recently as at the Imperial Conference of 1921.’

The question is that that amendment be made.

The motion was adopted.

Mr. President: The question is that the following Resolution, as amended, be accepted:

'That this Assembly recommends to the Governor General in Council that he do represent to His Majesty's Government that any failure in His Majesty's African territories to meet the lawful claims of Indians to equality of status with all other classes of His Majesty's subjects, will be regarded as a serious violation of the rights of Indians to citizenship, which were recognized and affirmed so recently as at the Imperial Conference of 1921; and further, that he do cable to the Secretary of State for India and, through him, bring to the notice of His Majesty's Government the emphatic protest of the Assembly against the pronouncement reported to have been made recently by the Right Honourable Winston Churchill at the East African Dinner in London.'

The motion was adopted *nemine contradicente*.

The Assembly then adjourned till Eleven of the Clock, on Saturday, the 11th February, 1922.

LEGISLATIVE ASSEMBLY DEBATES

SATURDAY, 11th FEBRUARY, 1922

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LEGISLATIVE ASSEMBLY.

Saturday, 11th February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

ADMINISTRATION OF THE NORTH-WEST FRONTIER PROVINCE.

178. ***Sir P. S. Sivaswamy Aiyer**: Will the Government be pleased to state whether steps have been taken to give effect to the Resolution of the Assembly in September last about the administration of the North-West Frontier Province?

Mr. Denys Bray: Government have consulted the Government of the Punjab and the Chief Commissioner on the question of improvements in the judicial system of the North-West Frontier Province and have also been examining the other questions referred to in the Resolution. Other proposals have, however, been before them at the same time, notably a proposal for the establishment of a Legislative Council for the administered districts of the Province. They have therefore decided to appoint a Committee including non-official Members of the Legislature to consider both sets of proposals. It is hoped that the constitution of the Committee and its terms of reference will be announced shortly.

APPOINTMENTS AND QUALIFICATIONS OF MUNSIFFS IN THE NORTH-WEST FRONTIER PROVINCE.

179. ***Mr. P. L. Misra**: Will Government be pleased to state the educational qualifications of the permanent and officiating Munsiffs serving under the North-West Frontier Province, together with their substantive appointments?

Mr. Denys Bray: Of the nine permanent Munsiffs, one is a B. A., one an F. A., six are Matriculates, and one has studied up to the Entrance Standard.

Of the four officiating Munsiffs, one is a B. A., one a Matriculate, one a Matriculate who has read up to the F. A., and one has passed the Middle School examination and read up to the Matriculation. Their permanent appointments are respectively Translator, Divisional Court, Dera Ismail Khan; Muharrir, Judicial Commissioner's Court; Naib Tahsildar; and Reader, Divisional Court, Peshawar.

LAWYERS IN THE NORTH-WEST FRONTIER PROVINCE.

180. ***Mr. P. L. Misra**: (a) What is the number of lawyers practising in the North-West Frontier Province Courts?

(b) Has any recruitment been made from the members of the Bar for the Judicial Service of the Province?

Mr. Denys Bray: (a) 117.

† The Honourable Member being absent, the question was put by Mr. J. P. Cotelingam.

(b) Yes. At present six officers are in the Judicial Service who were recruited from the Bar.

MILITARY EXPENDITURE ON UNREST DURING THE CURRENT FINANCIAL YEAR.

181. * **Mr. K. G. Bagde** : Will the Government be pleased to state the amount of extra military expenditure necessitated up to now during the current financial year to meet the present state of unrest in the country ?

Sir Godfrey Fell : It is regretted that the information asked for is not available, as no separate record has been kept of any extra military expenditure that may have been incurred during the current financial year in connection with the calling out of troops to deal with minor disturbances. As regards the expenditure incurred in connection with the Malabar rebellion, the attention of the Honourable Member is invited to the reply given on the 16th January last by the Honourable Sir William Vincent to part (e) of started Question No. 76.

INDIANS IN THE INDIAN EDUCATIONAL SERVICE.

182. * **Haji Wajih-ud-din** : (a) Will the Government be pleased to state the total number of Indians in the Indian Educational Service on the 31st December, 1921, showing Moslims, Hindus, Sikhs and Indian Christians, respectively ?

(b) Also the procedure usually followed in recruiting Indians to the Indian Educational Service ?

Mr. H. Sharp : (a) There were 118 Indians in the Indian Educational Service on the 31st December, 1921. Of these, 85 were Hindus, 19 Mubammadans, 6 Parsis, 4 Christians, 3 Sikhs and 1 Burman.

(b) The usual procedure is that the candidate applies to the Local Government of the province to which he belongs. His suitability and that of any other candidates is then considered by a Local Selection Committee. This Committee reports to the Local Government and the Local Government report to the Government of India. The Government of India, unless they see objection to the recommendation of the Local Government, submit it to the Secretary of State, with whom rests the final power of appointment.

INDIANS IN THE STORES DEPARTMENT.

183. * **Mr. K. C. Neogy** : Will Government be pleased to state the number of appointments that have been created up till now in the Stores Department, which carry an initial salary of Rs. 500 and above per month, and how many of them have been given to Indians ?

Mr. A. C. Chatterjee : The creation of the Indian Stores Department has not yet proceeded very far. The position is that with the sanction of the Secretary of State the Government of India have created three temporary posts. They have appointed a Chief Controller of Stores, whose duty it is to advise the Government of India on the main lines of policy to be adopted and to work out a scheme of organisation. They have also appointed a Chief Inspector and a Director of Purchases and Intelligence to organise the

Department on the inspection and purchasing sides respectively. The only purchasing branch actually in existence is that of textiles which was transferred as a going concern from the Controller of Surplus Stores. The Director of Purchases and Intelligence is in charge of this branch and is assisted by a fourth officer, who holds an existing appointment under the Government of India and who has been transferred for purposes of administrative convenience to work under the Chief Controller of Stores. None of the above officers are Indians.

MOPLAH POPULATION OF MALABAR.

184. * **Mr. Mahmood Schamnad Sahib Bahadur** : Will the Government be pleased to state the respective Moplah population of South Kanara, North Malabar, South Malabar and also of the two disturbed taluqs of Ernad and Walwanad in South Malabar ?

Mr. H. Sharp : The figures of the Moplah population required by the Honourable Member are as follows :

South Kanara	130,562
North Malabar	249,767
South Malabar	706,150
Ernad taluk	236,873
Walwanad taluk	131,496

LOYALTY OF EDUCATED MOPLAHS.

185. * **Mr. Mahmood Schamnad Sahib Bahadur** : (a) Are the Government aware that the Moplah disturbances have affected only the ignorant Moplahs of Ernad and Walwanad Taluqs, whereas the Moplahs of South Kanara, North Malabar Districts and the remaining taluqs of South Malabar are very loyal and ready to help the Government in every way possible in order to maintain peace ?

(b) Are the Government aware that Khan Bahadur Chekutty, an influential Moplah of Ernad, who was killed by the rioters, was a staunch supporter of the Government and the leading Moplahs of Ernad and Walwanad Taluqs are still co-operating with the Government in restoring order ?

The Honourable Sir William Vincent : (a) The statements made in the question are not correct. The Collector reports that North Malabar and the other taluqs of the south cannot be described as loyal and ready to help. Part of the Ponnani taluq is in an active state of rebellion and until quite recently there were a large number of dacoities and many liquor shops were burnt. These outrages were perpetrated in the name of the Khilafat. In Calicut taluq there were many dacoities and some murders, and some notorious leaders were arrested in this taluq. The Collector reports that he has had no assistance from any Mappilla except in a very few instances in the apprehension of rebel fugitives in Calicut and the northern taluqs. With very few exceptions, the Mappilla population is in sympathy with the rebels.

(b) The part of Ponnani taluq that lies north of the Ponnani river is as much affected by the rebellion as Ernad taluq. The middle part of Ponnani taluq has also been much disturbed. In the southern part of the

taluk conditions are not so bad. In a few ansams in the south-east of the Calicut taluk, there have been a number of dacoities. The rest of the district is passive.

(c) The gentlemen named and a few others have certainly done what they could to help Government and they as well as loyal Mappilla gentlemen of Calicut are generally regarded as Kaffirs on account of their attitude towards the rebellion, a fact which shows that the general sympathy of the Mappillas is with the rebellion.

(d) Government do not consider that the communiqués issued by them are calculated to create the impression suggested, but, as explained above, nearly the whole Mappilla community is or was till recently in sympathy with the rebels.

CONSTRUCTION OF MANGALORE-ARSIKERE LINE IN MALABAR.

186. * **Mr. Mahmood Schamnad Sahib Bahadur:** (a) Is it a fact that there is only one railway line entering Malabar from the East and in consequence of its being damaged by the rioters during the recent disturbances military aid could not be sent to Malabar for some days?

(b) If so, do the Government propose to construct the long proposed Mangalore-Arsikere line at an early date?

Colonel W. D. Waghorn: (a) The reply is in the affirmative. During the recent riots all traffic 'by rail' had to be suspended for some days.

(b) The reply is in the negative. The position of the Mangalore-Arsikere Railway project is as stated in the answer given to the Honourable Member in the Legislative Assembly on 5th March, 1921.

ALLEGED ATROCITIES BY THE POLICE IN MALABAR.

187. * **Mr. Mahmood Schamnad Sahib Bahadur:** Is it a fact that the Reserve Police in the Martial Law area in Malabar have been committing various atrocities and outraging the modesty of Moplah women?

The Honourable Sir William Vincent: The suggestion in the question is entirely untrue. The Collector reports that the Honourable Member in an interview with him suggested a similar unwarrantable allegation against the Indian troops. The Collector asked the Honourable Member whence he got his information, but the Honourable Member was unable to say. He then made no charges against the Police and I regret that he should have made such charges in the present question. The local authorities have not any information of outrages of the kind suggested. On the other hand, they report that they have seen with their own eyes many victims of Moplah cruelty, e.g., children suffering from cuts on the head and from concussion, and in one case a Hindu woman whose chin had been cloven to the tongue. I may say that I myself also saw this unfortunate Nair woman.

SURROUNDING OF TIRURANGADI MOSQUE.

188. * **Mr. Mahmood Schamnad Sahib Bahadur:** (a) Is it true that Tirurangadi Mosque which is in the centre of Ernad Taluk was surrounded

by the Police and military early in the morning between 5 and 10 A.M. on the 20th of August?

(b) Is it true that the military fired on the same day without warning on the mob, some of whom were sitting in compliance with an order, without suspecting in the least what was going to happen?

The Honourable Sir William Vincent: (a) There are three mosques in Tirurangadi; only one of these was visited by the police on the morning of the 20th August. It was not surrounded at any time. Houses were searched in its vicinity and the mosque itself was searched for arms by Mapilla police officers, who respected its sacred character.

(b) The suggestion that the troops fired on the mob, when some of the mob were sitting, in compliance with an order, is altogether untrue. The form taken by this atrocious rumour when first started was that orders were given by Mr. Thomas, the Collector, and Mr. Hitchcock of the Indian Police. The rumour was started when it was believed that these two officers were dead and would be unable to deny it. It was first alleged that the firing without warning took place at the court house and later, when it was known that the two officers in question were still alive, the scene was changed and the lie was fathered on two officers who were actually killed.

INSECURITY OF INDIAN PILGRIMS TO HEDJAZ.

189. * **Mr. Mahmood Schamnad Sahib Bahadur:** Is it a fact that Indian pilgrims to Hedjaz were looted and murdered on their way to Medina during the last pilgrim season?

Mr. H. Sharp: Reports have been received that a number of pilgrims to Medina were looted and killed by Bedouins during the pilgrimage of 1921. Indian pilgrims were not specially molested and there is no specific report to hand of any Indian pilgrims being killed.

UNSTARRED QUESTIONS AND ANSWERS.

DISSATISFACTION AMONG POSTAL OFFICIALS IN BURMA OWING TO HIGH COST OF LIVING.

256. **Mr. B. H. Jatkar:** (a) Will the Government be pleased to state whether a telegram issued by the President, All-India Burma Postmasters' Association, addressed to His Excellency the Viceroy in the month of November, 1921, was received?

(b) If the answer to (a) above be in the affirmative, has the attention of the Government been drawn to the statement made therein that extreme dissatisfaction prevails among officials in all ranks of the Post Office owing to abnormal increase of cost of living, and, if so, what action the Government proposes to take to allay the dissatisfaction alluded to?

Colonel Sir S. D'A. Crookshank: (a) Yes.

(b) Dissatisfaction owing to the increase in the cost of living is not confined to the officials of the Post Office and Government are not aware of any special grounds for dissatisfaction among this class of its employees,

whose pay has been recently revised on the lines recommended by a Committee. The question of effecting some improvement in the grading of gazetted Postmasters is under consideration.

CURTAILMENT OF RESERVE STAFF FOR POSTAL DEPARTMENT.

257. **Mr. B. H. Jatkar:** Will the Government be pleased to state the reasons which lead the Government to curtail the creation of a reserve staff for the Postal Department from 20 per cent., as recommended by the Postal Committee of 1920, to 17 per cent. as ultimately sanctioned by the Government?

Colonel Sir S. D'A. Crookshank: The leave reserve sanctioned in the case of telegraphists in the Traffic Branch was 17 per cent. of the total working strength of the establishment, and, in the absence of evidence clearly demonstrating that a similar reserve would not suffice to meet requirements in the case of the clerical establishments in Post Offices and the Railway Mail Service, Government were not prepared to provide a stronger leave reserve for these establishments.

TELEGRAPHISTS TRANSFERRED FROM LOCAL TO GENERAL SCALE.

258. **Mr. B. H. Jatkar:** Will the Government be pleased to state the number of Telegraphists in the Telegraph Department transferred from the local scale to general scale with effect from the 1st May, 1921, showing separately the number of (a) Hindus, (b) Muhammadans, and (c) other nationalities, and percentage of Hindus and Muhammadans to Telegraphists under (c)?

Colonel Sir S. D'A. Crookshank: The following statement gives the particulars asked for:

Total number of Local Service Telegraphists transferred to General Service since May, 1921.	Hindus.	Muhammads.	Other religions.	Percentage of Hindus and Muhammadans on the total number transferred since May, 1921.
394	276	22	96	75.63

DISSATISFACTION OF POSTAL CLERICAL STAFF IN BURMA WITH REVISED SCALES OF PAY.

259. **Mr. B. H. Jatkar:** (a) Will the Government be pleased to state whether it has received a copy of memorial submitted in December last by the Post Office and Railway Mail Service Clerical Staff of the Burma Postal Circle addressed to His Excellency the Viceroy and Governor General of India, pointing out that the introduction of time scales of pay in the Burma Circle benefited the clerical staff very little?

(b) If the answer to (a) above be in the affirmative, will the Government be pleased to state what action it proposes to take in the matter?

(c) Is it a fact that 163 out of 285 clerks in the Rangoon General Post Office and its Town Sub-offices were adversely affected by the revision and they will not be able to get any increase in pay for some years to come ?

(d) Is it a fact that the clerks in Rangoon General Post Office and its Town Sub-offices, by the introduction of the time scales of pay, got in an average, an increase of 2·8 per head while the clerks in Head Offices in other Circles got nearly an increase of 30 per head. If so, how the Government proposes to mete out equal treatment to clerks in the Rangoon Town ?

Colonel Sir S. D'A. Crookshank : (a) and (b). A copy of the memorial in question has been received. The Postmaster-General, Burma, has been asked to submit his recommendations.

(c) The number of men in the Rangoon General Post Office and its Town Sub-offices adversely affected was 61, not 163. They were protected from loss by the grant of personal allowances. Out of these, 4 are women clerks whose case has been met by the introduction of special rates of pay; 42 have since earned increments which have absorbed their personal allowances; the remaining 15 cases are under consideration.

(d) The information has been called for.

BETTER LEAVE RULES FOR POSTAL DEPARTMENT.

260. **Mr. B. H. Jatkar :** (a) Will the Government be pleased to state how many days' casual leave during a year is allowed to the clerical staff of the Civil Departments and how much casual leave an official is entitled to enjoy at a stretch ?

(b) How many days' casual leave during a year is admissible for the staff of Post Office and Railway Mail Service ?

(c) If the number of days of casual leave is the same in Postal Department as in other Civil Departments, what additional concession the Government proposes to give to postal employees to recoup the deficiency of gazetted holidays denied to Postal Department ?

Colonel Sir S. D'A. Crookshank : (a) Casual leave is not recognised as leave earned and is not subject to any rule, the amount granted being left to the discretion of the officers authorised to sanction it. The amounts of casual leave admissible during a year and at one time vary in the various offices of the Government of India and of the Local Governments and ordinarily does not exceed 15 days in any twelve month.

(b) 20 days.

(c) The casual leave allowed in the Post Office is intended to compensate the staff for the loss of some gazetted holidays. No further concession is contemplated.

UNIFORM INCREASE IN RATES OF PAY FOR ALL ACCOUNTS ESTABLISHMENTS.

261. **Mr. K. C. Neogy :** (a) Will Government be pleased to state why the percentage increases of salary which were allowed to be drawn by the establishments of Civil Accounts Offices from the 1st April, 1920, was not allowed in the case of the Auditor General's office, Assistant Accounts Officers and the clerical establishments in the offices of the Accountants General, Posts and Telegraphs and Railways ?

(4) Is it a fact (1) that the increases of pay which were sanctioned were granted on account of increase in the cost of living, (2) that the maximum pay of the Subordinate Accounts establishments remained the same before and after the introduction of the time scale rates of pay, (3) that increases amounting to $\frac{1}{3}$ rd, $\frac{1}{4}$ th, $\frac{1}{5}$ th over their former rates of pay were allowed to all officers of the General List and the maximum drawn by these officers have in consequence been increased, and (4) that increases of pay were granted to all other services without reference to the maxima previously existing?

(c) If so, will Government be pleased to reconsider their decision and grant the increase uniformly in all cases irrespective of the maxima?

The Honourable Sir Malcolm Hailey : (a) The system of percentage increase of salary was adopted only in certain classes of establishments in which the minimum and maximum remained the same as before the revision or were improved only slightly, while the position was not redressed by the grant of any special system of increments. The offices named were not brought under this system as the improvement of pay was considered to be adequate.

(b) The facts are as stated in the first three cases. As regards the fourth point, if the Honourable Member means that in all other services the previous maximum pay was increased at the revision, then the answer is that this was generally the case, though in some cases the pay of the highest posts has remained unchanged.

(c) Government do not at present propose to reconsider their decision on the question of increases at revision.

WAR ALLOWANCES FOR IMPERIAL ESTABLISHMENTS IN DELHI AND THE PUNJAB.

262. **Mr. K. C. Neogy :** (a) Is it a fact that war allowances sanctioned by the Local Government of the Punjab and the Chief Commissioner, Delhi Province, for the provincial establishments under them on account of increase in the cost of living were not allowed to be drawn by the Imperial establishments serving within the geographical limits of those provinces? Is it a fact that no such restriction was placed in respect of Imperial establishments serving in other provinces where similar war allowances were sanctioned for Provincial establishments?

(b) If so, what are the reasons for this distinction?

(c) Will Government be pleased to consider the desirability of permitting men on the Imperial establishments in the Punjab and in the Delhi Province, to draw the allowances up to the date from which the revised rates of pay of the establishments on time scale took effect?

The Honourable Sir Malcolm Hailey : The matter is under investigation, and an answer will be sent to the Honourable Member when complete information has been obtained.

INCREASE IN RATES OF PAY FOR ACCOUNTS ESTABLISHMENT.

263. **Mr. K. C. Neogy :** Have Government received any memorial from members of the establishment of any account and audit offices praying

for an increase in their rates of pay? If so, what action do Government propose to take in the matter?

The Honourable Sir Malcolm Hailey: The memorials have been received and Government are considering the question of affording some relief.

GRIEVANCES OF MENIAL ESTABLISHMENT IN GOVERNMENT OF INDIA SECRETARIAT.

264. **Mr. K. C. Neogy:** (a) Have Government received memorials in December, 1921, and January, 1922, from the Jemadars, Dafadars and Peons employed in the different Departments of the Government of India, praying for a revision of their salaries, for being granted house-rent allowances, and for a revision of their privilege leave and pension rules?

(b) If so, will Government be pleased to state what action is proposed to be taken thereon?

The Honourable Sir William Vincent: (a) The answer is in the affirmative.

(b) The memorials are under consideration.

GOVERNOR GENERAL'S ASSENT TO THE BENARES HINDU UNIVERSITY (AMENDMENT) BILL.

Mr. President: I have to announce to the Assembly that His Excellency the Governor General has been pleased to give his assent to the Benares Hindu University (Amendment) Bill passed by the Assembly and the Council of State.

RESOLUTION RE: INDIANISATION OF THE SERVICES.

Mr. Jamnadas Dwarkadas (Bombay City: Non-Muhammadan Urban): Sir, I rise to move the Resolution that stands on the agenda in my name. It runs thus:

'This Assembly recommends to the Governor General in Council that, having regard to the Declaration of August, 1917, he be pleased to arrange that, in future, the recruitment for all the All-India Services, excepting those of a technical character, shall be made, as far as possible, in India, and also to take steps to provide in India such educational facilities as would enable Indians to enter these technical Services in larger numbers than is at present possible.'

I think, Sir, it is hardly necessary for me to deal with this Resolution at length over again, in view of the fact that in Simla, when I had the honour of moving this Resolution, I dealt fully with the matter. However, I think, in order to refresh the memory of my Honourable colleagues, it will not be out of place for me to deal as briefly as I can with, especially, the principle underlying my Resolution.

Sir, after I had the honour of moving that Resolution in Simla, I read in one or two papers, to whose views I attach considerable importance, that my Resolution was being interpreted by a certain section of those who belong to the Services and by a good many sympathisers to mean that I wanted to exclude

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the British element from the Services in future. I want to assert here, Sir, emphatically that nothing is further from my mind than that my Resolution should be interpreted to mean that it is my desire that the British element should be totally excluded from the Services. I want to emphasise this fact particularly, that it is impossible for me to associate myself with anything that is based on considerations of race; and it is not with a view to exclude the British element that I have ventured to move this Resolution, but it is with a view to try and remove the bar that at present obtains against Indians that I have thought it proper to move the Assembly in the matter.

Sir, I also want to make it clear that, if this Resolution is accepted by the House and is given effect to by the Government, it does not mean that every European official in this country will have to resign. Even if this Resolution is given effect to by the Government, it will take a long number of years before the Services are thoroughly Indianised.

Sir, this question of the Indianisation of the Services was gone into long ago by a Royal Commission which was appointed for the purpose, but I am sure the House will agree with me that, even when the recommendations were made by the majority of the members of that Commission, they caused a good deal of disappointment throughout the country. That was long ago, in the year 1915. It would be idle to deny that India has made a wonderfully rapid progress since then, and the point of view held on that occasion by the members of the Commission needs considerable revision, and the whole fundamental attitude needs to be changed. Even then, an Indian member of the Commission, Sir Abdur Rahim, pointed out very clearly the difference that existed in the respective points of view held by the majority of the members of the Commission and the minority. He said :

'The points of view from which the majority of the Commissioners and myself have approached the question of employment of Indians are substantially different. The question they have asked themselves is, what are the means to be adopted for extending the employment of Indians? But the proper standpoint, which alone in my opinion furnishes a satisfactory basis to work upon, is that the importation of officials from Europe should be limited to cases of clear necessity, and the question therefore to be asked is, in which Services and to what extent should appointments be made from England. The suggestion involved in the majority's point of view is that special measures are necessary for finding employment for Indians in the administration, and that the practical question, therefore, is how many or how few posts are to be handed over to them. On the other hand, the view which, upon a review of the situation, has forced itself on my conviction, is that if Indians have not established a footing in the higher ranks of administration, it is not through their own fault; it is due to barriers of many sorts that have been raised in their way.'

I want to point out, Sir, to the Government that this is the view long held by Indians belonging to all shades of political opinion. You will remember, Sir, that the majority of the Commission at that time asserted that, in view of the fact that the British character of the administration had to be preserved, they had to make the recommendations that they made. Too much stress was laid, Sir, on the responsibility to the British Parliament and the British character of the administration. As a matter of fact, the declaration of August, 1917, in my opinion, gives up that point of view and recognises the principle that, in view of the fact that Self-Government is to be established in this country, it is necessary that a larger and larger number of Indians should be associated in the administration.

Sir, I do not know if the words 'British character' mean necessarily that men should be imported from Great Britain. My interpretation of the words

'the preservation of the British character of administration' is that the spirit of the administration should remain the same and should be based on those principles of justice, honour, freedom and rule in accordance with the will of the majority, that have been identified with British rule. It would be idle to assert that, in the course of the administration, even Britishers have always stuck to those principles which are identified with British rule; and, whenever there has been a deviation from these principles, it has often been criticised and severely condemned by the ablest men in India, chiefly by the late Dadabhai Naoroji, who called it the un-British character of British rule. It is evident, therefore, Sir, that the British character of the administration does not necessarily imply that it can be maintained only by men who come from Great Britain. What is necessary is the preservation of the spirit, by whatever agency the administration is carried on, and it does not necessarily mean that men should be imported from Great Britain. However, as I pointed out, the whole point of view is now different, and the Secretary of State himself in the declaration of August 20, 1917, recognises the need of associating a larger and larger number of Indians in the administration. In that declaration he has clearly stated that the goal of the British policy is to confer Self-Government on India. Now, it will be admitted that the establishment of Self-Government in India and the organisation of the Services extensively recruited outside the country as a permanent arrangement, are ideals which are both inconsistent and irreconcilable. You cannot have Self-Government in India, and in the same breath have the whole administration run by men who are recruited outside the country. It has often been pointed out by various critics in India that, while it is claimed that every day we are making a fast approach to responsible government, the real facts are that the whole administration is practically run by Civilians who come from Great Britain. There is a good deal of truth in that and that is one of the reasons why, I believe, discontent prevails in this country. Objection is urged to the wholesale recruitment of Indians in India on the ground that the educated classes, who would take advantage of the Services, do not enjoy the confidence of the masses of the country. I venture to submit that there is absolutely no force in that objection. On the other hand, I believe that the discontent of the educated classes, which has always in the history of every country in the world been at the bottom of all revolutionary movements, will disappear if the doors of these higher posts, which are at present closed against them, are thrown open to the children of the soil. It is a legitimate claim of the people of this country that the affairs of the country should be administered by the children of the soil and if that claim is denied at a time when India is admittedly making rapid strides towards responsible Government, I believe that policy will go a great way towards feeding the revolutionary movement which we see around us. Look at the advantage, Sir, of admitting Indians in large numbers to the administration of the country. They will go amongst the masses of the people; they will identify themselves with the masses of the people; they will live the life that the masses understand; they will naturally, because they are well acquainted with the language of the masses, sympathise with and win the affection of the masses and so eliminate that ignorance of the masses which is exploited by agitators for the purpose of carrying out their revolutionary ideas. I submit, Sir, that, instead of being a danger to the community, the association of a large number of educated Indians in the Services will remove a great difficulty which lies in the way of

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progress in India. Sir, I pointed out in Simla how we were situated at the present moment. In reply to a question put by Mr. Joshi, the Honourable the Home Member laid a statement on the table giving the percentage of Indians in each of the various Departments and the proportion in which Indians are being recruited for them. In that statement I find 13 per cent. Indians in the Indian Civil Service, 5 per cent. in the Police, 14 per cent. in the Forest, nearly 26 per cent. in the Agricultural Service, 38 per cent. in the Indian Educational Service, 38 per cent. in the Engineering Service, 11 per cent. in the Medical and 23 per cent. in the Customs. Turning now to the maximum percentage of posts intended to be given to Indians, I find that the policy of the Government of India is not to give more than 48 per cent. in the Civil Service and 50 per cent. in some of the other Services. In the case of the Civil Service, the rate of recruitment for Indians is 34½ per cent. of the total number of vacancies and will rise to 48 per cent. in the course of the next 9 years. In the case of the other Services, the position is even less satisfactory. For instance, in the Police, no definite ratio is laid down for the filling up of fresh vacancies, and it is impossible to say, according to the Government statement, when the maximum percentage of 33 will be reached from the extraordinarily low figure of 5 per cent. now obtaining. In the case of the various Services in the year 1920, only four Indians, we find, have been offered appointments as against 25 appointments made in England. I do not want to weary the House with elaborate statistics, but I think a reference to the Indian Educational Service will not be out of place. I regard the recruitment to the Indian Educational Service as more important to the future of this country than to any other branch of the administration. Well, what do I find? The Home Member says, 50 per cent. of the entire recruitment is to be Indian, exclusive of Indians promoted from the provincial to the higher service. But the door is shut on Indians at 50 per cent. of the total strength of the Services. Is this a state of affairs that anyone, however modest his aspirations, can view with equanimity? I cannot say on what principle the percentages of recruitment for the various Services have been fixed. A perusal of the percentage that obtains now in all the Services will convince anyone that the present recruitment is absolutely inadequate and absolutely inconsistent with the progress that India is making and has made towards responsible government.

But, Sir, the most important of all the grounds on which I urge the principle of the Indianisation of the Services if based on the cost of administration. It is not necessary for me to point out to this House how public opinion demands that the cost of administration which is very heavy, too heavy for a poor country like India to bear, should undergo a wholesale reduction. A perusal of the proceedings of the provincial Legislative Councils will convince any Member that in almost every province it has been demanded that the Ministers' salaries should be reduced. I would not wonder if, in the course of a few months, this demand for wholesale reduction should crystallise itself into a demand for reduction in the salaries of officers; and that I believe would be a legitimate demand. When Indian public opinion demands wholesale reduction in the expenditure, we have insistently a demand made by the Services that their salaries are inadequate and that further promotion should be given to them. I do not wish to dispute the legitimacy or otherwise of the claims of the Services; but I do submit, Sir, that, however legitimate their demand for increase may be, this country is not in a position, not only

to give an increase but to spend even as much on the Services as it is at present spending. The question of reducing the cost of administration is a question which is most important and, if I urge the Indianisation of the Services, it is mainly on this ground that the Indianisation of the Services will make it possible for us to make the Services, and therefore the administration, cheaper.

There is one more ground on which I urge the Indianisation of the Services. Men who come from England remain here for a number of years, serve this country—if I may say so—faithfully, do hard work, and, at the end of their career, instead of giving the benefit of their ripe experience to this country, they go away to England. That, Sir, is a drain of experience from this country which ought not to be allowed to continue. The experience of men who have been in the Services for a number of years would be undoubtedly valuable to the country, and, if the policy of Indianisation was adopted, I believe this country would continue to have the benefit of the experience of such men.

There is one more ground on which I urge the Indianisation of the Services. The money that in the shape of salary and especially of pensions is at present being paid to those who are employed in the Services goes largely to their countries to be spent there. That also, Sir, constitutes a constant drain on this country. If the principle of Indianisation was recognised, the money earned by these men would remain in the country and would thus be saved to the country itself. Sir, even after the report of the Public Services Commission was submitted by the majority, Lord Islington, who presided over that Commission, speaking on Indian problems in England, clearly stated that he refused to prophesy what, in view of self-governing institutions in India, the composition of these Services may be or ought to be in the course of two or three generations. There is no doubt that, since that report was written and during the period of the War, India has made considerable progress. It is necessary, in the interests of the country, for the purpose of reducing the cost of administration, for the purpose of removing the discontent among the educated classes, for the purpose of winning over the sympathy and affection of the masses, that this principle of Indianisation should be recognised. I venture to submit, Sir, that an action like this at an appropriate moment by the Government would strengthen the ties between Great Britain and India. It would lay solid foundations for the Self-Government of this country, which the goal not only of every Indian but the recognised goal of the British Government. I submit, Sir, that the time has come when a larger and larger number of Indians should be associated in the administration of the country, and for that the principle of complete Indianisation of recruiting for all the All-India Services in India, should be recognised by the Government. I have provided in my Resolution that, for technical Services, men may be brought from other countries; but, Sir, I want to emphasise this fact for which also I have provided in my Resolution—that facilities should be provided in this country for preparing men for those technical Services. I do not want to dilate on that point, but, to give one instance to the House, we have to-day in Delhi itself experts who are engaged in building New Delhi at a heavy cost to the country. While it is useless, at this moment, for us to discuss the merits of the step that was taken, it is open to us to say that, if India is incurring this expenditure, it is but just and fair that Indians should be given the advantage of the presence of experts in this country, and that

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ample opportunity should be provided to Indians to specialise themselves in that Department under the able guidance of experts who have been specially engaged to complete the operations at New Delhi.

But this is only an instance. This principle can be extended to all Departments which require the help of technical experts. If this is done, I have no doubt that, in the course of a few years, we shall have institutions in India which will provide sufficient facilities to Indians for technical education, and we shall not have to draw on other countries for experts also. I believe, Sir, that I have made out a case for the Indianisation of the Services and, before I conclude my remarks, I want once more to say, not merely in the shape of empty words, but what I feel is the feeling of all sensible Indians in this country, that we owe a debt of gratitude to the Indian Civil Service, that it is they who have made it possible for a democratic system of government to come into existence, that whatever their faults—and at present when they are coming in for a good deal of criticism I consider it our duty to pay a warm tribute to them—whatever their faults, it is to them that we owe a model system of efficiency in the administration of this country. I do not want to be ungrateful to them at all when I venture to bring this Resolution before this House. At the same time, the object with which I bring this Resolution is not to exclude them, but to provide for the removal of barriers that stand to-day against my own countrymen. The object of the Resolution is not to give any special advantage to any community but to throw open the doors equally for all communities; and, while I am entirely free from the considerations of race when I bring forward this Resolution, I should like to be permitted, Sir, to make an appeal to those who have given notices of amendments to the effect that communal interests should be safeguarded in dealing with this Resolution. Let us neither bring the racial question in the forefront nor the question of different communities. It cannot do good to India on the whole. Provided the doors are thrown open to all communities, irrespective of their caste or creed, I am sure that the day will come when, without our providing for the safeguarding of the interests of the communities, posts will go to members of all communities provided they have the merit to deserve them. I have no doubt that every community in India to-day can produce men who are fit to take their place in the highest Services. It is useless, it seems to me, it can serve no useful purpose, to bring in amendments which would specially provide for safeguarding communal interests. At the same time, a proposal like that, in my humble opinion, is likely to do harm to the cause that we all have at heart. With these words, Sir, I hope that the Government will accept the Resolution and that the House will accord their support to it.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : Sir, I heartily support the Resolution brought forward by my Honourable friend, Mr. Jamnadas Dwarkadas. The reasons, I believe, are as apparent as can be. Indianisation of the Services is a prelude to a further instalment of reforms and the authors of the Montagu-Chelmsford Report held the same view when they said :

* If responsible Government is to be established in India, there will be a far greater need than is even dreamt of at present for persons to take part in public affairs in the Legislative Assemblies and elsewhere; and for this reason, the more Indians we can employ in the Public Services the better. Moreover, it would lessen the burden of Imperial responsibilities if a

body of capable Indian administrators could be produced: we regard it as necessary, therefore, that recruitment of a largely increased proportion of Indians should be begun at once.'

Further, in the words of the father of the Indian National Congress, the late lamented Dadabhai Naoroji, India, being the poorest country, has to maintain at present the costliest administration in the world. But, Sir, so long as India was not sufficiently educated to meet her demand for executive and administrative officers, there was no controversy in regard to the recruitment of her officers from abroad; but I venture to submit that, with the advent of the twentieth century, things in India have greatly changed. Government have, I believe, for some years past found amongst the sons of the soil not a few but many capable administrators of the highest rank possible. It would be odious to mention names, but I cannot resist the temptation of mentioning the name of Lord Sinha, whose name will glorify the pages of history as one of the best administrators of the western or eastern countries. I cannot resist mentioning, further, that there have been not a few but many Ali Imams and Boses, Shafis and Banerjeas, Saprus and Sarmas, Dutts and Guptas, Nairs and Ayars, who can very well be compared with any of the best administrators of other countries. There are several Universities in India producing distinguished scholars and graduates every year in every branch of study and knowledge, and it should not be difficult for the Government to find capable men for all the branches of the Imperial Service.

Sir, I believe the Indianisation of the Services does not only require direct recruitment in India for the Imperial Services, but also requires that the best men of the Provincial Services should also be promoted to the Imperial Services in larger numbers than has hitherto been done. I cannot deny the fact that a few of my countrymen have been taken into the various branches of the Public Services in the past, though grudgingly and sparingly, yet the fact remains that by far the greater majority of these gentlemen are debarred from attaining responsible administrative and executive positions for which they are pronounced unfit without being tried. I will quote only one instance in support of what I say. It will be remembered by my Honourable colleagues that, in the first Session of this Assembly last year, I had the privilege of moving a Resolution that a larger number of listed appointments be thrown open to capable men of the Provincial Service, and, though that Resolution was stoutly opposed by the Government and the Home Secretary said:

'The Provincial Service is recruited to fill the minor charges in the civil administration. It is perfectly true that members of the Indian Civil Service are during the earlier years of their service employed in appointments of a similar character; but they are so employed only for a limited period and for purposes of training. On the other hand, officers of the Provincial Civil Service are recruited definitely for the minor posts in the administration.'

Yet I am glad to say that my Honourable colleagues supported the Resolution, which was ultimately carried. But what do we find? In answer to questions put by several Honourable Members of this House at the Simla Session, the only reply that was vouchsafed by the Government was that the matter had been referred to the Provincial Governments to see if they could find their way to give a few more crumbs to these hungry wolves; but, Sir, I beg to be pardoned if I say that the Government of India have acted in that matter in an entirely half-hearted manner, as is usual with them, with the result that we are not aware what action has been taken by the Local Government.

[Mr. W. M. Hussanally.]

Sir, may I say that there is a very considerable amount of discontent existing amongst the Indian officers of almost every Department and Service, in consequence of the undue preference which is shown to Europeans over them. This is one of the causes, and perhaps the main cause, I think, of the present unrest in the country, and I will not be far wrong when I say that at least 50 per cent., if not more, of the Indian officers and employees of Government have sympathy with that unrest in one shape or other. The passing of the Resolution will remove one of the principal causes of the present unrest, at least from amongst the intelligentsia. And by this Indianisation of the Services we shall be more or less approaching Swaraj, however undefined that term may be, if a sufficiently large proportion of the sons of the soil are engaged in carrying on the administration and the government of the country, to which they are legitimately and as a matter of birth-right entitled.

Sir, another very potent argument in favour of this Resolution is that the present administration is condemned from all Indian quarters and from all political parties existing in India as being extremely top heavy. It was only the other day that my Honourable friend, Dr. Gour, criticised the innumerable highly-paid appointments in the Government of India Secretariat and Attached Offices, on the Resolution for the appointment of a Retrenchment Committee. But, Sir, Indianisation of the Services will by itself work a retrenchment though slowly but surely, inasmuch as the pay of Indians will, and ought necessarily to, be much smaller than what the European employees are in receipt of. Just at the present moment, when bankruptcy and insolvency is facing the Government of India, it is time to economise in the cost of administration of India, as far as economy can go.

In some of the provincial Legislative Councils recently, very heated discussions took place in regard to the salaries to be paid to the new Ministers. Opinion was divided as to whether they should have the same emoluments as Members of the Executive Councils or less. In nearly all of them it was decided that they should get the same pay as their confreres, mainly on the ground that, if they got less, their status and prestige would suffer. Well, the pay of the Executive Councillors was fixed years ago in more prosperous times on account of different considerations. The Indianisation of the Services will not by itself reduce the heavy cost of administration from which we are suffering at the present moment, but I venture to submit that, if advantage is taken to introduce the Indian element largely into the various Services in the near future, the pay of these Services would be fixed on a lower scale than heretofore.

Sir, when the whole country has been demanding the Indianisation of the Services for nearly a decade, I deplore to find that in the official Benches of this House, out of the Government of India Service Members, only one is an Indian. Am I to believe and understand from it that there are no other Indians available for the administrative posts of the Government of India? Am I to believe and understand that Indian members of the Civil Service who are capable of being Secretaries to High Commissioners, who are capable of being Chairmen of important Municipal Corporations, men who are capable of being Divisional Commissioners, are not capable of being Secretaries and Deputy Secretaries of the Government of India Secretariats, or Service Members of the Executive Council? I

venture to think that Government cannot answer in the negative. But, Sir, why should these appointments be necessarily reserved for the members of the Civil and other Imperial Services? Are there not men capable enough, outside the Indian Civil Service and other Imperial Services, who would do honour to such posts? I submit, if an effort were made to find capable Indians outside the Services, Government would not be disappointed.

Lastly, Sir, I believe that the larger the number of Indians in the Services, the greater will be the benefit derived by India indirectly. A time will come when all these officials of talent and ability after their retirement will be available to uplift the masses and further their political education and the country will be proud to claim these veteran retired administrators to be its political leaders. By this process, after a few years, we may expect that veteran legislators who have experienced the difficulties of administration will be forthcoming in large numbers for the provincial Councils as well as for this Assembly.

Mr. T. A. H. Way (United Provinces: Nominated Official) : Sir, I am sure we are all in sympathy with this Resolution (Hear, hear), especially those of us who have earned our pensions (Laughter.) I must confess that I looked at the list of amendments on the paper with some anxiety, but I was relieved to find that there was no amendment proposing the Indianisation of pensions. Sir, for the last hundred years or more, the aim of British rule in India has been to fit Indians for Self-government, and, I am sure, that British administrators ought to be proud to feel that they have done their work so well that they are no longer wanted. Sir, no school-master wants to go on teaching his boys all their lives, and even the foudest mother does not wish to wash her son's face and brush his hair until his face is covered with a grey beard and his hair has all fallen off. But, at the same time, it seems to me that a necessary preliminary to the complete Indianisation of the civil administration of India is the Indianisation of the Army and the Navy. I believe it is the ideal of some Indian politicians to have a completely Indian civil administration with British troops to protect them. (*Voices* : 'No, no'.) (*Another Voice* : 'Indianisation of the Army also.')

What I mean is that the Indianisation of the Army should come first. It seems to me an impossible position to have a completely Indian civil administration with a British Army and Navy. The difference of mentality between the oriental and western mind is so great that the system would not work. It would be like having an eastern mind in a western body. The western mind may be inclined to believe too much in physical force, but the eastern mind is perhaps inclined to trust too much to the efficacy of soul force, and the result might lead to misunderstanding and confusion. To take an instance. I think it is possible, I do not say it is probable, but it is possible that a completely Indian civil administration might pass a law forbidding the killing of cattle. Then it is possible that lawless people might assemble to defy that law, and an Indian Magistrate might be required to call on British troops to fire on that unlawful assembly because they wish to kill cattle. Well, I think any one who knows anything about the mentality of the British soldier on the subject of beef will realise that that might create a difficult situation. Sir, I am sorry to have brought this discussion down to such a low level as

12 Noon. that of beef. In one of Charles Dickens' novels, there is a story of a man who spent his life trying to write a petition, but every time he tried to write, King Charles' head somehow came in. Any

[Mr. T. A. H. Way.]

one with experience of administration in India will sometimes realise that, however much you try to soar up to the higher flights of politics, somehow the awkward question of beef will come in. Sir, if the administration is to become entirely Indian, may I venture to say that Indian administrators and politicians must try to get over that horror of repression of which we have heard so much lately. Repression, apparently, means vigorous action for the maintenance of law and order. You cannot have an omelette without breaking eggs, and you cannot govern without the use of physical force. All of us cannot have liberty to do just what we like. If some of us insist on doing what we like, others have to give up what they like. For instance, if I go into the luncheon room adjacent to this building and sit down with five other men, and there are six cakes on the table, and I say that my right to self-determination, self-expression and self-expansion demands that I should eat all the six cakes, is it reasonable for me to complain of repression because the other five men say that they must each have a cake? In the same way, if I go about the streets of a city and say that my self-expression demands that all the shops must be shut, is it reasonable for me to complain of repression if I am put in jail?

Sir, I support this Resolution, but with the proviso that it seems to me to be necessary that the Indianisation of the Army and the Navy should come before the complete Indianisation of the Civil Services.

The Honourable Sir William Vincent (Home Member): Sir, after what has fallen from the last speaker (Mr. Way), I think it would be a good thing if we tried to get back a little closer to the actual propositions before the House. After all, we are not dealing with many of the questions which the last speaker raised at all. The proposals before us to-day are two. The first of these relates to the recruitment for the All-India Services excepting those of a technical nature, which, according to the Mover, should be made, as far as possible, in India, and the second part of the Resolution deals with the question of educational facilities for certain technical Services. I do not propose to deal with the latter matter at all. There are others here who are much more competent to do so and, indeed, I shall find it difficult to say all I want to say on the first part of the Resolution within the time allotted to me.

In the first place, Sir, I want to explain to this Assembly what the constitutional position in regard to these All-India Services is. The term itself is not very clearly understood by many, I fear. These Services consist of all officers serving under Local Governments who are members of the following Services, namely, the Indian Civil Service, the Indian Police Service, the Indian Forest Service, the Indian Educational Service, the Indian Agricultural Service, the Indian Service of Engineers, the Imperial Branch of the Civil Veterinary Department and the Indian Medical Service when the officers are in civil employ. At the same time, it must be admitted, the principle underlying the Mover's Resolution would, I think, apply to many other Services in India excluding, of course, Provincial Services.

Now, an examination of the Government of India Act and the Rules made thereunder will show, I think conclusively, what the intentions of parliament were in regard to these All-India Services. In particular, it will indicate that Parliament has very definitely vested the Secretary of State in Council alone with powers of control over these Services. May I cite

section 96 (B) of the Government of India Act, because it is of importance that we should get the constitutional position clear? Sub-section (2) runs :-

'The Secretary of State in Council may make rules for regulating the classification of the Civil Services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct, etc., etc. :

Provided that every person appointed before the commencement of the Government of India Act, 1919, by the Secretary of State in Council to the Civil Service of the Crown in India shall retain all his existing or accruing rights, etc., etc. :

Then, there is a further proviso about pensions. Reading the Rules framed under the Act, Honourable Members will find that all first appointments to an All-India Service, other than appointments made by promotion, shall be made by the Secretary of State in Council. Finally, it is said that every man holds office during His Majesty's pleasure. He may be employed in any manner required and no person may be dismissed by any authority subordinate to that by which he was appointed. I have drawn attention to these citations, because they show to my mind very clearly what the intention of Parliament was. That is, in regard to these Services, His Majesty's Government and His Majesty's Parliament lay a special burden on the Secretary of State. If any one reads, or has read, the debates on the Government of India Bill, he will also find that this has been emphasised by many speakers. Lord Meston, for instance, said on the 16th December, 1919 :

'I do not think that the intention of these words (referring to section 96-B) was for a moment to give Local Legislatures jurisdiction over All-India Services * * * members of that staff and establishment will also undoubtedly be members of All-India Services, but there will be special provisions bringing and maintaining the All-India Services under the control of the Secretary of State in Council.'

I dwell on this point in order to show that neither this Assembly nor the Government of India has really any control over the recruitment of these Services. It is quite true that the Assembly may make recommendations to the Government of India, and it will be the duty of the Government of India to consider them. But the Assembly will realize always that the Government of India cannot possibly make any public pronouncement without a reference to, and save by the instruction of, the Secretary of State on such an important subject. It is quite true that it is a matter to which Indians attach and always have attached great importance. It is also a matter to which, if I may say so, His Majesty's Government and the Houses of Parliament also attach the very greatest weight. And, now, may I refer for one moment to an oft quoted document, the announcement made in August, 1917? What did the Secretary of State say on this subject?

'The policy of His Majesty's Government with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to progressive realization of responsible Government in India as an integral part of the British Empire.'

Mr. Dwarkadas, in his opening speech, asked us to accept the principle which underlies his Resolution. The citation I have read, the reference to the increasing association of Indians in all branches of the administration, I think, is a sufficient answer to him as to the intentions of Government. And, now, I want Members to look at the preamble of the Act, as altered by the Joint Committee. You will see that the reference is there specially made to the

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Services and the Joint Committee give their reason for this reference. I cite a passage from their report :

'Their reason for making this change is that an attempt has been made to distinguish between the parts of this announcement and to attach a different value to each part according to opinion. It has been said, for instance, that whereas the first part is a binding pledge, the latter part is merely an expression of opinion of no importance. The Committee think that it is of the utmost importance, from the very inauguration of these constitutional changes, that Parliament should make it plain that the responsibility for the successive stages of the development of Self-government rests on itself and on itself alone and that it cannot share this responsibility with, much less delegate it to, the newly elected Legislatures of India. They also desire to emphasize the wisdom and justice of an increasing association of Indians with every branch of the administration, *but they wish to make it perfectly clear that His Majesty's Government must remain free to appoint Europeans to those posts for which they are specially required and qualified.*'

At the same time, there is no doubt, however, that it was the intention both of the framers of that Report and of the Secretary of State when he made the previous announcement, that the number of Indians in the higher branches of the Public Services should be materially increased, and I hope to be able to show later how far the Government have gone in giving effect to that principle, but there were always limitations. One of these limitations is described in the following words :

'There must be no such sudden swamping of any Service with any new element that its whole character suffers a rapid alteration. As practical men, we must also recognise that there are essential differences between the various Services and that it is possible to increase the employment of Indians in some more than in others. The solution lies, therefore, in recruiting, year by year, such a number of Indians as the existing members of the Services will be able to train in an adequate manner and to inspire with the spirit of the whole.'

I may also say that Lord Sinha, while speaking in the House of Lords on the Government of India Bill, fully recognised that point and said :

'The Services, my Lords, need no tribute from me. Their work is plain for the world to see, and it is their work in the main, and its great results developing through the years, that have made India fit for this great experiment. But the passage of this Bill does not close the chapter of their ungrudging toil. India still needs, and will long need, men of the type which Great Britain has so long given her.'

It is quite clear from what I have read, firstly, that at that time His Majesty's Government and His Majesty's Parliament thought the retention of an European element in the Services was necessary, and, secondly, that in their judgment it was for them to decide as to the pace at which the Indianisation was to proceed. And, now, Sir, I should like to deal with the suggestion that Indian recruitment has not been actively promoted in fact by the Government of India and I am going to cite certain figures here, because, I think, that some of those cited by Mr. Dwarkadas, although they were given from an official statement, create a wrong impression. The statements read refer largely to the number of Indians actually in the Services and not to recruitment. It must be obvious to every Member here that if you have got a Service recruited on a certain basis, you will not immediately change the character of the Service by a change in recruitment. For instance, if there are a large number of Europeans in the senior ranks of the Indian Civil Service, it follows that, for many years, the number of Europeans in the higher appointments held by that Service will be large. That is the answer to Mr. Hussanally's charges on this point. The actual proportion of Indians now recruited for the Civil Service is 33 per cent. rising to 48. In the Indian

Police Service, it is not five per cent., as one might think, if he misinterpreted what Mr. Dworkadas said, but 33 per cent. In the Indian Forest Service, 52 per cent., in the Indian Educational Service, 50 per cent., in the Agricultural Service, 50 per cent., in the Service of Engineers, 50 per cent., Civil Veterinary, 50, the Indian Medical Service, although no actual percentage was fixed, 40 per cent. was suggested. I think, these figures will illustrate to the Assembly that since the enunciation of the principle to which the Mover referred, a very great advance has been made by Government. Of course, it will take time for this recruitment to have effect on the full cadre of each Service, but you cannot effect a great change in the cadre of a Service in a moment. Let me take the case of the Indian Civil Service in which recruitment is based largely on a calculation that a man may retire after 25 years' service and that he will obtain a superior post after a specified number of years. Well, making various deductions, the actual recruitment figure is 4.17 of the total establishment of the Service. It must be obvious to any Member of this Assembly that, even if you recruit a very large percentage of Indians now, it must take considerable time before a majority of the men in the senior branches are Indians and, to that extent, Mr. Jamnadas is perfectly right in the statement that he made to the Assembly, for the full effect of recruitment will not be felt for many years, though it will have an increasing influence on the cadre earlier. And, now, I want to show what has been done in fact to secure Indian recruits. I have had a comparative statement made of figures from 1897—1916 to see what the actual number of Indians and Europeans then admitted to the Civil Service were and a similar calculation for a later period. I find that, for the years 1897—1916, in the Indian Civil Service, the total recruitment of Indians was 66 and of others 960. Now, in 1917—1921, the recruitment of Indians was 59 as against 126 Europeans, and in 1921, 37 Indians and 38 others were admitted to the Service. That is, practically up to 50 per cent. This is, I think, practical evidence of what has been done. Now, let me take another Service, the Indian Medical Service. In the six years, between 1910—1915, the number of Indians admitted was 40, others, 112. In the three years, between 1919—1921, the figures are, Indians, 78 and others, 43. The figures show that the proportion is far over 50 per cent. Now, in these circumstances, is it fair to the Government to say that they have closed the door to the recruitment of Indians to these Services? Is it not proved that the Government of India have been strenuously endeavouring to give effect to the policy announced in the declaration of 1917? Another suggestion, which I want to refute at this point, is that Indians do not occupy posts of authority in the various Governments and have no power to influence the policy of Government. If you want evidence to the contrary, it is here. Here, in this Chamber, are three Indians in the Council of the Governor General exercising an influence which no one would venture to underestimate for one moment, and, I dare say, that many will say that influence has been for the greatest good. In the Provinces, is not the state of affairs the same? Are there not Indian Members of Council, Indian Ministers? In the High Courts, is it not the same? In my own Province, there are three Indian Judges out of seven and, can it be said, in the light of these facts, with truth that Government doors are closed to Indians where high appointments are concerned, or that Indians are not allowed to influence Government in its decisions as to policy practically and directly? We have this year, as regards the Indian Civil Service, gone further again in this direction of Indianisation by prescribing a separate

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examination for Indians in India—another great advance in my opinion. It may not be all that Honourable Members wish, but it is an advance inasmuch as up to now the one real avenue of recruitment to the Indian Civil Service was through Great Britain.

I have now tried to explain what the constitutional aspect of the question is, what powers His Majesty's Government have retained and how far we have attempted to give effect to their policy. At the same time, I quite admit, that the situation has now to be reviewed in the light of the Reforms. No one recognises that more than every member of the Services in India. There have been great changes in the conditions of service. Those who, when they came out to serve, thought they were going out to serve under particular authorities and to be vested with certain powers and authority, have to serve under vastly different conditions now. They must recognise it. They have recognised it and that is one of the things that will deprive the Service of much of its attractiveness. It is doubtful if the Indian Civil Service will any more have the same inducements for men of energy and of initiative and anxious to secure efficiency. Individuals of the class may hesitate now before they come out to any Indian Service and we may as well recognise this.

Then, again, there is this undoubted fact of the reduced amenities of this country, amenities of all kinds and particularly social amenities and the amenities of every day work. There is this atmosphere of hostility in which our officers have now to work. (*A voice 'No.'*) Who has the audacity to say 'No' to that in this Assembly? I challenge any Member to deny that every District Officer in present conditions is performing most arduous and most difficult duties under almost intolerable conditions by reason of this hostility. He is often even opposed by men from whom he has a right to expect help and support. Now, these are all matters which must affect recruitment for the Services in this country and, in fact, have done so. I repeat, the District Officer to-day is subjected to incessant worry and harassment, but I must make myself clear on one point. In making this statement, I mean no reflection on the Ministers for, from everything I have heard, the Ministers have, in general, supported officers loyally and generously in the execution of their duties, and I am glad to pay this appreciation to them. But there are other methods of harassing a servant of the Crown and it cannot be denied that officers now-a-days are subjected to constant attacks based on misrepresentation in the Press and on the platform and they are often not unreasonably apprehensive that, in the performance of dangerous and unpleasant duties, they will not get that support from Legislative Councils and the public which they have a right to expect, and this is really a serious factor in the position. They are also not without anxiety as to the security of their pensions in the future. (Laughter.) Honourable Members laugh, but those who come to serve India have, like others, wives and children dependent on them and they cannot overlook the danger of the future; and the future welfare and livelihood of a wife and family is not a matter that any man can overlook. Sir, the feeling generally in the Services is that the conditions of service have been fundamentally changed, that their position is not the same, that efficiency may be sacrificed to political exigencies and that the future is not assured and, it is at least probable that this may affect the number and class of recruits that come

to this country. It is certain that many who, actuated by long family traditions of service in India, would have liked to come out to India, will, in future, avoid this country as one in which to spend their lives. Indeed, I know of few men in the Service now who are anxious that any of their relatives or sons should come out to any Service in India, although they themselves have served for many years. I know that it is customary to speak of Englishmen in this country as birds of passage, with no permanent interest in India or its welfare. Honourable Members will believe me when I say that many Englishmen, including myself, have spent much more of their lives in India than in England and they retain an abiding affection for this country with which they would like, in other conditions, to have seen their sons connected. Who can tell me that I can forget my affections for a country where I spent the best part of my life, where I have made so many good friends and done work of such absorbing interest. And, now, Sir, let me turn to another aspect affecting recruiting—the financial aspect. The advantages of service in India in this respect have also been greatly affected. If you read the Montagu-Chelmsford Report on this point, you will find these remarks :

'We are, therefore, anxious that the present opportunity should be taken to do something towards restoring the real pay of the existing services to the level which proved attractive 20 years ago.'

Well, I will take one Service which is better paid than the others. Criticism has often been directed to the increase of salaries of the Indian Civil Service and this increase has been estimated to cost 36 lakhs spread over the whole of the country, but if the Home Department calculations are correct (I ought to say they have not been verified by the Finance Department), the increase is 30 lakhs, not 36 lakhs, and owing to fall in exchange, coupled with abolition of Exchange Compensation Allowance, the benefit to officers is still further reduced, because they do not now, save in exceptional cases, get exchange compensation allowance as they used. My own belief is that the increase in the cost of the Civil Service has been more like 20 lakhs than 36, and I do not believe that the average increase of pay throughout the Service has been more than 8 per cent. Now, is that unreasonable having regard to the rise in prices? I laid a statement on the Table the other day showing what the pay of the Service at present is, as compared with its pay in 1914, but, after filing it, I was not at all sure as to its accuracy, and I had the figures tested again; and I have now found that it was not correct in that Exchange Compensation Allowance was not reckoned, and, on a calculation, it has been found that actually the increase in the 5th year was Rs. 107, in the 10th year 203 and in the 15th year 186, and in the later years an actual decrease in the pay. I emphasize the point for two reasons, first, because it is generally believed that the Civil Service has secured an unreasonable benefit by the recent readjustments of pay and, secondly, because this fact, taken with the other, affects recruitment very directly. I also want to give reasons though my Honourable friend, the Finance Member, will not agree with me, for my personal belief that the increase recently sanctioned has not effected the object the authors of the Montagu-Chelmsford Report contemplated. Every one knows what the rise in prices out here has been, what the rise in prices has been at Home, and how the cost of passages and educating children has risen. I am sure, Honourable Members will recognize that the financial effects of this rise has been disastrous to all our officers, and if Government has been unable to give more adequate compensation to meet some of

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the difficulties, I refer particularly to passages and the cost of home charges to these men, what has influenced some of us is the fact that it would prove an unreasonable burden on the finances of India in present conditions. The Government of India is faced to-day with a financial position which will be before you shortly, and I do not desire to anticipate anything my Honourable colleague may say, but we know that in many provinces the Budgets show an alarming deficit which certainly makes retrenchment and economy most essential. I have dwelt on all these points, the changes in conditions of service, the financial aspect, and so on, in order to show that in future this question of European recruitment for India is likely to solve itself very largely. I will now illustrate this by some concrete facts. Honourable Members know that we have recently issued the orders regarding premature retirements on proportionate pensions. They will be interested to hear that already about 40 applications have been received under that scheme from officers of two Services alone who want to retire. Again, eight new officers, appointed under the rules, I believe they are called the Transitory Provisions, have resigned their appointments before taking over charge at all and have not come out to India. So doubtful are they as to their future. I may add that, on my information, there are many more who have taken leave preparatory to retirement under the proportionate pension scheme.

Another influence that will, in my judgment, affect recruitment is the increased attractions of the Colonial Service. It has always been supposed that the Indian Civil Service and other Services in India are much better paid than the Services elsewhere. Well, that was true up to a point up to 1917. I remember Mr. Sastri making great play with some figures in this connection in a debate in that year. The position has changed very greatly now. If I were to give you the figures for one or two of the other portions of the Empire outside India, I think, I could prove it conclusively. The increases, for instance, in the Straits Settlements and in Kenya which I have before me, are very large. I do not want to cite them here, because it would take too long a time, but I shall be happy to show the figures to the Honourable Mover of this Resolution or any other Member who will take the trouble to come and see me. I am quite sure, many members of the Services would be interested in an examination of them. In addition to that, these members of the Colonial Services get free quarters and free passages, which are not enjoyed by men in India; and their pay is fixed in sterling.

And, here, I want to advert to another aspect of the question, namely, the responsibility of the Government of India *vis-a-vis* the recruits for the Services. Speaking for myself, I think we are incurring a very grave responsibility indeed if we bring out a large number of young Englishmen to this country whose future is uncertain, unless it is clear that their services will be required and, it was for this reason partly, that I really welcomed this debate. It does seem to me that a man has a right to know whether the people of India want Englishmen to serve here or not. If they do not want them, they can say so, but let them face the consequences. I myself believe that there will be a great need for Englishmen in the Services for many years. Before I deal with that, however, I want to put to the Assembly another indication of the present tendency; to show how the present conditions in India are affecting the recruitment at Home. Now, for the last examination for the India Civil Service there were 86 candidates. Of

these candidates, 26 only were Europeans. There were 16 appointments and 3 Europeans were among the successful candidates and 13 Indians.

All these points show that really what the Honourable Mover seeks to effect is happening automatically; the question is settling itself. There is no need for this Resolution. India will not get Englishmen to come out here at present rates in the numbers that the Mover anticipates. And, Sir, if I say this, I say it in all sorrow, for I myself believe that it will be a matter of the greatest misfortune to this country. I feel that there are many in India now who do not realise the great benefits that have been conferred upon this country by members of the different European services. (*A Voice*: 'Some do'.) It is not merely a question of material progress of roads and railways and canals and bridges and buildings, but of the much greater moral progress that has been made in the country. It is not then mainly even a question of commerce, of industries, of mills or of factories; it is the inauguration of law and order, the free and equal administration of justice, the right to live a free and civilized life in security, the protection against oppression. These are the really valuable assets which have been secured to India by these services. What was the state of India before the British administration was inaugurated? It is with this thought in their minds that I want Members to consider whether they wish at once, suddenly, to give up the benefits that have been secured to them for so many years by the members of the British services in this country. (*A Voice*: 'No, no'.) I believe the administration of this country will in future become of increasing difficulty, and I believe many an Indian will in future regret that in difficult times, times of great stress and danger, Indians have no European officer to help them in their difficulties or to assist them in the crises that will arise. For myself too, I look at this elimination of the Englishman from the services in India from another point of view which is even more serious, and that is the breaking up of a great bond between this country and Great Britain which few thoughtful men can contemplate with equanimity.

And, here, Sir, I want to deal with a statement of Mr. Wali Mahomed Hussanally who introduced the question of the increased employment of Provincial Services. That is a matter which is deserving of and is receiving attention. But when he accused the Government of not giving effect to his Resolution proposing that 25 per cent. of the superior listed posts should be immediately given to Provincial Service men, then I join issue with him at once. Did this Assembly ever contemplate that we were going to be unjust to men already in the service, that we were going to disregard the claims of men recruited for a certain number of superior posts, to treat them unfairly, merely for the benefit of officers who already had received very considerable additions to their pay and have the chance of obtaining a number of superior posts? I say that there are abundant reasons why Government have not been able to and cannot give effect in full to the Resolution which he proposed. We recruit for our services on the basis of a certain number of superior posts, on the understanding that after a certain number of years senior men will succeed to what are called superior posts. Now, Sir, having recruited a number of men, having let them to believe that they would get these posts after a certain period of time, would it be right for Government, for any Government in the world (*A Voice*, 'No, no'), to say, 'We have now decided not to give you these posts; and you will now get 75 per cent. only of them, the remaining 25 per cent. going to the Provincial Service.' If the case

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had been put to the Assembly in that light, I believe they would never have accepted the Resolution.

The question of the employment of Indians, including Provincial Service men, for superior posts generally is a separate matter of great importance which must be examined on its merits, but I am anxious that the Assembly should not come to a hasty and ill-considered decision on it. There is a great deal in what Mr. Way said. The future prosperity of India depends very largely on a certain number of British remaining in the civil administration of this country, for you cannot separate entirely military administration and civil administration. They are largely inter-dependent. Industries, European and Indian commerce, the flow of capital to India, the value of Indian securities, all these things too, are equally closely wrapped up with this question of the maintenance of a system of administration in this country in which the public have confidence. At the same time Indianization of the services will proceed, and must proceed. What I deprecate is any decision to swamp the services *uno actu* by recruitment of Indians alone many of whom may possibly not be competent to undertake the duties which will be imposed upon them. I do not want to depreciate the services of the Indians we have in service now. There are many very excellent men, and men will doubtless be forthcoming as time goes on possessing the requisite qualifications, and if the idea is to Indianize the services according to the pronouncement of 1917, we are in fact giving effect to that pronouncement and have increased Indian recruitment very largely. As to the particular proposal before the Assembly, what we propose to do is this. We realise the importance of the subject from every aspect and the keen feelings of Indians on the subject. We appreciate the financial difficulties of most of our officers, the effect of various factors on future recruitment, and the responsibility of Local Governments for a matter which largely affects officers under their control. I have already explained that the All-India services are largely services under the provinces, and it is essential that they should be consulted before we make any proposals to the Secretary of State. We propose, therefore, now to re-examine the whole question in the light of the facts which I have put before you. We will therefore consult Local Governments in the first instance on the subject, and then we propose to address a reasoned despatch to the Secretary of State, taking into consideration the various points which have been raised by the Honourable Mover and other speakers.

I have now tried to put the facts before the Assembly as plainly as I can—dispassionately I hope and fairly—I quite realise that Indians in this country have every right to expect an increasing proportion and a largely increasing proportion of Indians in the public services. It is indeed unthinkable to my mind that a country which has Dominion status should at that time allow its affairs to be controlled entirely by a foreign service and we have to look to the future. At the same time the constitutional position is clear and the final decision of this matter rests with the Secretary of State. Further, the problem is full of difficulties. In the circumstances I want this Assembly to consider whether it would not be wiser to await the reports from Local Governments, whom we are about to consult in the light of the various facts that I have put forward, before deciding a question of such great importance and moment to the whole future of this country. I do not think really Members have now information before them to enable them to decide such an issue correctly.

Sir, I leave it to the Assembly entirely to decide whether, in view of what I have put before them as to what we have done and what we intend to do, it is necessary to press this Resolution. I am not going on this occasion to express sympathy for or against the Resolution. I have attempted to put the facts on both sides clearly, dispassionately and honestly, and I leave the issue to them.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, at the outset, I wish to say a word about the services rendered to this country by European officers who have been employed here. I have been associated with them in the Legislative Councils, I have sat with them in Committees, I have worked with them in the High Court, and I think I am justified in saying that these officers bring to the discharge of their duties a high minded devotion, energy and whole-heartedness in the work which is entrusted to them. (Hear, hear.) There is no doubt that they have raised the standard of efficiency in this country in all the offices ; it is, therefore, not with a view to supplant them altogether or to make the work of the administration less efficient that this Resolution has been brought forward, and I certainly do not speak on the Resolution with that object in view. But, Sir, admitting all this, it should not be forgotten that the guiding principle of every Government should be that, everything being equal, the sons of the soil should have a preponderating voice in the administration of their country. I said that everything being equal, it must be the duty of the Government, and specially of an alien Government, to see that the sons of the soil get the largest voice and the largest share in the administration of the country. That must be the object which should be aimed at. Now, Sir, before I proceed to examine the question a little further, let me refer to the constitutional aspect of it which the Honourable the Home Member has referred to. He said that it is the Secretary of State who has the final voice in the appointment of these officers, and therefore the Legislative Assembly cannot be doing its duty properly in usurping those functions. Sir, in another sentence the Honourable the Home Member said that there is nothing to prevent this Assembly from recommending to the Secretary of State what should be done and what the wishes of the people are. It is in this latter aspect of the question that we have ventured to put forward this Resolution. We realise that the ultimate decision rests with the Secretary of State, but we, Sir, who live in the country, we, who know the people of the country very well and their wishes, as their representatives in this Assembly, consider it desirable to bring it to the notice of the Government of India, and, through the Government of India, of the Secretary of State what our wishes in the matter are, not with a view to supplant the Secretary of State and to arrogate to ourselves the function of appointing, but with a view that the matter may be brought to his notice, so that he may see what further steps should be taken to Indianise the Services in this country. Sir, I take it that the function of the Secretary of State is that of a benevolent despot, and as a benevolent despot, he would like to be guided, as far as possible, by the wishes and sentiments of the people over whom he exercises sway. It is with the view of the benevolent despot being acquainted with the wishes and sentiments of the people that this Resolution has been brought forward. Now, Sir, some of the arguments which have been put forward by the Honourable the Home Member, in my humble opinion, go to strengthen largely the Resolution which has been put forward. The Honourable the Home Member has said that, in all the provinces and in the Imperial Executive Council, the

[Mr. T. V. Seshagiri Ayyar.]

Indian element has been doing considerable good work. Now, Sir, if that is a true testimony to the capacity and to the intelligence of the Indian Members associated with the Government, is it not desirable, having regard to the principle which I have put forward, *viz.*, that you should, as far as possible, give the sons of the soil a preponderating voice, that more men should be associated with Dr. Sapru, Mr. Sarma and Sir Muhammad Shafi in the administration of the Imperial Government? Is it not desirable that more men should be associated with the present men, who, according to the Honourable the Home Member, have been doing such excellent service?

Lieut.-Col. H. A. J. Gidney (Nominated Anglo-Indian) : Reduce the number.

Mr. T. V. Seshagiri Ayyar : My friend, Colonel Gidney, says that the number might be reduced, but I do not think.

Lieut.-Col. H. A. J. Gidney : The Retrenchment Committee has asked to reduce the number.

Mr. T. V. Seshagiri Ayyar : The Retrenchment Committee does not ask that the Indian element should go. I cannot believe that he will ever get the Legislative Assembly to accede to the proposition that the Indian element should be lessened in the Executive Council. There is no difficulty about that. Now, Sir, if I am right in the view, if the Honourable the Home Member is correct in his estimate of his colleagues' work, I ask, is it not time that more men should be associated with the European officials in the administration of the Executive Councils? Sir, he has referred to the High Court and to various other Departments wherein the work has been efficiently carried on by the Indian Members, and they are very good reasons for the Resolution being accepted by the Government and for the Government taking a step forward, so that there may be more Indians in the administration. One matter has not been specifically referred to either by the Mover or by the Honourable the Home Member, and that is this. Year after year, an increasingly large number of Indians have been recruited to the Civil Service, and I believe the father of the Civil Service among Indians is now in this Assembly, *viz.*, Mr. Chatterjee. These Civil Servants have considerably added to the prestige of the Government. They have worked exceedingly well. They have shown that they can be good Collectors, good Judges, and so on. Under these circumstances, does it not prove that if you associate more Indians in the administration, the country would be all the better for it, the administration would be purer, and there would be more contentment in the country? Therefore, Sir, the reasons which have been adduced by the Honourable the Home Member are the very reasons which go to support the Resolution which has been put forward. Sir, it has been said by the Honourable the Home Member that too much should not be made regarding the cost of the administration. I do not want to say much about it. I think the European Members are rightly paid what they are now paid, but what I do say is this. If the money which is paid to them remains in the country, the country would be greatly benefited. The high salary which we pay to the Members now is taken away from this country, and there is a real drain upon the resources of this country, whereas, if Indians are employed in the same posts, the money will remain in the country and the country would greatly benefit by it. That is another reason why the

Services should be Indianised. Another reason was advanced by the Honourable the Home Member to the effect that the matter will settle itself in course of time, having regard to the difficulty of recruiting the Services by Europeans and having regard to the pronounced opinion of some of these men, who have been selected, not to come here to serve. Therefore, it is absolutely necessary at the present moment to bring forward this Resolution. Sir, that again is another reason why this Resolution should be pressed. If you cannot get good men to come out here, it is very likely that some fifth-rate men will be appointed hereafter. Some good men have come out to this country and rendered valuable services to the country, and made the administration steady and pure. If such men cannot be got at and find it difficult to come to this country, the result will be you will get only a very inferior sort of men; whereas in this country, having regard to the spread of education, to the contact that Indians have had with Europeans, there is a growing body of Indians capable and efficient, who will be able to discharge the duties heretofore discharged by Europeans. That is a very good reason why this Resolution should be pressed and brought to the notice of the Government and the Secretary of State.

Sir, the Honourable the Mover, as well as the Home Member, have referred to the fact that there is great discontent in the country. I do not think it can be gainsaid that the fact that more Indians are not employed in the Services has been one of the causes of the discontent. (Hear, hear.) There can be no doubt that, if you had more Indians, the Indians would be able to go among the people and bring to the notice of the higher authorities what is really at the bottom of the unrest that is prevailing in this country. Europeans, however well situated, cannot be expected to do the work which the Indians in similar positions can do. That is another reason why the Services in the country should be Indianised, so that the higher authorities may have first-hand information regarding the condition of the districts.

Sir, for all these reasons I think the Government would be well advised in accepting the Resolution as it has been moved, and in sending to the Secretary of State a strong recommendation that the Services should be Indianised.

There is only one word which I should like to say with regard to Mr. Way's speech. I cannot understand his reference to cakes. I think that three out of every six cakes should be shared by the Indians. Mr. Way also said: 'How can you expect Europeans to work under Indians?' Apparently, he has been getting the worst and apparently (A voice: 'He did not say so.') He said that the West and the East cannot work together. I am sorry if I have misquoted him. However, I think it desirable to say that what we aim at is that the Army should be Indianised as well, and that there should be no difficulty in getting into the Army more Indians than there are at present. If Mr. Way would consider the history of the Indian Mutiny, he will find that those that saved the country for the British Government were really Indian soldiers, and there is no difficulty in Indians and Europeans working together. If you Indianise the Army, there will be no more difficulty in seeing that the country is safeguarded, and if the Indianisation of the Army comes first, then the other objections raised by Mr. Way will fall to the ground.

For all these reasons, I have great pleasure in supporting the Resolution brought forward by Mr. Jumnadas Dwarkadas.

Lient.-Col. H. A. J. Gidney : Sir, I rise to take part in this discussion in rather a peculiar position. Being the representative of the Domiciled Community I seem to be between two stones. (Hear, hear.) I don't or I can't say which one is the bigger. In other words, I seem to occupy a position between the devil and the deep sea. If I say that the entire Services in India should in the future be Indianised, I will be false to the need and aspirations of my community and be cutting adrift from the truth of the saying that 'blood is thicker than water' which I must maintain at all costs but only with honor. If I say that it should not be, I, who have to remain all my life in India—I am not a bird of passage—will most probably in the end suffer from it when the Services are completely Indianised, as they are bound to be in 20 or 30 years' time.

But speaking very candidly on this matter, I consider that the Resolution before us should be viewed in a non-communal light; and therefore I take my position here to-day and address this Honourable House as a citizen of India. (Hear, hear.) Sir, I have received such a lot of sympathy in this House in regard to some of the Resolutions I have brought forward (I don't mean sympathy of Sir Frank Carter's type) that in return I feel I must offer my whole-hearted sympathy to my Honourable friend, Mr. Jamnadas Dwarkadas, and his Resolution and, as a citizen of India, I give it my support, but on principle only.

Sir, if we carefully analyse this Resolution, I think you will agree with me that it is about the nicest attempt at non-co-operation with the Britisher that is possible. If one reads Mr. Jamnadas' Resolution, the two parts of it that strike me as needing explanation are 'in future', which means from now on, and 'as far as possible' which is very indefinite. He practically says to the Government and through it to the Secretary of State, 'We want you to do it at once, and again, do it as far as you can 'or as far as is possible.' We do not insist on more than that.' Then, Sir, India must remember that before she can desire she must deserve. Mr. Jamnadas made an astounding statement, which was supported by my friend behind me, *viz.*, that the discontent in India is mainly due to the reservation or the monopoly of the higher appointments by Europeans. I join issue with him on this point, Sir, and say that the discontent which is felt or said to be felt by the ordinary labourer and villager, I mean the uneducated people of India who are being taught civil disobedience and mob rule, is not due to this cause, but is due to a much more serious cause, *i.e.*, the non-co-operation movement. I wonder, if we appointed the self-styled, self-created Dictator, Gandhi, as President of this Assembly, whether discontent would at once cease in India? I don't think!! I wonder, if we had the Government front Benches here occupied entirely by Indians, whether the villagers would be pleased and contented. He cares not a jot about it, for he is not the discontented person and is quite peaceful if left alone to do his work. I do not believe that this is the real cause of discontent in India, and I therefore do not accept this statement of the Mover of this Resolution. Whereas in front of me Mr. Jamnadas, in his able speech, said that the Civil Service has given us a model Government, behind me I hear another Member, who says that all India is discontented with it. Which statement are we to accept as the true belief of Indians? In our desire to get a position in India—and I am one who is trying to get it—for my community, I am afraid we are trying to run before we can walk and bite before we have even cut our milk teeth. I

believe no one will disagree with me that the difference between experienced and immature administrators is the same as that between a Rolls-Royce and a Ford Motor car ; both are cars, but of totally different types. And I submit, with all respect to the aspirations of India, to which I belong, that, if you go too far and too hastily in this movement, you will not only be unjust to those coming after you, but to yourselves, for, mark you, the day is not far distant, owing to the paucity and inferior type of Englishmen who are coming out to join the Services in India to-day, and, as I said in my Medical Committee Resolution owing to the inferior type of men who are coming out, when India will one fine morning awaken from her sleep, her dream and delusion to find that her one and only true friend, the Britisher, has left her, and the future alone can tell what a terrible awakening that will be. Sir, I agree with what the Honourable the Home Member said when he struck a note of

1 P.M. warning that we should go slowly in this matter. It is a matter that will remedy and settle itself, and I believe it is rapidly remedying itself and working out its own end. Sir, I ask this House to remember that I offered a remedy—my Medical *Swaraj*—to this House the day before yesterday which meant ‘to deserve before you desire’. I say I offered this in my Resolution, but it was rejected by this House who now demands entire Indianisation of all the Services. One Honourable Member asked, why should there be only one Indian as a Secretary in the Government of India? Another Member asked, why should there not be more Indian Members in the Executive Council? Yet we have Indian Members of the provincial Councils crying out and asking that their Provincial Executive Members should be reduced to two. Therefore, I do not understand what some Members do really desire. The Englishman realises, and he is realising it every day, that his presence in India is not wanted. I say, we must have the Englishman here for some considerable time to come. In fact, India cannot do without him, at least not just now and for many years to come. India cannot possibly (she is not capable) take over the reins of Government to the extent of the entire Indianisation of the Services. The Indians are gradually doing it, and no doubt are preparing themselves more rapidly than even the authors of the Reform Scheme anticipated. But I submit, Sir, with all respect to the Honourable the Mover of this Resolution, and in consonance with my own desires and aims, that the time is too premature to demand the entire Indianisation of all the Services. (Cries of ‘Nobody wants it.’) Well, Sir, I am open to correction on that, but this is the ultimate goal aimed at. Does nobody want it?

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : You have been corrected.

Lieut.-Col. H. A. J. Gidney : I said, I am open to correction on that matter. Dr. Gour has been so kind as to tell me that I have been corrected ; he is the self-created corrector of this Honourable House—at least he thinks so (Laughter.) Well, Sir, as I say, the speed with which we desire to Indianise the Services is, I think, an attempt to run a race which we are not prepared to finish—at least, finish to the benefit of India. Ardently as I wish to see India governing itself in a sane constitutional way—and I give in to no one in this House in my desire to obtain constitutional and rational *Swaraj*—yet I submit that that time has not come. I submit that we cannot, as was pointed out by Mr. Way, expect to enjoy or obtain complete self-government until we have complete power over all the Services in India,

[Lt.-Col. H. A. J. Gidney.]

and that, as Mr. Way pointed out, cannot possibly be obtained with the present day difference between the control of the Army and the Civil Service. Does India wish to control its entire Civil Services and expect Englishmen to control and run the Army to protect these Civil Services when necessary, I wonder? There is a great danger, I submit, in the speed with which you want to run. I am in sympathy with the Honourable the Mover, but I want this condition to be attained in steady well-developed stages; I ask the Mover to realise that everyone does not think as he thinks or desire to ride for a fall. I realise the racial hostility that exists in India to-day; and no one can deny it. As the Honourable the Home Member so rightly pointed out in his eloquent speech, we live, and every official in India lives, in an atmosphere of racial hostility, engendered and fed by non-co-operators. I do not say the hostility comes so much from the type of Indians who are desirous of obtaining for India a proper *Swaraj*, but from that increasing body of men in India whose one ambition in life seems to be to hate and to get the Englishman out of India as soon as they can; and I warn you the day that happens, considering the present unstable condition of the country, India's doom will be sealed. (Hear, hear.)

In conclusion, Sir, I desire to give, as I have been given myself in such quantities, to the extent almost of *ad nauseam*, my heart-felt and entire sympathy to the principle of this Resolution. I ask the Mover to pause and realise the gravity of the situation in India to-day, as explained by the Honourable the Home Member, to ponder over what this step, this leap in the dark means and must mean to India, and, in his desire to obtain this Indianisation of all the Services, I ask him to go a little warily, not to rush matters too quickly. I ask him in grasping at the shadow not to let go off the substance.

Dr. H. S. Gour: Sir, when I listened to the eloquent words of the Honourable the Home Member, I felt as if he were replying to some Resolution censuring the Indian Services. I can assure the Honourable the Home Member that neither the Honourable the Mover of this Resolution nor anybody who followed him had the slightest desire to under-rate the importance or value of the distinguished Service to which the Honourable the Home Member belongs (Hear, hear) and which he so conspicuously adorns. The sole object of this Resolution was to ask the Government of India to move the responsible authorities in England to Indianise all the Indian Services; and, on that point, the Honourable the Mover of this Resolution has given reasons which I beg to summarise once more, because they are apt to be forgotten. He pointed out, in the first instance, that the substitution of an indigenous agency for a foreign agency would work for economy. The Honourable the Home Member said that the Indianisation of the Services would not cheapen the cost of those Services. But the Honourable the Home Member not only assumed that the Indian Services would be paid at the same rate as the European Services . . .

The Honourable Sir William Vincent: I said nothing of the kind.

Dr. H. S. Gour: Very well, Sir, I am glad that the Honourable the Home Member did not contradict that statement.

We then pass on to the next question. It cannot be denied that the Indianisation of the Services would be popular with the people of this country,

and I submit that that in itself is an asset which the Government of India should value, even if it immediately suffered in efficiency. The Honourable the Home Member was no doubt pleading for the retention of the existing Services in decreasing proportions and he pointed out the difficulties of recruitment and the growing difficulties of obtaining first-rate men. I submit, if that is any reason at all, it is a very good reason for Indianising the Services. If there is difficulty in obtaining the first-rate men who were sent out to this country in the past, if there is a dearth of eligible candidates, it is the very best of all reasons for Indianising the Services.

My friend, the Honourable the Home Member, said that it had been suggested in some of the speeches that, after the members of the Indian Services go home, their services are lost to this country. He asked: 'After long and arduous years of service, can anybody think that these servants on their retirement do not think of India where they have spent the best years of their lives?' I think the Honourable the Mover of the Resolution did not exactly mean to imply that the members of the Indian Services on their retirement do not think of India. What he did say was that the experience and knowledge gained during the active service in this country by the Indian servants of the Crown would be a valuable asset after they settled down in this country.

I do not think, Sir, that the Honourable the Home Member contemplates, on retirement, to settle down in this country and give us the benefit of his valuable and accumulated experience, which we want, and it is that which is lost in the case of European servants who come to this country and retire home on obtaining their pensions. That, I submit, is a factor which cannot be ignored. The Honourable the Home Member will remember that the Indian Services may be grouped into three stages. We have first of all the members of the Military Services who used to discharge civil duties. With the further development of India, we have the Indian Civil Service which has done conspicuous service towards the development and education of the people of this country; but I venture to submit that its work is now done, and what we now require is specialised services for the various branches of Indian administration; and I submit that the work which lies before the Government servant in future is not so much the work of general administration as the management of various specialised Departments. The Honourable the Home Member said that there is a great desire on the part of the Government of India to employ Indian agency in increasing proportions. I have not the slightest doubt that, within recent years, a larger number of Indians have been employed in what I may call the higher administration of this country; but it has invariably been for performing what I may call small jobs. May I ask the Honourable the Home Member, how many Indians have been employed to fill the eight Governorships of Provinces?

The Honourable Sir William Vincent: May I rise to a point of order? Has this anything to do with the All-India Services?

Dr. H. S. Gour: It has to do with my amendment.

Mr. President: If the Honourable Member is moving his amendment, I must call his attention to the fact that we have had a discussion on the question of Governorships, Chief Justices and the holders of other high judicial

[Mr. President.]

and executive offices, and, therefore, his amendment is restricted to limits which are so narrow that I can hardly see what is left.

Dr. H. S. Gour : I ask, apart from the Governorships of Provinces, how many of the highest administrative posts are held at the present moment by Indians, and that is a question about which, I submit, the Honourable the Home Member has given no information.

The Honourable Sir William Vincent : I will answer the Honourable Member at once, if he likes. There are three Members on the Governor General's Council. In the provinces of Madras, Bombay and Bengal, there are three Ministers and two Members of Council, and in every other province there is a preponderance of Indians over Europeans in the Ministry and Council taken together.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Except in Bihar?

The Honourable Sir William Vincent : I think in Bihar also.

Dr. H. S. Gour : I beg to suggest, Sir, that we already know all that the Honourable the Home Member has just told us.

The Honourable Sir William Vincent : Then why did you ask?

Dr. H. S. Gour : But he knows full well what we are driving at. He is conscious of the popular grievance on the subject of the posts of heads of Departments, of the heads of the Judiciary, of the heads of provinces, all of which are monopolised by Europeans. And I submit, Sir, that the Honourable Mover of this Resolution has made out a very clear case for the Indianisation of the Services.

The Honourable the Home Member raised a question of constitutional law and read to us section 96-B (2) ; but, in the same breath, he pointed out that any opinion that this Assembly records would be transmitted to the Secretary of State for his consideration. I submit, Sir, the question, therefore, is not one of constitutional law at all. It is perfectly within the jurisdiction of this Assembly to record its opinion and ask the Governor General in Council to transmit it to the Secretary of State for consideration, and this I think the Honourable the Home Member suggested, in the later portion of his speech, that he was prepared to do. It is, I submit, for the purpose of voicing the sentiments of the people of this country that this Resolution has been tabled by the Honourable the Mover, and it is for that purpose that, I submit, this Resolution should not be withdrawn but should be persisted in and divided upon, if necessary. I therefore, Sir, support the Resolution and invite the attention of the House to its extremely moderate terms and request the Honourable Members to support it by their votes.

Mr. N. M. Samarth : Sir, I wish to address the House only on the constitutional question which was raised by the Honourable the Home Member in his speech. Section 96-B says

The Honourable Sir William Vincent : May I offer one word of explanation? It may save the Honourable Member's time. What I emphasized in this connection was the constitutional position of the Government of India there. I never suggested that it was unconstitutional for this

House to make any recommendation, but pointed out that it would be unconstitutional for the Government of India to make a pronouncement, which was within the jurisdiction of the Secretary of State.

Mr. N. M. Samarth: That is true, but I wish to point out another aspect of that constitutional objection. Section 96-B, clause 2, only says this that the Secretary of State in Council may make rules for regulating 'the classification of the Civil Services in India,' which means, whether they are to be Imperial or Provincial, whether they are to be All-India Services or whether they are to be Local Government Services; the classification of the executive services in India, 'the methods of their recruitment,' that is to say, the manner in which they are to be recruited, whether by nomination or examination in England or in India, 'their conditions of service, pay and allowances, discipline and conduct'; but, so far as 'the recruitment of the services and their control' are concerned, the Government of India Act was careful enough to provide other provisions, and those provisions are embodied in section 96-C, which enjoins the Secretary of State in Council to appoint in India a Public Services Commission. The *personnel* of that Commission is given, and then in clause 2 its functions:

'The Public Services Commission shall discharge in regard to the recruitment and control of the Public Services in India such functions as may be assigned thereto by rules made by the Secretary of State in Council.'

The Honourable Sir Malcolm Hailey (Finance Member): By the Secretary of State in Council.

Mr. N. M. Samarth: True. I put specifically a question on that point at Simla to the Government of India. I asked on the 10th September, 1921, the following question:

(a) Will the Government be pleased to state whether rules have been made by the Secretary of State in Council for the establishment in India of a Public Services Commission as enjoined by section 96-C of the Government of India Act?

(b) If so, will the Government be pleased to place the said rules on the table?

(c) If not, do the Government of India propose to communicate to the Secretary of State the desirability of expediting the matter?

The answer given was by the Honourable the Home Member:

(a) and (b). The rules have not yet been finally made.

(c) Government have for some time been in telegraphic communication with the Secretary of State on the subject, and it is expected that the final form of the rules will be approved within a few days.

That was on the 10th September. I hoped that that period of 'a few days' would have expired, but apparently it has not yet expired. The real remedy, therefore, is in the hands of this House to insist upon the Secretary of State in Council making these rules and appointing a Public Services Commission as enjoined by that section; and it is the Public Services Commission's function to make the recruitment in any way that it likes, in accordance, of course, with the rules made. I see the Honourable the Finance Member indulging in a laugh, but, if he cares to refer to the report of the Joint Committee on this subject, he will find that the laugh will be probably against him. I insist, therefore, that the Government of India should take the necessary steps in the matter and ask for the rules

The Honourable Sir William Vincent : Here is the Joint Committee Report. I should like to have the quotation of which the Honourable Member is talking.

Mr. N. M. Samarth : If I am not wrong, it is in the second report of the Joint Parliamentary Committee on the draft rules. However, whether it is there or not, the section is there and the statute is there, and I submit it is and will be the function of the Public Services Commission to give effect to the main idea underlying the Resolution now before the House.

Mr. Abdur Rahim (North-West Frontier Province : Nominated Non-Official) : Sir, the amendment which stands in my name runs as follows :

'Insert the following words 'subject to communal representation of different communities' in the third line of the Resolution after the word 'shall.'

Sir, I have been listening to the speech of the Honourable Mover of the Resolution, and I must say that, before he started this Resolution, he ought to have started with this amendment. We are all aware, Sir, of the noble traditions of this Assembly ; and this Assembly is an Assembly based entirely on communal representation. That being the case, the Honourable Mover should have followed the traditions of the House and should have been the first to have admitted the respect which should be observed for communal rights. No doubt, Sir, I feel sympathy with Indian aspirations ; but I must say that, situated as we are, we must have some regard for my community also ; I must say that my community has been too obliging in this case all along—I mean the Muhammadan community. But, unfortunately, I find that advantage has been taken of this fact and my community cannot any longer be left out of account in matters like these. The thing is that justice must be done. We all know the condition of the Muhammadans. I will say this that, if the Honourable Mover of the Resolution stands on this criterion, *viz.*, the survival of the fittest, then I think there is no meaning in moving this Resolution. Let there be fair competition between the English and the Indian. But he starts his Resolution with this line of distinction that Indians must be given some rights as against the Europeans, and therefore, I think I am perfectly justified, Sir, in standing up and demanding that some rights should be given to all the communities too, because India is not one whole, but is made up of different communities and different races. I would request the Honourable gentleman that he should not think that I am lacking in aspirations as far as India is concerned. I quite agree with him in that spirit. But I must say that I differ from him in this, that, before such a Resolution is passed, there should be some line drawn, as I have said, because I am sure the Honourable gentleman does not mean that there should be this criterion of the survival of the fittest.

Then the Honourable Member said that the administration was very expensive and must be made cheap. I must say that he should know very well that good things are expensive. A Lambardar once went to a Deputy Commissioner and said : 'Will you kindly dismiss the Sub-Inspector of Police? I will do the work.' The Deputy Commissioner asked him how he could do it. Then the Lambardar said : 'I do not want any pay ; in that way there will be a great saving to Government ; I will take bribes and live on that. The Sub-Inspector does it and I shall do so without taking any pay whatever and Government will be saved a good deal of money.' I hope the Honourable Mover does not mean that officers who occupy big posts should

do that. He must admit that they deserve the pay they get. If they had been in any other walk of life, they would not have got less than anybody else.

Then, some remarks were made by the Honourable the Home Member. I am sure he did not mean that the loyalty of the Muhammadans was in any way less than that of the other communities. The Muhammadans, I must say, have made sacrifices for their faith. I challenge any one to deny this, that our sacrifice has been greater than the sacrifice of other communities. I do not mean that the other communities have been less loyal; no, far from that; but our case deserves special consideration because we had made sacrifices of faith and I wish to bring that point to the notice of the Assembly. Unfortunately, in the case of the Muhammadans, love has been blind, but that does not matter so much, although, hard as it is, in their case fortune too has been blind, but in it there is this consolation that 'fortune favours fools': We are not fools. But what is sad and cruel is that Justice too is going to be proved blind in their (the Muhammadans') case.

Then some reference was made to a sort of uneasiness that the official Members were feeling about the future of the British in India. I think they should be easy about it; they have been our masters and they have been giving us this education and I think it is the whole tradition of the English constitution that they must give in gracefully, ungrudgingly and cheerfully. I may assure the Honourable Member that a good many Indians, the majority of the Indians in fact, love the British and stand for them.

Before I sit down, I shall say one last word and it is this: that it is the sense of justice of the British which demands the respect of all the communities, and, as long as the British stick to that, they need have no fear of anything else.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): Sir, I offer this Resolution my sympathy but not my support. Like the *Swaraj* Resolution, I think this Resolution is also premature. The administration of India is a difficult and delicate problem and it is not yet time that all the Britishers or a good number of them can be replaced by Indians. I have got personal knowledge of three Divisions in the province of Bengal, *viz.*, the Presidency, Dacca and Chittagong Divisions; these three Divisions have 11 or 12 districts. In whichever district an Indian, whether Hindu or Mussalman, became District Magistrate or District Superintendent of Police, the efficient administration of the district suffered. If any of my Honourable friends in this Assembly do desire to contradict me, I shall ask him to compare the administration of Chittagong Division with that of the Dacca Division. One is an Indian-manned Division and the other is European-manned. What I am saying is no doubt sad, but it is true.

Mr. W. M. Hussanally: I rise to a point of order; is the Honourable Member in order in going into personalities?

Khan Bahadur Zahiruddin Ahmed: There is no fear of derailment, my friend, the point is *yet* workable and not out of order and I continue. I am confessing to an unpleasant truth, and I have not yet become so civilized as to deny a fact simply because it is against myself or my own countrymen.

[Khan Bahadur Zabiruddin Ahmed.]

Another objection of mine rests on the fact that India has not yet become one country and its peoples have not yet become one nation. The Mussulmans have not yet full confidence in the Hindus and the Hindus have not yet got full confidence in the Mussulmans. I will not be far wrong when I say that one desires for the extermination of the other. I am not against Hindu-Moslem unity but an ardent desirer of it, but I only say that they have not yet become one people. Part of the population of both has united. I admit, but, on a treacherous principle. They have united in their common hatred of the British or in their common treachery to the Government. One is dissatisfied for not getting everything; the other is dissatisfied for not getting anything, *plus* the Khilafat wrongs. That is, they are trying to build an edifice on a treacherous soil of quicksand which can never last. I want a structure on a solid foundation. Let us unite in common co-operation with the Government, in mutual friendship for the British. This is the kind of unity I have striven for. I have wished for, I had desired and longed for and I had prayed for. If there be any Member or Members with this principle in this Assembly, I am prepared to follow his or their lead. As for treacherous friendship, I shun, I hate and I look with horror on it, and I shall never be in it to the last days of my life. If such a Resolution were moved after a unity such as I have described, I will be the first man to second it, but not now. I have been often accused of being an enemy of Hindu-Moslem unity, that is, the black sheep of the fold, a renegade and a traitor. My reply is, I have not been properly understood. One of the foremost and most farsighted statesmen, an Honourable Member of this Assembly, brought in a Bill which, if passed, would have made such unity not only possible but probable, and I was the only Mussulman Member to vote for it. Does it show that I am against Hindu-Moslem unity? For a long time, in my opinion, the cake of cheese must be in the hands of the monkey, to be divided between the two contending cats. I define the kind of division I wish, 2-5ths for the monkey himself, 2-5ths for the big cat and 1-5th for the other, the smaller cat. I believe this will be a just and fair division. If the monkey goes away leaving the cake of cheese between the two contending cats, what I fear is that the result will be the smaller cat may be killed, but it may wound the bigger cat in such a manner that it will be crippled for its whole life. Then, it will be the time for the wolves of Japan, gorillas of the Himalayas, the wild cats of Afghanistan and the tame tigers of the Punjab, I mean the Sikhs, to race for the cake of cheese, on which all four have their eyes. For the last 35 years of my life I have been in the company of these monkeys, and I noticed that they have got a peculiar brain. Half of it is that of a lion and the other half of a fox. The fox's part of the brain made me a coward and I got puzzled. It will be a very very difficult task to get the upperhand of these monkeys, and I must say here that I have never been deceived whenever I had trusted them. I found them just, honest, helpful and most reliable. I must say that unique people are these monkeys. They have given me a treatment which was denied to me by my own countrymen. These monkeys have got the strength of the lion with the ingenuity of the fox. The Honourable Members will get nothing by annoying them, by being rude to them, by rebelling against them, but they will get everything by politeness, by convincing them, by coaxing them, by humouring them and by singing a song to them. If the Indians are so foolish as to question the authority of the monkeys, who are

really lions in disguise, they will hear them roaring, and we Indians will get our spleens burst and occasionally the paws of the lions will be on their necks and these will break as easily as any stick in a match-box.

The Honourable Mover of this Resolution said that the recruitment for the All-India Services should be made in India. In this respect, I may say a few words. I asked an Indian friend of mine, who was in Great Britain for 25 years, if all the sons of that soil are like the members of the Indian Civil Service or like the young men in the commercial line that we get here. The reply that I got from him satisfied me. He said: 'Certainly not. We get only the best brain or the cream of the population of that land'. If the recruitment will take place in India, we will not get these lions' cubs in such numbers as we are getting them now. The Honourable Member has candidly confessed what enormous good these lions' cubs have done to India, and I cannot understand why, after this acknowledgment, he should like to shut the source from which we get these boons. My Honourable friend has said that he does not support the communal interest, and that is the main reason why I do not support him. He wants the whole cake of cheese for the big cat only, but the smaller cats think quite differently. Sir, a little digression please. I am interested in two orphan girls. I, one day, handed an apple to the elder one to divide it with her younger sister. She ran away with the whole apple. Another day, I handed another apple to the younger sister with the same request. She caught the apple with both her hands and put both her hands between her legs, but, as soon as my attention was withdrawn from it, the elder sister came in and took away the apple from her younger sister by force. From that day I began to hand over anything for those infants to their adopted mother who used to divide everything in a just ratio. Such an adopted mother is the Britisher in India. In short, in the interest of a few intelligentsia, the interest of the masses of the populations cannot be sacrificed. With these few words, I oppose the Resolution.

The Assembly then adjourned for Lunch till Twenty-Five Minutes past Two of the Clock.

The Assembly re-assembled after Lunch at Twenty-Five Minutes past Two of the Clock. Mr. President was in the Chair.

Mr. K. G. Bagde (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to move the amendment which stands in my name. It runs thus:

'Insert the words 'with due regard to the interests of various communities' in the third line of the Resolution after the word 'shall'.'

Sir, at the outset, I would like to tell this House that, as far as the principle is concerned, and with the reservation that I make in my amendment, I do not oppose the Resolution moved by my Honourable friend, Mr. Jannadas Dwarkadas. It is quite natural that, with the political advance of our country, we should expect increased Indianisation of all services. Even now we see that we are slowly achieving what is asked for by the Resolution now under consideration. The Mover of the Resolution wants that the rate of this increase should be accelerated. There are no two opinions about that. I do admit that, excepting those posts for which British incumbents would be inevitably necessary, all other posts should be filled up by Indians. I need not dwell upon the various advantages resulting from such displacement.

[Mr. K. G. Bagde.]

The Honourable the Mover has laid stress on the economic advantages of such a change. Our administration is top-heavy. It is too costly. It presses upon the country heavily in its adverse financial conditions. The only way to remedy this evil is to replace high-paid British officials by Indians. In this remedy we presuppose that Indian officers will be less costly. Though it may not be wrong to make such a supposition, Sir, I must say that, with regard to this point, I am not now as optimistic as I had been before. I once believed that under the new régime of the Reforms, those Indians going into high offices would show the fullest regard for the poverty of their country and offer to serve on at least half the pay they were entitled to. Except in certain cases, we are generally disappointed. Let us hope that the various Legislatures concerned will do their best and set our new officials aright.

Now, Sir, there are many other things to be taken into consideration in Indianising any Service. I admit that, when we are taking vast and fast strides towards our political goal, we should have our Public Services manned by Indians. If there were no other complications in Indian Society, nobody would even think otherwise. But, unfortunately for us all, it is on account of these very social complications that it is necessary to move very cautiously in this direction, I mean in the problem of Indianising Public Services of any kind.

Some of our friends here may not like that I should bring in these social complications at this juncture. I am sorry that my sense of duty forces me to speak out my mind. It is no use blinking plain facts and rigid experience. I am as earnest as anybody else that India should grow into a powerful democracy under the ægis of the British Rule. But, Sir, I submit that we cannot achieve that unless we develop all round. On account of our social differences and difficulties, we are handicapped in every movement. Unless we overcome these difficulties and get rid of these differences, there is very little chance of real success. Nothing can be gained by ignoring these complications. They must be attended to and solutions found. We are not a homogeneous people. Indians are not all so many angels actuated by nothing but their sense of duty towards their nation. There are conflicts of interests between the followers of different religions. There are similar conflicts between people under the fold of one religion but divided into various castes. Wherever and whenever opportunities offer we see many trying to support the claims and interests of their own classes or castes; and it is the first and the foremost duty of those responsible for the peaceful and progressive administration of this country to see that equitable and necessary balance is maintained between all these interests, and that no single interest or few interests get a preponderance over all others and thus hamper the general progress. This is exactly what has been done, and that is why I am obliged to move my amendment.

I do not profess to speak with regard to all provinces. But, as far as the southern portion of the Bombay Presidency is concerned, I say that the preponderance of one community greatly hampers our progress. The gentlemen here are aware that the institution of caste divides Hindus into castes of various degrees of inequality. With the slow progress of education every community is trying to make some headway. There are various movements, religious, social, educational and political, started. But, in every movement, the educationally backward classes meet with staunch and

inequitable opposition at the hands of one Hindu community which is foremost in education and public service in my part of the country. Sir, it is impossible within the limit of time at my disposal to give this House any adequate idea of our sufferings. Sir, even those who fight openly against Government are better off than the Non-Brahmins. The Non-Brahmins are fighting for freedom of conscience, social equality, removal of untouchability, proportionate representation on local Legislatures and the central Legislature and also a proportionate share in the Public Services and other similar objects. But it is exactly for these objects of their movement that they have been ill-treated by those in authority, who belong to the socially privileged classes. Day by day, matters are approaching a crisis, and I would here humbly remind the Government that if proper steps are not immediately taken and this evil remedied, grave consequences may follow at any moment.

Sir, in reply to all that I have said, I may be told that these are provincial matters, and we should move the provincial Governments and seek redress at their hands. To this I reply that we are doing our best. We are holding public meetings, ventilating our grievances, praying the provincial Government to right the wrongs, sending petitions, and interviewing departmental heads, and thus acquainting them with our difficulties. We have been making all possible efforts for the last three or four years. But, Sir, I am sorry to inform this House that we have not achieved any appreciable relief at the hands of our provincial Government. We are intensely dissatisfied with these conditions and it is with a view to bring our grievances and sufferings to the notice of the Central Government, which is the fountain head of all administration, that I am obliged to say all this before this House to-day.

Sir, we want justice ; not justice as dealt out at present, but justice of a truly paternal Government. I think I am right when I say that the present system of recruiting for Services is not just. Too much is made of the principles of free competition and efficiency. I do not deny the element of justice underlying these two principles. But, Sir, inconsiderate and wholesale application of these principles, without due attention to the peculiarly complicated social conditions, does result, and, I say, has resulted, in giving rise to serious anomalies. Government have failed to duly understand and take into consideration the social differences in this country. Like the head of a family who looks to the interests of all members concerned, it was the duty of Government to safeguard the interests of all communities. Had Government followed this policy, then the present state of things would not have arisen.

There is another important reason why I press my amendment at this time. The question before us is the Indianisation of All-Indian Services. Supposing that Government accedes to popular demand in this respect, it means that some of the higher posts which are now manned by Englishmen will be manned by Indians, but on my side of the country the word 'Indians', as a matter of experience, in this connection means 'members of advanced classes'. This would render our condition still worse. I know, Sir, that, since the War, many posts which were formerly held by Europeans are now held by Indians. For example, many of the sub-divisional magistrates were formerly Europeans, but now the majority of them are Indians. This increase of Indians, which for us means members of advanced communities as I have said above, has done us great harm. (Hear, hear.) Whatever might be said by others with regard to European officers in this

[Mr. K. G. Bagde.]

country, I, Sir, emphatically say that between Indians and Indians at least we have always found, as a matter of practical experience, that European officers are more just and less prejudiced. (Hear, hear.) There are numerous criminal cases in which one or other of the two parties prays for transfer to the Court of some European Magistrate.

And here I can give the Honourable House a bit of my own experience. Three years ago I had a case from an accused woman who belonged to the depressed classes. She was charged under section 295 of the Indian Penal Code, and the trying magistrate, who was a Brahmin, had convicted her. When I went through the papers of the case I thought it was necessary to have the appeal heard before some European Magistrate. We all know that at that time the district Magistrates were very busy in connection with war duties. I saw the district Magistrate and requested him to have the appeal on his file. I had a conversation with him for full fifteen minutes and I told him of the seriousness of the question involved. He acceded to my request, and fortunately I am glad to tell you that the accused was acquitted. I am sure, had the case come up before any Indian gentleman, be he a Muhammadan, be he a Christian, we would not have got justice in that case, because, as far as religion is concerned, our views are very strong on particular points. We are born in these surroundings and it is very difficult for us to change our views. (*An Honourable Member: 'Shame'.*)

In other departments too, European officers are always approached for fairness and justice. Under these circumstances, if the number of European officers is reduced by Indianising the Public Services, even All-India Public Services, without due regard to the interests of various communities, it would result in graver injustice to the masses of this country, masses who are inarticulate and who look to the British authorities to help them best in their progress.

Sir, I have made a modest proposal. I only request the Government that they should have due regard to the interests of various communities. I do not suggest or mean that efficiency of administration should be sacrificed; but I want to bring to the notice of Government that the claims of the various communities have not been properly attended to, and Government must lay down, as a matter of policy, to give all possible encouragement to the various communities and secure that balance of the claims and interests of various communities which would make it impossible for any one or more communities to hinder the legitimate activities and discourage the just aspirations of other communities. If the Government is not going to adopt this just principle as a matter of policy, Sir, I, as representing the non-Brahmins of the Bombay Deccan, shall have to oppose any proposal for increasing the number of Indians in the higher Services.

Sir, I have now done. I appeal to my friends here to take my amendment in the proper spirit. I am not actuated by any feeling of hatred or envy against this or that community. But, at the same time, I must do my duty and see that our path is not beset with difficulties that are removable. Some say that the British element in our Public Services is an evil. But I submit, Sir, that I emphatically repudiate such an allegation. I firmly believe that we owe much to British administration and are extremely grateful for the

help and inspiration we have derived from it, and it is only with a view that the British character—which I take as a synonym for the truly democratic character—of the administration should be maintained that I put this amendment before this House.

With these few words I respectfully request the House to support my amendment.

The Honourable Sir William Vincent: The amendment moved by Mr. Bagde and that moved just before lunch by Mr. Abdur Rahim Khan are some indication to the Assembly of one of the difficulties which must be considered in connection with this problem. One of the questions which the Government will have to face in connection with the recruitment of the different Services is this communal question. We, the Government of India, have never been oblivious of this fact, at least not in my time, and I have no doubt that the same might be said of my predecessor. The difficulties between Brahmins and Non-Brahmins were not acute, at least in the Bombay Presidency, until recently, but the Muhammadan difficulty has been ever present before our minds, and though on many occasions I have been assured by advanced Muhammadans that we pay too much consideration to it, that the Muhammadans were perfectly ready to take their chance in open competition with the Hindus for any service in India, which may be true of certain advanced individuals of the community, I myself have never found it was safe to accept that view. When there were any appointments to be filled, I have always had put up to me with great insistence the claims of the Muhammadan community to a full share in them. But, so far as this particular point is concerned, the Government of India Act itself provides for it, and I will cite the relevant provision of the Act to show that the authorities have not been negligent in this matter. Section 97, sub-section 6 of that Act runs as follows :

‘The Secretary of State may make appointments for the Indian Civil Service of persons domiciled in India in accordance with such rules as may be prescribed by the Secretary of State in Council with the concurrence of the majority of votes at a meeting of the Council.’

Now, this is a provision that admits the difficulty that may arise from any competitive examination and provides, to some extent at any rate, for the securing of the representation of the various provinces and communities. For it is not merely a question of certain communities being backward but of certain provinces being backward. I can understand representatives of particular provinces, or indeed representatives of particular castes in particular provinces, coming forward and saying: ‘We welcome open competitive examinations for every appointment, for we are quite sure that we shall secure in this manner all the appointments there are.’ Such a position has not arisen and we must guard against such a contingency. It is the fear of this, however, that is at the bottom of a good deal of this discussion that has gone on to-day. I can quite understand the support which this Resolution has received from certain Honourable Members of this Assembly

Mr. N. M. Samarth: I am a non-Brahmin and I have supported the Resolution.

The Honourable Sir William Vincent: As I was saying, Sir, this provision in the Government of India Act enables Government to nominate candidates of particular classes or communities in order, when necessary, to avoid anomalies arising out of a purely competitive system, and we hope

[Sir William Vincent.]

very shortly to issue rules in regard to this subject, which, I trust, may meet the requirements of the case. On this occasion, perhaps, we may be more fortunate than on the occasion to which reference was made by my Honourable friend, Mr. Samarth, regarding the Public Services Commission. Sir, there are some occasions on which an accused has to plead guilty, and this is one of them. I was unduly optimistic as to the rate at which we might get on with those rules, for unexpected difficulties have arisen as to the proper formula for the rules and the principles upon which these rules should be based, and this has occasioned delay. I will try to be more careful about prophesying in future. That is the only excuse I can offer.

Turning now, if I may, for one moment to the subject of the main debate, and bearing in mind that we are now sitting on Saturday afternoon when many Members expect a half-holiday, I venture to suggest a possible *via media* which may meet the Honourable Mover and Members of this Assembly. I do not think that, at least on many aspects of this case, there is really any great difference of opinion between us. My main object to-day is to prevent this Assembly from coming to a premature and hasty decision on insufficient information in regard to a matter of the gravest moment; the Honourable Member has not, if I may say so, any very intimate knowledge of the intricate questions now under discussion. What I suggest to the Assembly is that it should take this line. Before we proceed further in this matter, we will ask Government to make an inquiry from Local Governments as to the possibilities of a speedy advance in the direction we advocate and then consider the question again.

I am myself not at all sure whether in the end it will not be necessary to appoint a Commission to examine the whole subject, but that is another matter.

And, Sir, there is another point to which I must refer. It has been suggested that I have pleaded in this Assembly for a definite decision one way or the other. I disclaim that suggestion. What I have attempted to do is to make a plain statement of the arguments on the one side and on the other. I have attempted to make a fairly impartial and detached explanation of the difficulties of the whole case. In such circumstances, the use of the words 'plead' and 'admission' is, I submit, unfair. Now, I think that it will shorten the debate and may meet the Honourable Mover if I suggest the following amendment in his Resolution :

'Inquiries should without delay be inaugurated as to the measures possible to give further effect to the Declaration of August 20th, 1917, in the direction of increased recruitment of Indians for the All-India Services.'

I suggest that these words should be substituted for the passage in the original Resolution beginning 'having regard to' down to 'as far as possible in India.' I want to make my position quite clear on this occasion. That is an amendment which I propose, if it will meet the Honourable Mover.

Mr. President : The original question was :

'This Assembly recommends to the Governor General in Council that having regard to the Declaration of August, 1917, he be pleased to arrange that, in future, the recruitment for all the All-India Services excepting those of a technical character shall be made, as far as possible, in India and also to take steps to provide in India such educational facilities as would enable Indians to enter these technical Services in larger numbers than is at present possible.'

Since which an amendment has been moved :

'Insert the following words 'subject to communal representation of different communities' in the third line of the Resolution after the word 'shall'.'

The question is that that amendment be made.

The motion was negatived.

Mr. President : Further amendment moved :

'Insert the words 'with due regard to the interests of various communities' in the third line of the Resolution after the word 'shall'.'

The question is that that amendment be made.

The motion was negatived.

Mr. F. McCarthy (Burma : European) : Sir, I want to move an amendment to Mr. Jamnadas Dwarkadas's Resolution. I will read it :

'This Assembly recommends to the Governor General in Council that, having regard to the Declaration of August, 1917, he be pleased to arrange that in future the recruitment for the All-India Services shall cease forthwith.'

Mr. President : The Honourable the Home Member has moved an amendment which takes precedence of that. I thought the Honourable Member was rising to discuss the amendment of the Honourable the Home Member.

Further amendment moved :

'After the word 'Council' in line 1, insert :

'that inquiries should be inaugurated without delay as to the measures possible to give further effect to the Declaration of August 20th, 1917, in the direction of increased recruitment of Indians for the All-India Services.'

Mr. Jamnadas Dwarkadas : I rise, Sir, to accept the amendment moved by my Honourable friend, the Home Member. But in doing so, I want to make it clear that it seems to me that there is a consensus of opinion in the country, backed, if I may say so, by the majority in this House, that the All-India Services should be Indianised. If I rise to accept the amendment moved by my Honourable friend, Sir William Vincent, it is only with a view to giving the Government a chance to ascertain the views of the Local Governments and other parties concerned on this all-important question. But I feel certain that this inquiry will be launched almost immediately, and I take it for granted that the result of the inquiry will not be binding either on this House or on any other party. At the same time, I think any Member of this House, including myself, will be at liberty to move a Resolution in the terms in which I have had the honour of moving it to-day, after the result of the inquiry is published. Sir, I take exception to a remark made by my Honourable friend, the Home Member. I think it would not be right for any Member of the House, even if he is in the position of the Leader of the House, to attribute motives to any Member. I find, however, that my Honourable friend said that he could very well understand the *object* of those who supported the Resolution. (*A voice :* 'he is right'). With due deference

The Honourable Sir William Vincent : Sir, I do not think I said 'object'. I said I could understand certain people supporting a particular policy.

Mr. Jamnadas Dwarkadas : It comes to the same thing, Sir. The Honourable the Home Member said that he well understood our supporting . . .

The Honourable Sir William Vincent : I was not referring to the Honourable Member.

Mr. Jamnadas Dwarkadas : I want to ask my Honourable friend, the Home Member, if he can point to any member of my community, the community to which I have the honour to belong, who has ever aspired to be admitted to the Services. Does the Honourable the Home Member think that whenever, or on occasions like this, when a Member brings forward a motion of this character, he does it with the object of securing a benefit to his community? (*A voice :* 'No, no.') So far as I am concerned, and I think I can speak on behalf of many Members of this House, if they put forward any Resolution, they do it with the sole view of giving the advantage of it not to one particular community or another but to the whole Indian community. (*Hear, hear.*) (*A voice :* 'It is a matter of opinion.') And, Sir, not only do I repudiate that suggestion made by my Honourable friend, the Home Member...

The Honourable Sir William Vincent : Sir, may I assure the Honourable Member I did not insinuate anything regarding him at all. I do not know why he is repudiating what was never done. I never made the suggestion he repudiates, but, if I appeared to do so, I regret it; it was not intentional.

Mr. Jamnadas Dwarkadas : I am glad the Honourable Member did not mean to make that suggestion, and, if that is so, I shall not pursue the matter any further. I do, Sir, want to repudiate the suggestion made by my Honourable friend, Mr. Bagde, in urging the claim of various communities before this House. I know that the amendment has been thrown out by the House, but I cannot help saying that the statement that he has made with regard to the preference that the members of certain communities would give to the members of their community is, to my mind, absolutely without foundation. (*Mr. E. L. Price :* 'No, no.') We, the Members of this House, are concerned with the good of India as a whole; and, if we are securing the good of the whole community of Indians, all the communities that comprise the population of Indians will benefit out of it. To make this suggestion on the ground that certain communities are going to suffer from the carrying out of these reforms is an admission of weakness on the part of various communities which I am not prepared to admit that these communities have. Sir, I accept the amendment moved by my Honourable friend, Sir William Vincent, because I think it goes a great way in meeting the desire that many of us have (*Hear, hear*), that the whole question should be thrashed out, that an inquiry should be made, and that we should ascertain the views of the Local Governments and other parties concerned as to what is possible, what reforms are possible in this direction. I want again to emphasize this fact, that it is not the desire, either my desire or the desire of any of my supporters, that we should feel in any way, that we should show in any way ingratitude to the members of the Indian Civil Service or other Imperial Services, who have done remarkable service to this country. We shall always welcome the co-operation of men who come from Great Britain, and we look forward to a time when the differences that now exist between the various communities will so far disappear as to make fitness the only test for admission to these Services.

With these words, Sir, I have great pleasure in accepting the amendment moved by my Honourable friend.

Mr. F. McCarthy : Sir, I do not think the proposed inquiry will advance matters one step. We shall spend a good deal of time in asking Local Governments what their opinion is, and I do not see what further information we can have beyond what we have got. I should like to move my amendment to the Resolution of Mr. Jamnadas Dwarkadas, if I am in order now.

The Honourable Sir Malcolm Hailey : I rise to a point of order,—it is to ask you, Sir, for a ruling as to whether the proposed amendment is in order. We started the debate on the question of an increase in the proportion of Indians in the All-India Services. The amendment is to the effect that there should be no further recruitment to the All-India Services, *viz.*, that that should be brought to an end. May I put to you a parallel? If the House has before it the question of increasing the proportion of Indians among the officers of the Indian Army, would it be reasonable to put forward an amendment that the Indian Army be disbanded?

Mr. President : I have not the Honourable Member's amendment before me, but, in any case, the amendment cannot be taken as against the amendment now before the House. If the Honourable Member chooses to address his remarks to the amendment moved by the Home Member, he would be in order.

Mr. F. McCarthy : I am sorry my amendment is not in order. I shall confine myself to the Home Member's amendment. We have heard a great deal to-day about the Indianisation of the Services. I want to say, in the first place, coming from Burma, that we do not want Indian officials and, if the Burmese people are consulted, they will not have any Indian officials, cheap or dear. I hope that this point will be clear to the House and if the Leader of the Democratic party, Mr. Ginwala, were here, he would, I hope, support me. It is the unanimous opinion of Burma. It may be asked, what then is our concern with the Indianisation of the Services? It is just this. It is our misfortune to be here; it is our misfortune to be connected with India, and we must, therefore, do our best for what we think the common good. In his earlier speech, the Honourable the Home Member gave us a lot of facts, with which, I think, we are all familiar. He told us, what we all know to be the fact, that the conditions of service in India are such that you cannot get picked men to come, as was the case in the past. He went on to say that Government had much hesitation in inviting men to come to India. Self-Government, he told us, is irreconcilable with government by outsiders, government by members of another race, and he suggested that Local Governments should be consulted. But what I want is that we should go a step further, and leave practically the whole matter in the hands of the Local Governments by stopping recruitment in England for the All-India Services.

The amendment suggested by the Home Member, and apparently accepted by Mr. Jamnadas, does not carry us far enough. Mr. Jamnadas can hardly object to my amendment. It would, I hope, satisfy his criterion of cheapness, which is apparently the main criterion he applies. The proposal would also mean the abolition in time of the All-India Services, which would become Provincial Services. Every province would then have officers who understand the people, their language, their habits and customs, whereas, Mr. Jamnadas's Resolution would mean the danger of a Sikh or a Punjabi

[Mr. F. McCarthy.]

Muhammadan being posted to Madras, a Madrasi officer to the North-West Frontier Province, a Bengali to the Punjab, and so on. In time, of course provincial officers would do the work that the Indian Civil Service are doing now. Efficiency might, of course, suffer . . .

The Honourable Sir William Vincent: Is the Honourable Member in order in arguing an amendment which he has not been allowed to move?

Mr. President: He is, I understand, discussing the position of the All India Services.

Mr. F. McCarthy: My remarks arise from the amendment moved by Sir William Vincent. My point is that the proposed reference to the Local Governments carries us no further, for we cannot obtain from them any information which we do not already possess.

Mr. N. M. Joshi (Nominated : Labour Interests): Although the Leader of the Democratic Party is pressing me to . . .

Mr. President: Order, order. I did not know the Honourable Member wanted to move another amendment.

The original Resolution was :

'That this Assembly recommends to the Governor General in Council that, having regard to the Declaration of August, 1917, he be pleased to arrange that, in future, the recruitment for all the All-India Services, excepting those of a technical character, shall be made, as far as possible, in India, and also to take steps to provide in India such educational facilities as would enable Indians to enter these technical Services in large numbers than is at present possible.'

Since which an amendment has been moved :

'That the words 'inquiries should, without delay, be inaugurated as to the measures possible to give further effect to the Declaration of August 20, 1917, in the direction of increased recruitment of Indians for the All-India Services' be substituted for the words from 'having regard' in the first line down to the words 'in India' in the fourth line where they occur for the first time.'

The question is that that amendment be made.

The motion was adopted.

Mr. N. M. Joshi: As the House is very much tired, I assure the Members that I will not take more than two minutes in proposing my amendment. Moreover, I shall assure the Members on the Government Bench that my amendment will prove to be to their advantage. My amendment is this :

'And that he be further pleased to annually appoint a Committee to inquire into and report upon, the progress made in the direction of introducing the Indian element into the various services in India, referred to above.'

Mr. President: The Honourable Member will attain the same end by putting the word 'annual' before the Honourable Sir William Vincent's amendment.

Mr. N. M. Joshi: I will explain, Sir, in one or two words what my object is in moving this amendment. Personally, Sir, I believe that the major portion of the unrest that we see in the country is due to the feeling of

the people, especially of the educated classes, that they do not get their proper share of the appointments in the Public Services. I feel that that is a more potent cause of the unrest than anything, for, if the people had really cared for a representative Government, they would not have appointed a Dictator in such a short time. I feel, therefore, very strongly that this question of the appointment of Indians in the various Imperial Services is very important, and I think a report on this question will be very helpful in allaying the unrest. It is, therefore, in the interests of Government that this report should be made. Moreover, when I ask that a report should be made by a Committee of the Legislature, it is also in the interests of the Government. If the report is made by the officers of Government, then certainly it will be condemned as being a report made by those who hold a monopoly of those Services. Therefore, from both the points of view, if a report is submitted entirely by a Committee of the Legislature as to the progress made in Indianising the services, it will be to the advantage of Government and, I think, that it will also prove very advantageous to the people.

With these remarks, Sir, I commend my amendment for the support of the House.

The Honourable Sir William Vincent: Sir, I am glad that in the amendment, as put from the Chair, the Assembly has been saved from adopting the split infinitive which has been our horror in the Secretariat for many years. (Laughter.) On the merits of the proposal, may I say that there are a great many people who take the same view as Mr. Joshi regarding the importance of this question of increasing the number of Indians in the Services, and there are many who believe that, if that had been done, it would really have been a more substantial way of meeting Indian demands than the changes towards responsible Government which have been made. Mr. Joshi is by no means singular in that view; it was one which was held by many experienced officials. But it is perhaps a little too late to retrace our steps in that direction, whatever we might think.

Sir, I referred on previous occasions to the pathetic belief of some of the Members of this Assembly in Committees; but this is the first time that I have heard it solemnly proposed that a Committee should be appointed annually merely to report on the progress made towards the Indianisation of the Services, a matter which can be ascertained at any time from a statement properly prepared. I venture to submit that no Assembly which is not affected with some kind of mania for Committees would think of acceding to such a proposal. After all, all the Honourable Member wants is a return of what is being done, and that return any Member can get from the Government at any time he likes; and if he is not satisfied with the information given, he can put supplementary questions about it, or, if he likes, suggest that Government should issue a quinquennial review of the figures. But the suggestion that Government, in putting forward this report, would not put forward the true facts and that, therefore, you must have a non-official Committee to see that you get the true facts, is a little unworthy of the Mover. I do not think he can have meant it.

Mr. N. M. Joshi: Not at all. I have explained it in your favour.

The Honourable Sir William Vincent: I am always glad of assistance, but there are times when '*Timeo Danaos et dona ferentes*' and I am afraid sometimes even of offers of help.

[Sir William Vincent.]

In any case, I hope the House will not seriously consider a proposal to appoint a Committee for a purpose such as is proposed.

Mr. President: Perhaps the Honourable Member's point is met by what the Honourable the Home Member has just said.

Mr. N. M. Joshi: I beg leave to withdraw the amendment in consideration of the assurance given by the Honourable the Home Member.

The amendment* was, by leave of the Assembly, withdrawn.

Mr. President: The question is that the following Resolution, as amended, be accepted :

'That this Assembly recommends to the Governor General in Council that inquiries should, without delay, be inaugurated as to the measures possible to give further effect to the Declaration of August 20, 1917, in the direction of increased recruitment of Indians for the All-India Services, and also that steps be taken to provide in India such educational facilities as would enable Indians to enter the technical Services in larger numbers than is at present possible.'

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 13th February, 1922.

LEGISLATIVE ASSEMBLY DEBATES

MONDAY, 13th FEBRUARY, 1922

Vol. II—No. 33

OFFICIAL REPORT



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DELHI
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1922

LEGISLATIVE ASSEMBLY.

Monday, 13th February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

MEMBER SWORN :

Mr. George Bridge, M.L.A. (Assam : European).

QUESTIONS AND ANSWERS.

ABOLITION OF POSTS OF DIVISIONAL COMMISSIONERS AND SUPERINTENDING AND SANITARY ENGINEERS.

190. ***Beohar Raghbir Sinha**†: Will the Government be pleased to state if they have considered or are considering the advisability of the abolition of the posts of Divisional Commissioners, Superintending Engineers and Sanitary Engineers?

The Honourable Sir William Vincent: As regards Divisional Commissioners, the subject is under consideration. The question of abolishing posts of Superintending and Sanitary Engineers has not been considered.

RULES GOVERNING THE CONDUCT OF VISITORS TO ANCIENT MAUSOLEUMS AND SACRED BUILDINGS IN LUCKNOW, AGRA, ETC.

191. ***Prince Afsar-ul-Mulk Mirza Muhammad Akram Hussain Bahadur**: (1) Will the Government be pleased to state what authority is responsible for the framing of Rules of Conduct for visitors to

- (a) Husainabad Imambarah at Lucknow,
- (b) Asafud-Dowla's Imambarah at Lucknow,
- (c) Shah Najaf at Lucknow ; also the sacred tombs and ancient historical buildings at Agra, Ajmere, Fatehpur Sikri and Delhi ?

(2) Is the Government aware that visitors to ancient mausoleums and sacred buildings in Lucknow, Agra and probably in other places are required, if Indians and in Indian dress, to take off their shoes, while Europeans are allowed to go in with shoes ?

(3) Is the Government aware that such rules have for many years been silently producing in the Indian public mind a feeling of resentment and of distinct-inferiority ?

(4) Will the Government be pleased as a central supervising body to advise and direct the authorities concerned through the Local Governments to revise the Rules governing the conduct of visitors so as to have a uniform

† The Honourable Member being absent, the question was put by Mr. Pyari Lal Misra.

set of rules for all visitors alike in keeping with the Indian sentiment of respect?

(5) Will the Government be pleased to lay on the table of the House the replies received, when the communication asked for is made, to show what action, if any, the respective authorities concerned propose to take in the matter?

The Honourable Sir William Vincent: (1) Government have no precise information on this point.

(2) The practice varies in different places. Government are not aware what rules are in force in the places specified.

(3) Government are not aware of the existence of any such general feeling. They understand that, when rules are framed to regulate the admission of visitors, due consideration is given to local religious feelings.

(4) and (5). Government see no need to take the action proposed, but they are prepared to send copies of this question and answer to Local Governments for such action, if any, as they may think necessary.

MR. HORNE'S MISSION TO AMERICA.

192. ***Rai Bahadur S. P. Bajpai:** (a) Will the Government state if Mr. Horne of the Patna University has been sent to America on a special mission?

(b) If the reply to part (a) is in the affirmative, will the Government state what is the object of the mission?

(c) Will the Government state whether the Government of India or Bihar Government will bear the expenses?

(d) What amount has been allotted for the purpose?

(e) What instructions, if any, have been issued to him to carry out the objects of his mission?

The Honourable Sir William Vincent: I would invite the Honourable Member's attention to the reply given by me on the 6th February to a question by Rai G. C. Nag Bahadur on this matter. I have nothing to add to that reply except that the cost of the deputation will be met by the Government of India.

VOTABLE AND NON-VOTABLE ITEMS IN THE BUDGET.

193. ***Rai Bahadur S. P. Bajpai:** (a) Will the Government state if the result of Mr. Ginwala's Resolution regarding votable and non-votable items in the Budget has been cabled to the Secretary of State for India?

(b) Will the Government state what steps have been taken to obtain the opinion of Law Officers of the Crown on the interpretation of section 67 (A) (B) of the Government of India Act?

Mr. G. G. Sim: (a) The reply is in the affirmative.

(b) The Secretary of State has been asked to obtain the opinion of the Law Officers of the Crown on the point at issue.

UNSTARRED QUESTIONS AND ANSWERS.

MALABAR RELIEF MEASURES.

265. **Beohar Raghbir Sinha:** (a) Have the Government made any contribution to the Malabar Relief Fund managed by Mr. Devadhar of the Servants of India Society? If so, how? If not, will the Government make a suitable contribution for this laudable object?

(b) Has the Government adopted any independent relief measures there? If so, what are those?

The Honourable Sir William Vincent: This question relates to matters which are not primarily the concern of the Governor General in Council, but I will arrange to have a copy of it together with a copy of this reply sent to the Government of Madras.

As regards part (a) of the question, I may say that it is not usual for Government to contribute to charitable funds of this nature.

As regards part (b), the relief measures taken by the Local Government, which include the provision on a very large scale of accommodation for refugees, have been described in the public press.

UNSATISFACTORY ARRANGEMENTS FOR THE ACCOMMODATION OF HONOURABLE MEMBERS.

266. **Beohar Raghbir Sinha:** (a) Will the Government be pleased to state the amount spent on the construction and furniture of Eastern and Western Hostels and other quarters allotted to the Honourable Members of the Legislature?

(b) Are these intended for the accommodation of the Members as a permanent arrangement?

(c) Were the Members ever consulted as to the plan and other requirements?

(d) Are the Government aware that they are dissatisfied at the scantiness of accommodation available at Eastern Hostel and the higher rents charged for in comparison to greater accommodation at and lesser rents charged for Windsor Place quarters and Metcalfe House?

(e) Are the Government also aware that on account of the above reasons many Members have left and are leaving the Eastern Hostel to occupy more suitable habitations, and some have not turned up simply because they could not arrange for suitable accommodation?

Colonel Sir S. D'A. Crookshank: (a) (i). Construction and furnishing of the East and West hostels—Rs. 18,60,000.

(ii) Construction and furnishing of the Orthodox quarters—Rs. 3,87,000.

(b) Only, and after the transfer to the New Capital has been made, in the event of sufficient Members of the then Councils desiring that the existing arrangements should continue.

(c) The hostels were designed and part completed before the present Councils came into existence. The question of the amount of accommodation to be provided in them was referred to a Committee of non-official Members of the old Legislative Council in February, 1920, and orthodox opinion in connection with the remodelling of the East Hostel for the purpose of providing semi-orthodox quarters therein was elicited during its construction. The design of the new orthodox quarters was placed before, and approved by, a meeting of the House Committee of the Legislature held in March, 1921.

(d) The Government of India are not aware of any general dissatisfaction either as regards the accommodation provided or the rents charged. A few individual complaints have been received and will be given due consideration.

(e) No. It is not possible, nor was it ever contemplated, to provide in the hostels the extensive family accommodation which some Members may desire, and these must necessarily make their own arrangements.

MOTIONS FOR ADJOURNMENT.

THE RAILWAY STRIKE.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I beg to move for leave to adjourn the business of the Assembly for the purpose of discussing an urgent matter of public importance, namely, the strike on the East Indian Railway. Sir, I have given notice to you for the purpose, and I think it is a matter of very urgent importance. From a notice printed in the 'Leader' of the 13th instant, that is, of to-day's date, on page 9, you will find that a large number of trains have been stopped, and this shows that the matter has become very serious. For these reasons, I submit, that this is a matter which should be discussed by this Assembly as soon as possible. A more important reason is that, as His Royal Highness the Prince of Wales is coming in our midst, we do not want that there should be any such thing to be seen here. That is the reason why I wish to move that the business of the Assembly be adjourned for the purpose of considering this question.

The Honourable Sir William Vincent (Home Member) : Sir, the position in regard to the strike has already been explained by the Honourable the Mover ; I only want to remind Members that many of them have made other important engagements for this afternoon, so that, if any discussion that may be necessary were held either before 4 O'clock or on some other day, it might suit the convenience of Members of the Assembly. That is, however, a matter for them to decide.

I only wish to deal with one other point, namely, the suggestion that this discussion will affect the position *vis-a-vis* His Royal Highness' arrival. Sir, as His Royal Highness arrives to-morrow, it seems a little difficult to imagine that any discussion in this Assembly to-day will be able to effect any change in the situation in time to minimise the inconvenience possibly attendant on the strike during his visit.

Mr. President : A Railway strike is, of course, a matter of public importance, but the provisions of the Standing Orders, providing for the adjournment of the business of this Assembly to discuss a matter of importance, are

designed to give Government an opportunity of making a statement, which would not otherwise arise.

Now, a statement by Government in this House is not the direct means for dealing with such a matter as a Railway strike. It is more a matter for administrative action, and perhaps the Honourable the President of the Railway Board may be in a position now to make a statement which would obviate the necessity for a discussion, if the Honourable Member from Allahabad were to put him the question now.

Lala Girdharilal Agarwala: Will the Honourable the President of the Railway Board be pleased to say what is the real cause of the Railway strike and how do the authorities concerned propose to meet the situation?

Colonel W. D. Waghorn (President Railway Board): Sir, all the facts and developments in connection with this strike have been very fully published in the papers, and the Government have very little to add. As Honourable Members are aware, the strike commenced on the 2nd instant owing to the alleged assault on an Indian fireman, Ram Lal by name, by his driver and the first fireman. Independent inquiries have been held by both the Police and the District Magistrate, and in both these inquiries the result has been to show that the assault was a gross misrepresentation. I will read here a statement from the report received from the Commissioner of Agra:

'The strike of Indian Railway employees at Tundla still continues. The alleged assault on a fireman, Ram Lal, has been investigated by the Police and District Magistrate. Ram Lal has been discharged from hospital and his story proved to be a gross misrepresentation. There was some slight friction between him and the engine driver at night work in the yard; Ram Lal left the engine and threw himself down near the office complaining that he was hurt. He was sent to hospital by the European Loco. Foreman but no definite signs of injury could be found. He is weak with chronic malaria and dysentery, but the medical opinion is that Ram Lal could return to work if he wished.'

These, so far as the behaviour of the fireman is concerned, I believe to be absolute facts of the case. As regards the behaviour of the strikers since then, it is understood that they have now raised the question of preferential treatment and that they have been endeavouring to get out the rest of the staff.

The situation as regards the East Indian Railway is that, on the main stations from Moghalsarai to Ghaziabad, inclusive, and at Ambala and Kalka, the Indian loco. running staff are out. They have been endeavouring to get out the traffic and engineering staff, and, in the Allahabad district, they have got a certain amount of the staff at the wayside stations to come out. The rest of the staff have been reinforced from other stations and the traffic are working, I understand, all the mail trains, and No. 6 Down and 7 Up passenger trains. Other passenger trains have been taken off in order to make way for goods trains which must be got through. Troops have been sent to certain of these stations where efforts are being made to intimidate those who are remaining loyal and standing by the railway, and the position has been unchanged for the last few days. We have heard nothing later as to further developments, and I do not think there is anything that can be done at the present moment. So long as the staff are not intimidated, they will remain loyal and by degrees we shall be able

[Colonel W. D. Waghorn.]

to replace those who are out on strike now and improve the conditions of working. I do not think there is anything further that we can do at present.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, may I ask the Honourable the President of the Railway Board whether any action has been taken against the assailant of this man, Ram Lal. It seems to me that, if prompt action had been taken to mete out condign punishment to the assailant, the strike which has taken place would probably not have been so extensive as it is; and further, if any prompt action is taken now, it will have some effect upon this strike.

Colonel W. D. Waghorn : I would like to make it quite clear—and it is quite clear from the papers and the report I read—that the inquiries held were quite independent—the Police inquiry and the Magistrate's inquiry. The result of those inquiries was to show that there had been no criminal assault whatsoever. There was no mark of injury, and the man had made a fraudulent complaint.

There was no assault : that has been inquired into. We could not, therefore, dismiss a man for making an assault which was not proved.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : May I ask where Ram Lal is at the present moment ?

Colonel W. D. Waghorn : To the best of my belief, he is at his quarters in Tundla.

Mr. K. Ahmed : I have been inquiring last night from different people all the way from Moghalsarai to Tundla, but nobody could give me any clue as to the whereabouts of this man. Is the Honourable the President of the Railway Board in a position to enlighten the House as regards his whereabouts.

Colonel W. D. Waghorn : I am afraid I cannot say. I heard he was taken round and shown to the staff at Tundla as being uninjured and capable of going back to work.

Mr. K. Ahmed : Is it not a fact that he has been transmitted to a certain hospital in Calcutta, and that he is lying in some hospital there under the treatment of a doctor ?

Colonel W. D. Waghorn : No. I think I can deny that absolutely. He was taken to hospital at Tundla, but he is not in hospital now. He has been removed and he has been taken round Tundla to show that he is capable of going back to work.

Mr. K. Ahmed : Is he working there ?

Colonel W. D. Waghorn : No, he is not.

Mr. K. Ahmed : Has he resigned ?

Colonel W. D. Waghorn : He will be discharged. That will be the next thing.

Mr. K. Ahmed : Then, Government is not in a position to enlighten this Assembly as to whether he is in service or whether he is being kept somewhere?

Mr. President : I think the Honourable Member must give notice of this question.

Mr. N. M. Joshi (Nominated : Labour Interests) : May I ask whether the Government knows that one of the conditions of the strikers is that Ram Lal should be shown to them?

Colonel W. D. Waghorn : He has been shown to them. I understand at Tundla he was taken round.

Mr. N. M. Joshi : When was that?

Colonel W. D. Waghorn : I cannot give you the date but it was a few days after the alleged assault.

Mr. N. M. Joshi : I read in to-day's 'Leader' that that is still one of the conditions.

Colonel W. D. Waghorn : I will make inquiries.

CONFIDENCE IN MR. MONTAGU.

Mr. Jamnadas Dwarkadas (Bombay City : Non-Muhammadan Urban) : Sir, there is another matter of public importance on which, although I am not sure whether I am technically right in moving an adjournment, I should like to move an adjournment, because I find there is no provision in the rules whereby I can otherwise bring the subject up for discussion in the Assembly. I know that, so far as that subject is concerned, the Government of India are not at all responsible, but, as I said, I do not see any other way of bringing about the discussion of that subject in the Assembly.

Sir, as you are probably aware and as this House is probably aware, an attempt is being made in England to pass a vote of censure on the Right Honourable Edwin Montagu. As a matter of fact, Sir Joynson Hicks, a Member of Parliament, has already given notice of a vote of censure which is to be discussed in Parliament to-morrow. So far as the feeling in India is concerned, I make bold to say that any attempt at passing a vote of censure on Mr. Montagu will be met in India with the greatest opposition, for I think I am expressing the views of the Members of this Assembly, and not only of the Members but of a large portion of the public, when I say that, in the opinion of India, Mr. Montagu has proved the greatest Secretary of State, that it is due to Mr. Montagu that England and India have been drawn closer and that to-day, if the sensible opinion has rallied round Government and if the sensible opinion in India has shown itself willing to work the constitution for the purpose of achieving responsible Government, it is mainly because of the confidence that they have in Mr. Montagu's policy. Only the other day, in this House, we discussed the subject of Mr. Churchill's speech. We find Mr. Montagu answering Mr. Churchill and saying that he will support the view of the Government of India and of the Indian people. Mr. Montagu has gone further

[Mr. Jamnadas Dwarkadas.]

and said that neither riot nor revolution will interfere with his policy of Reforms in India. We will only be acting in our own interests if we avail ourselves of this opportunity of expressing our sense of satisfaction at Mr. Montagu's splendid work for India. We know that his heart beats for India as much as the heart of the most patriotic Indian and that we have perfect confidence in Mr. Montagu and his policy.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, I share my friend's doubts as to whether a motion like this would be in order or not. But sometimes the right has to be done in the wrong way, and, as this is the only opportunity open to us, this Assembly ought to show in the most unmistakeable manner that any movement to discredit the Secretary of State at the present moment is actuated not by what the authors are pretending but by a desire to discredit and discount the Reforms and all that they stand for. If Mr. Montagu suffers, he will be suffering in his person on account of us. We in India are not so much exercised and perturbed about passing events as our amiable friends in England are, in the same manner, I suppose, as we get perturbed now and again on account of Irish and South African things that we read of in the morning papers, about which the Irish themselves and the English are not so much perturbed and which furnish no occasion for censuring Mr. Churchill or the Irish Members. Newspaper enterprise and big-headline leaderettes are sometimes apt to mislead people ; and that is what may be happening in England at the present moment.

We do not desire to minimise the serious troubles with which we are faced, but we are confident that the Government of India are taking all necessary steps in the matter, steps that will be fully effective if they are not already beginning to be so. We desire to assure our friends that they need not exercise themselves in the way that they are doing, and that things would have been a great deal worse but for Mr. Montagu's and Lord Reading's efforts and personality. Sir, recent happenings—riots, troubles and all, are put down to the credit or discredit of the Secretary of State and that is what some are trying to voice in the House of Commons, ignoring what Mr. Montagu's long-headed and right-hearted sagacity has achieved. I do not believe that anything that we may say here will affect what may be said or done in the House of Commons and I am unconcerned, for I also believe that Mr. Montagu is fully able to take care of himself, and us. I have no doubt that he will do so. At the same time, I think from this Assembly and on behalf of those whom we represent, the clearest possible message should be sent to England that we have the fullest possible confidence in the Secretary of State and the Viceroy, who though seriously handicapped are manfully fighting our cause, the cause of right progress and justice.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, subject to the same reservations as regards the power of this House to discuss the question which the Honourable Mr. Jamnadas Dwarkadas has raised, I wish to associate myself cordially with the expression of sentiments which have fallen from my friends, Mr. Jamnadas Dwarkadas and Sir Deva Prasad Sarvadhikary. Mr. Montagu is the author of the Reforms and we sit here as the fulfilment of the pledge which Mr. Montagu gave in the House of Commons on that memorable day in August 1917. If there have been riots and disturbances in this country, we wish to convey to the House of Commons

our sense of feeling that these riots and disturbances would have been redoubled and would have been of a more extensive character had it not been for the timely Reforms which were given to this country. With these Reforms, have come into the existence the two Houses of the Indian Legislature, and, as you know, Sir, these Houses of the Legislature have been striving to do their duty to achieve the purpose which those Reforms have in view. Mr. Montagu, as one of the previous speakers had said, is well able to take care of himself : but we, who represent the Members of the Assembly, we, I submit, should collectively send forth our voices to the House of Commons and convey to that august House our united wish and desire that Mr. Montagu's position as Secretary of State should in no way be impaired by the discussion which is to take place there. We wish to convey to the Cabinet in England that we have the amplest and fullest confidence in Mr. Montagu and will not only look upon him as the Secretary of State for India, but as the founder of this House, as the well-wisher and friend of India, and I submit, Sir, any vote of censure moved in the House of Commons and voted by, for party purpose, will be used in this country for the purpose of not only discrediting the Reforms but all the good work that the reformers in this country are striving to do. The snap vote in the House of Lords on the Punjab debate has given to this country its most

Mr. President : The Honourable Member is going far from the point and I think I must reply now to the point raised by the Honourable Member from Bombay.

The Honourable Sir William Vincent (Home Member : May I say one word, Sir ?

Mr. President : If Dr. Gour wishes to address himself strictly to the question whether this motion is in order, I am prepared to hear him.

Dr. H. S. Gour : I submit, Sir, I was going to conclude by saying that the question as to what should be our attitude towards the Secretary of State in the coming debate, of which notice has been given in the House of Commons, is a question of vital public importance and that you should rule, Sir, that it is in order and that we should be permitted to discuss the question.

The Honourable Sir William Vincent : Sir, I am not quite clear as to the rule or standing order under which this debate has proceeded so far and, for obvious reasons, the Government is very unwilling to even put the matter to the Chair. I gather that it is the desire of the speakers—and indeed from the applause with which the speeches were greeted I might well say that it is the desire of the large majority of this House—that a communication should be sent to the Secretary of State expressing the full confidence of this Assembly in him in view of the amendment that is being now moved in Parliament on the Reply to the King's Speech. Perhaps it might meet the case if I undertake to-day to send a clear-the-line wire, communicating that opinion to the Right Honourable the Secretary of State for India, for use in such manner as he might think possible. The Honourable Member will see that it will be quite impossible for a Member of the Government, who is in fact a subordinate of the Secretary of State, to take any part in this matter, and I understand that, in taking the action we are doing, we would merely be expressing the opinion of the great majority, if not the whole of the non-official Members of this Assembly (Cries of 'All' and 'No

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dissentient'), and thus avoid the necessity of a debate which might become a little acrimonious.

Mr. Jamnadas Dwarkadas: Sir, in view of the remarks that have been made by the Honourable Leader of the House, I do not press the motion for adjournment. At the same time, I wish that a full report of the proceedings on this question should be cabled to the Secretary of State.

The Honourable Sir William Vincent: I will engage to give effect to what the Honourable Member wishes.

Mr. President: Before the incident closes, I must point out that, in the first place, this is not a matter for which the Governor General in Council can assume responsibility, and, in the second place, the amendment of a private Member, is not one for which the Imperial Government will take responsibility, unless the House of Commons compels it to do so. Therefore, I cannot say that the subject brought forward by the Honourable Member from Bombay is one on which he can move the adjournment. In view of the circumstances, I have allowed a certain amount of latitude which, I hope, the House will not take as a binding precedent.

The Honourable Sir William Vincent: Sir, I think the House will be glad to know what the decision is in regard to the other motion for the adjournment of the House.

Mr. President: I passed from the question raised by the Honourable Member from Allahabad, because I understood that, for the moment, the reply given by the President of the Railway Board satisfied him. On the actual point of order, I am still in doubt as to whether he has succeeded in bringing the subject within the real meaning of the Standing Order.

THE CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member): Sir, I move for leave:

'To present the Report of the Select Committee on the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings.'

We have now further amended the Bill and attempted to meet all the criticisms of the Honourable Members who proposed modifications in it on the last occasion when it was considered in the Assembly.

The motion was adopted.

The Honourable Sir William Vincent: Sir, I present the Report.

THE DELHI UNIVERSITY BILL.

Mr. H. Sharp (Education Secretary): Sir, I beg to move for leave:

'To present the Report of the Joint Committee on the Bill to establish and incorporate a unitary teaching and residential University at Delhi.'

Standing Order No. 41 lays down that the Report of a Select Committee should not be made sooner than three months from the date of the first publication of the Bill unless the Assembly orders the report to be made sooner. The Standing Orders do not specifically apply this provision to a report made by a Joint Committee. But, as the procedure is largely the same and a Report is presented by a Joint Committee, it was thought desirable to give the House an opportunity of putting itself right in this matter in order that there might be no question of the validity of the procedure in future.

The motion was adopted.

Mr. H. Sharp: Sir, I present the Report.

THE SPECIAL LAWS REPEAL BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I beg to move :

'That the Bill to repeal certain special enactments supplementing the ordinary criminal law, as passed by the Council of State, be taken into consideration.'

I think Honourable Members are familiar with the genesis of this Bill. It is based on the Report of a Committee which was appointed by Government in pursuance of a Resolution carried in the Council of State on the motion of the Right Honourable Srinivasa Sastri on the 14th February, 1921. If Honourable Members will examine the *personnel* of that Committee, they will be satisfied that it contained an adequate number of non-official representatives of worth and merit. There were only three officials on it, myself, Dr. Sapru and Mr. Hammond. Of the non-officials, two were Members of the Council of State and five were Members of this Assembly. In a Resolution of the 19th September, Government accepted the Report of the Committee and announced that steps would be taken, as soon as possible, to introduce legislation to give effect to the recommendations of the Committee. The present Bill is the first instalment of that legislation. It repeals two Regulations and four Acts. The Bengal State Offences Regulation of 1804 is the first Regulation affected. That was the Regulation which was used when Martial law was put in force in the Punjab in 1919. It was found at that time defective in many respects, and it is proposed to repeal it. I believe that Honourable Members are aware that, when the Government found it necessary to enforce Martial law in Malabar recently, a different procedure was adopted, and His Excellency promulgated a special Ordinance. The second Regulation, the Madras State Offences Regulation, 1808, is of the same character. The third measure is that of the State Offences Act XI of 1857, which provides special punishments for rebellion, waging war against Government or for harbouring or concealing persons guilty of such offences. It also empowers Government to appoint Commissions for the trial of such offences or other serious crime against the State. The fourth was the Forfeiture Act, 1857, which provides for the forfeiture, by order of Court or other authority after inquiry, of the property of the person who has committed treason. That was the Act to which, I think, Mr. Rangachariar referred on a previous occasion in this Assembly. Then there is the Defence of India Act on which I need not dilate here. The provisions are well known to all Members of the Assembly. And, lastly, there is the Anarchical and Revolutionary Crimes Act, 1919, commonly known as the Rowlatt Act, for the introduction of which,

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in the predecessor of this House, I was responsible. It is perhaps a curious irony of fate that I have to move for the repeal of that Act, but, at any rate, I can claim this on behalf of Government that, in taking the action they have taken to-day in relation to this and other measures, they have gone a great way to meet the wishes and demands of this Assembly and of the public as well in this matter. (Hear, hear) Having regard to the facts I have stated, I hope that it will not be necessary for me to renew old griefs and re-discuss that much debated measure.

The motion was adopted.

The Honourable Sir William Vincent: I move, Sir, that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE INDIAN CRIMINAL LAW AMENDMENT REPEALING BILL.

The Honourable Sir William Vincent (Home Member): Sir, I move :

‘That the Bill to repeal certain provisions of the Indian Criminal Law Amendment Act, 1908, as passed by the Council of State, be taken into consideration.’

The origin of this measure is the same as that of the Bill which the Assembly has just accepted. The Act was originally passed to deal with anarchical crime in Bengal and Eastern Bengal in 1908. Wide-reaching conspiracies were then rife, the main methods of the conspirators being assassination of officials, English and Indian; murder and assault of witnesses, and terrorising of all who opposed them. There were also regular organizations for dacoity on a large scale. Part I of the Act under discussion was designed to supply more expeditious methods of dealing with seditious conspiracies. It empowered the Local Governments, with the sanction of the Governor General in Council, to prescribe a special procedure for the trial of certain cases which were to be committed direct to a special Bench of the High Court. I believe it was used altogether about 25 times, but I have not been able myself to trace any case in which it has been used since 1911. I may be wrong on this point, but that is my recollection. The Committee which was appointed to examine what are called the Repressive Laws recommended to the Government of India that this portion of the Act of 1908 should also be repealed, and it is to give effect to that recommendation that I make the present motion.

The motion was adopted.

The Honourable Sir William Vincent: I move, Sir, that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

AMENDMENT OF STANDING ORDERS.

The Honourable Sir William Vincent (Home Member): Sir, I move :

‘That the report of the Select Committee on the Standing Orders may be taken into consideration.’

All these amendments have been debated before. There is before the House the Report of the Select Committee, which explains all the changes

which have been recommended by that body. In these circumstances, I do not think that it is necessary for me to detain the House by discussing all the changes made, unless any specific point is raised.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I beg to move :

‘That the Report be re-committed to the Select Committee.’

I can assure the House that it is in no spirit of obstruction that I have brought forward this amendment. My intention is to draw the attention of the House to certain observations made by the Select Committee on Standing Order 18. It will be seen that reference is made to five questions, which have cost Government a very large sum in printing their answers to, and the Committee recommend that the President should apply a strict interpretation of Standing Order 16 and exclude such questions from the Question Paper. They observe that they do not attempt to prescribe any procedure to meet the difficulty which might arise by the exclusion of such questions under the discretion of the President. While they admit that the purposes for which these questions are put are quite legitimate in themselves, they do not propose any alternative remedy. They simply say that it is for consideration whether a procedure of the kind that obtains in the House of Commons under which information of a lengthy or expensive character is supplied separately in a White Paper, should be taken recourse to. I want to draw the attention of the House to certain instances in which difficulties may arise on account of the fact that Government may find it difficult to answer a question without placing a large mass of papers on the table. It is not always the questioner who is at fault, but it is sometimes the case that the Government are responsible for the expensive character of the answers. Take, for instance, item No. 3 in the list given at page 2 of the Report of the Select Committee. I find that Mr. Kamat asked a question as to what action Government had taken in regard to certain specific recommendations made by the Jails Committee. In reply to that, Government placed on the table a paper running to a length of 28 pages, which was a copy of a letter they had addressed to Local Governments in the matter. Well, Sir, I do not know if, under the new dispensation, the President will allow or disallow such a question. So far as we are concerned, I do not think there is any *prima facie* impropriety in such a question, and in fact, it is very difficult for the Member who puts the question to find out as to what the answer will cost in the end. So, I should have liked the Select Committee to provide for another expedient for meeting such a difficulty in connection with any such question. I should think that we cannot curtail our right of asking questions, without at the same time seeing that a proper procedure is laid down for meeting the difficulties that may arise in such cases. I may draw the attention of the House to the importance that is assigned to questions in the House of Commons. Mr. Delvin once speaking on the subject said that questions were the most important business of the House, and in this view Mr. Bonar Law agreed. I, therefore, think that this is a matter of great importance, and that the Select Committee should go into this matter and see what can be done with the object of meeting the difficulties to which Members may be put by the disallowance of questions involving lengthy answers.

Mr. President : Amendment moved :

‘That the Report be re-committed to the Select Committee.’

[Mr. President.]

The Honourable Member's amendment would mean, if carried, that the whole business of amending the Standing Orders would be re-opened. I do not know whether that is his intention or not, but it would be better, if he wishes, to define it by saying : ' be re-committed to the Select Committee in respect of the amendment of Standing Order 18 '.

The Honourable Sir William Vincent : Sir, I doubt whether it will be necessary for the Honourable Member to press this matter if I explain what our intention is, and in any case, I think the House will be very unwilling to re-commit the whole of these Standing Orders to a Committee which has spent a good deal of time and labour in examining them, merely because of a particular alleged defect. Indeed, I rather wish the Honourable Member had suggested some alternative himself. But there is a great deal of justice in his complaint regarding the question relating to the Jails Committee, and indeed I am sorry that this matter was mentioned in the report in the form adopted, because the printing of all this matter was really due to our fault. I am quite ready to admit it, and I will explain how it happened. Honourable Members will remember that about that time we were asked, when possible, to avoid coming to decision on Reports of Committees before submitting them to the Chamber. Sir, I was not quite sure how far we had observed that condition in respect of this particular Report. I had intended at one time to secure the assistance of a small Committee to examine the Report but had not done so. So, later, I took the opportunity of the question from the Honourable Member of placing the correspondence showing the action taken by us on the Report fully before the Assembly. I will admit that the blame on that occasion was more mine than his, if that is any satisfaction to him. But, in truth, many of the questions that we are asked do involve a great deal of expenditure, of money and time. We often have to have inquiries made—though we have refused to do so on more occasions than one recently—at times even from every district and every sub-division and every police station. Take, for instance, a question we were asked about the number of Arms licenses of all kinds. Try to imagine what the work involved in preparing an answer is and what the cost is. I remember a question being asked in the days of the old Council about the number of Australians or New Zealanders, I think it was, in the country. We had to spend thousands of rupees in telegrams in finding out the facts and the result was nothing when we got the information. We had to wire all over the country. We wired to Local Governments, Local Governments wired to Commissioners, Commissioners to Collectors, Collectors to Sub-Divisional Officers and the Sub-Divisional Officers had to go further on in some cases before we got the required information. This is really what we seek to avoid. What we intend to-day is not to refuse the information where it is available, because, in that case though we shall not table it, we shall offer it to the Honourable Member who put the question and to any other Member who wants to see it. I think Honourable Members will remember that that has often been done in this Assembly instead of burdening the proceedings of the Chamber with long statements which are of really no public interest. But there is this further question of collecting information for the Assembly which is not necessary when demand is not reasonable. If the benefit to be derived from the collection of the information is not commensurate with the labour and expense involved, then we do hope that the Assembly will support us in refusing to collect such information.

Mr. President: As Chairman of the Committee that was responsible for the Report, I should say a word here.

The Honourable the Home Member has described the situation from the point of view of the answerer to a question. I think in this case the questioner and the answerer are equally responsible for the items referred to in the Report. There was no intention on the part of the Committee to censure either any individual or the non-officials as a body or the Government as a body. We were dealing with the business of the Assembly as a whole and we wished to draw the serious attention of the Assembly to these particular items which happened to have been brought to our notice. Under the present practice, it may be necessary on occasion to include long statements in the printed proceedings, and there is nothing as yet in the Standing Orders to prevent that. As we were not then prepared to propose a definite scheme, such as the House of Commons possesses in the 'Motion for a Return', the Committee preferred to leave it to the present practice under which the Member of Government answering a question can either place the answer in such a way that it must be printed in the proceedings, or supply it privately to the Honourable Member who asks the question. It ought to be taken as a rule that, where long statements including many statistics are required, they should not in the first instance necessarily appear in the Report of our proceedings. The point raised by the Honourable Member is legitimate and important, but I hope he will see, from what the Honourable the Home Member has said, that it is perhaps unnecessary for him to press it.

Mr. K. C. Neogy: In view of the statement made by the Honourable the Home Member and by you, I do not propose to press my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: The question is:

'That the Report of the Select Committee on the Standing Orders be taken into consideration'.

The motion was adopted.

Mr. President: The question is:

'That the following Standing Order be substituted for Standing Order 7:

'7. On days allotted for the transaction of Government business, the Secretary shall arrange that business in such order as the Governor General in Council may direct.'

The motion was adopted.

Mr. President: The question is:

'That the following be inserted as Standing Order 7-A:

7-A. (1) The relative precedence of notices of Bills given by non-official Members shall be determined by ballot to be held, in accordance with the procedure set out in Schedule I, on such day, not being not less than fifteen days before the day with reference to which the ballot is held, as the President may direct:

Provided that the President may, from time to time, make such variations in the said procedure as he may consider necessary or convenient.

(2) On a day allotted for the disposal of non-official Bills, Bills which have already been introduced by non-official Members of either Chamber shall have priority over all other business, provided that any notice required by the Rules or Standing Orders has been given, and such Bills shall have relative precedence in the following order, namely:

(a) Bills introduced in the Assembly in respect of which the next stage is the presentation of the Report of a Joint or Select Committee;

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- (b) Bills passed by the Council in respect of which the originating Chamber was the Assembly ;
- (c) Bills introduced and passed in the Council ;
- (d) Bills introduced in the Assembly in respect of which a motion has been carried that the Bill be taken into consideration ;
- (e) Bills introduced in the Assembly in respect of which the Report of a Joint or Select Committee has been presented ;
- (f) Bills which have been circulated for the purpose of eliciting opinions ; and
- (g) Other Bills.

(3) The relative precedence of Bills falling under the same clause of sub-order (2) shall be determined by ballot, to be held at such time and in such manner as the President may direct :

Provided that Bills falling under clause (g) which remain over from the preceding Session shall, subject to the provisions of sub-order (2) of Standing Order 4, have priority over other such Bills in the order of the date of their introduction.

The motion was adopted.

Mr. President : The question is :

'That the following be inserted as Standing Order 7-B :

7-B. The relative precedence of notices of Resolutions given by non-official Members shall be determined by ballot, to be held, in accordance with the procedure set out in Schedule I, on such day, not being not less than fifteen days before the day with reference to which the ballot is held, as the President may direct :

Provided that the President may, from time to time, make such variations in the said procedure as he may consider necessary or convenient.'

Mr. Harchandrai Vishindas : (Sind : Non-Muhammadan Rural, : May I inquire whether there is any necessity for a double negative (or is it a misprint in my copy) in the words 'not being not less than 15 days' ? There ought to be only one negative. I find that repeated elsewhere also.

The Honourable Sir William Vincent : I think it is a misprint, Sir.

Mr. President : It is obviously a misprint.

Mr. Harchandrai Vishindas : It occurs in the previous one also.

Mr. President : The question is :

'That the word 'not', where it occurs for the second time in line 4 of Standing Order 7-A, be omitted.'

The motion was adopted.

Mr. President : The question is :

'That the word 'not', occurring for the second time in the fourth line of Standing Order 7-B, be omitted.'

The motion was adopted.

Mr. President : The question is :

'That Standing Order 7-B, as amended, be inserted.'

The motion was adopted.

Mr. President : The question is :

That in Standing Order 8 :

- (a) in sub-order (2) for the words 'No business' the words 'Save as otherwise provided by the Rules or Standing Orders, no business' shall be substituted; and
- (b) after sub-order (3) the following sub-order shall be added, namely :

'(4) Not more than five Resolutions (in addition to any Resolution which has been commenced on, and is outstanding from, a previous day) shall be set down in the list of business for any day allotted for the disposal of non-official Resolutions.'

Mr. Harchandrai Vishindas : With regard to this, I want to bring to the notice of the House that, at the time the Select Committee was appointed for amending these Standing Orders, a question arose as to whether or not some means should be devised for giving priority to a Resolution of great importance (for which the present procedure is for the Government to allot an official day) as an intimation had been received by the House from the Honourable the Home Member that it might not be possible for Government in future to allot an official day for non-official Resolutions. I find that that matter has been referred to in the Report of the Select Committee, but the intention of the House at the time has (I am speaking subject to correction) not been carried out.

The answer has been given that the present procedure ought to continue and the means to be adopted for achieving the object we have
 12 NOON. in view would be rather for Members to concentrate on the ballot of a Resolution. I submit, Sir,—and I speak subject to your ruling as to whether I am quite in order—that such provision be made in Standing Order 8 as to provide for priority being given to Resolutions just outside the Order, provided that the Members, whose Resolutions have precedence over that particular Resolution, give their consent. I don't think there will be any incongruity or offence to public interests if the procedure suggested be adopted. If I am quite in order, I move that as an amplification of Standing Order 8.

Mr. W. M. Hussanally (Sind: Muhammadan Rural) : Sir, I would mention that a case of this kind actually arose last Session. On that particular day, there were a certain number of Resolutions, and it was decided by the Members that a particular Resolution should be given priority to. The President, however, thought that he could not give priority at that time, although the House was agreed that priority should be given. I think nothing would be lost if, on all Members consenting, such priority is given, and I think that provision to that effect might be made in this rule.

The Honourable Sir William Vincent : Sir, I find some difficulty in opposing this amendment, because it much resembles an amendment that I myself put forward in the Assembly. I think, however, that, if the Honourable Member wanted to bring up the question, he should have put down a regular amendment in proper form, and that we should not hold back consideration of all these amendments for the reasons advanced by him. As to the merits of his proposal, the objections to it were put very forcibly before the Committee by persons more experienced in Parliamentary procedure than myself, and it was urged very strongly that it was necessary that this House should learn the proper Parliamentary practice in effecting the object which is

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intended by the Mover. It is within Member's power to get any Resolution discussed if all of them put their names down for it in the ballot. Indeed, if a dozen Members were to do that, it is quite certain the Resolution would get a place. If the House would like an example, I may mention the case of the Resolution on the Bihar and Orissa Executive Council last year. There were a number of people who plumped for that Resolution in the ballot and it came on for discussion at the very earliest opportunity; therefore, what the Honourable Mover really seeks to attain can be achieved in the manner suggested under the Standing Orders as they exist, and, on a careful consideration of these facts at the time, the majority of the Committee thought that this was the proper procedure, and I hope it will meet with the approval of the House, although I had myself proposed a different procedure before.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): Sir, I have some difficulty in connection with this matter. I know that, if more than fifteen or twenty Members are really keen on a Resolution, they can give—all of them and each of them—notice of that Resolution, so that the chances of their getting a ballot early in the business of the day are greater. But take a concrete case. Take fifteen Members who give notice of a Resolution, and somebody gets the ballot. He does not know much about the Resolution. He has to move it; probably he simply moves it, and leaves it to the man more conversant with the subject to go on with the debate. But what about the right of reply? The man who knows all about it cannot reply, and the man who is nominally the Mover has to reply, and he cannot reply to the arguments which are put forward so eloquently by Members of the Government, especially my friend, the Honourable the Home Member. In such a case, then, the debate suffers and is bound to suffer. That is a difficulty we cannot solve by the procedure prescribed.

I do not wish to detain the House by holding back the passing of the Standing Orders, but, at the same time, I hope that my point will be taken into account. Another difficulty that it raises is this. Supposing that no more than five Resolutions are set down in the list of business, it may be—and we have had experience of this—that the Members do not turn up, and the Resolutions may or may not be taken up that day. One whole day is missed. Why not continue the present practice of having many Resolutions? Never mind if they are not reached: they will lapse. I don't think there should be any rigidity in this matter. Personally I am against any Standing Orders or Rules being so framed as to be rigid. There must be elasticity; there must be discretion, otherwise the rigidity makes the rules absolutely impracticable on certain occasions.

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): Sir, if I am in order, I would move that this particular amendment be re-submitted to the Committee to report with reference to the objections that have been put forward. It has been pointed out by the Honourable the Home Member that persons conversant with Parliamentary practice suggested that, in order to acquire real Parliamentary knowledge of how to debate an important question, the procedure should be for a large number of Members to ballot for the same Resolution so that it may be debated. Those who are acquainted with Parliamentary practice, perhaps do not know that we are living in places two thousand miles apart, and it would not be easy to communicate with each

other. When we are in Session, we may be able to do so ; but, supposing we are not in Session, we will have to communicate with people at very great distances, and it may not be possible to get these people to look at matters in the same light. Whereas, if we happen to be in Session, a large number of us could meet and discuss the matter and come to a decision that one of the Resolutions should be supported, and that it should have precedence over others. Some such provision should be made, otherwise there would be great difficulty in bringing forward important Resolutions. The procedure for the adjournment of the House would not meet the case always ; there are some important Resolutions which unfortunately have a tendency to go down in the ballot, and, in those circumstances, if some such procedure is adopted by which an important Resolution can be debated when it really has the support of a large body of Members, I think it would meet with the approval of the House. I accordingly move that this Resolution be re-submitted to the Committee with a view to these suggestions being embodied in it.

The Honourable Sir William Vincent: Sir, the objection raised by, I think, one of the speakers, Mr. Samarth, could be easily met without recommitment to the Committee, and I should have no objection to add in the Standing Order the words used in another part of the Standing Order, 'unless the President otherwise directs.' That would meet the objection now put forward. In fact, my recollection is that I did propose something of the kind once before.

The other point under discussion is a matter of greater importance. I myself was rather impressed with the necessity for enabling a majority of the Members to bring a particular matter of importance before the Assembly at one time, but, as I say, the Committee, after a full discussion of the question, decided otherwise. I submit that the House would be well-advised if they took the rule as it is with that small amendment that I have made now, and leave it to Mr. Seshagiri Ayyar, to Mr. Harchandrai Vishindas or any other Member to propose any new amendment, which they think would meet the case, subsequently, and not to delay the passing of these present amendments for that object.

Mr. Seshagiri Ayyar has suggested that important Resolutions always find a very low place in the ballot list. I do not suppose that they can really be more unfortunate in that than other Resolutions, but, in any case he will do me the justice to admit that we have always endeavoured, and generally successfully endeavoured, to find a place for important Resolutions, when necessity arose, on official days.

Mr. B. A. Spence (Bombay : European): Mr. President, would it not meet the wishes of several of us if an amendment was made substituting, say, the word 'seven' for the word 'five' in this paragraph 4? We have had very few Resolutions debated in this House this Session and the last Session, because of the length of the speeches made on them, and it is, I think, the desire of many Members of this House that debates on Resolutions should not take as long as they have done. There have been, if I may be permitted to say so, as one who has made many of them, a large number of irrelevant speeches or speeches of far too great length. If we, as a House, can get down to business propositions and debate these Resolutions at far less length than we have done in the past, we ought to be able to get through far more than

[Mr. R. A. Spence.]

five Resolutions in a day. I think, Sir, that five Resolutions is too little, if this House is going to deal with them in a more business-like manner than we have done in the past, and I hope that, it will commend itself to this House, if, instead of the word 'five', say the word 'seven' were substituted.

Mr. Harchandrai Vishindas: I think we were discussing quite another point, namely, the precedence to be given to important Resolutions.

Mr. R. A. Spence: My amendment has reference to the point mentioned by Mr. Samarth.

Mr. Harchandrai Vishindas: I do not know whether the words 'unless the President otherwise directs', suggested by the Honourable the Home Member, would meet the situation properly. I think it would be better to have some such words as 'with the consent of the Movers of previous Resolutions, priority can be given to a Resolution which is down on the list.'

The Honourable Sir William Vincent: I did not suggest that amendment.

Mr. Harchandrai Vishindas: I would support Mr. Seshagiri Ayyar's proposal that it be referred back to the Select Committee.

Mr. President: The proposal made by Mr. Seshagiri Ayyar refers to the new sub-order (4) of Standing Order 8, which does not deal with the precedence of Resolutions. The precedence of Resolutions is dealt with in the new Standing Order 7-B, and that has already been passed. I may say, with regard to the point raised, that I am not of opinion, as an unprejudiced spectator, that, on the whole, the length of speeches is excessive. I may tell the House for their information that I kept a tally of 150 speeches delivered on non-official Resolutions during the Delhi Session, last year, excluding the speeches of the Mover and the speech of the Government Member, and the average time occupied was 7½ minutes, exactly half of the time allowed by the Standing Orders. It is quite true—and I add it by way of corrective to our self-esteem—that there is a slight increase in the length of the speeches this Session.

The question that I have to put is :

'That sub-order (3) of Standing Order 8 be referred to the Select Committee.'

The motion was negatived.

Mr. President (to Mr. R. A. Spence): Does the Honourable Member move?

Mr. R. A. Spence: If I am in order, Sir, I move :

'That in sub-order (4) for the words 'not more than five Resolutions.' the words 'not more than seven Resolutions' be substituted.'

I know that this means that the Government might have to prepare to answer seven Resolutions instead of preparing to answer five, but they would probably know, by the class of Resolutions that was on the paper, whether there was any chance of our getting to numbers 6 and 7. Therefore, I do not think that they would have to prepare answers to Nos. 6 and 7 in these cases; but it does not seem to me as though it is an excessive number to ask that seven Resolutions might be allowed to figure on the agenda paper.

The Honourable Sir William Vincent: Sir, the Honourable Member (Mr. Spence) is in error in supposing that the Government is always in a position to say whether Resolutions will come on or not on any date. Indeed, I think many Members of this House must remember a very noteworthy example recently when we did not receive any intimation until the night before the debate was to come on that a Resolution would not be moved. Now, such notice is too late to be of any use. We do not always leave the preparation of replies to Resolutions to the last moment, and it is not possible to do so. Much more work is put into the preparation of replies to these Resolutions than possibly is appreciated. But, on the merits of the proposal, I want to put it to the House, as practical men, that I have never known of an occasion in this Assembly, or in its predecessor, when more than five Resolutions have been discussed. (*A Voice:* 'Not more than three'.) 'Not more than three' a gentleman behind me says, but I myself cannot remember any occasion on which more than five have been discussed. I am quite prepared to provide for cases in which from the character of the Resolutions it may be apparent that all the Resolutions will not take long, not indeed to substitute 'seven' for 'five' but to insert at the beginning of the Standing Order the words 'unless the President otherwise directs' and leave it to the President to say if more than five Resolutions shall be put down on any one day.

Mr. N. M. Samarth: That would be all right in the case of different Resolutions, but what about the case where 20 men have similar Resolutions?

The Honourable Sir William Vincent: Then the President would be in a position to add to the list.

Mr. R. A. Spence: I would accept that amendment in place of mine.

Mr. President: The question is :

'That the Honourable Member (Mr. Spence) have leave to withdraw his amendment : 'That in sub-order (4) for the words 'not more than five Resolutions' the words 'not more than seven Resolutions' be substituted.'

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: The question is :

'That sub-order (4) be amended by the introduction of the words 'unless the President otherwise directs' at the beginning of the sub-order.'

The motion was adopted.

Mr. President: The question is :

'That in Standing Order 8 :

(a) In sub-order (3) for the words 'No business' the words 'save as otherwise provided by the Rules or Standing Orders, no business' shall be substituted ; and

(b) after sub-order (3) the following sub-order shall be added, namely : '(4) Unless the President otherwise directs, not more than five Resolutions (in addition to any Resolution which has been commenced on, and is outstanding from, a previous day) shall be set down in the list of business for any day allotted for the disposal of non-official Resolutions.'

The motion was adopted.

Mr. President: The question is :

'That for Standing Order 9 the following Standing Order be substituted, namely:

'9. Non-official business set down for any day and not disposed of on that day shall not be set down for any subsequent day, unless it has gained priority at the ballot held with reference to that day :

[Mr. President.]

Provided that, notwithstanding anything contained in Standing Orders 7 A and 7-B, any such business which has been commenced shall be set down for the next day allotted to business of that class, and shall have precedence over all other business set down for that day.

The motion was adopted.

Mr. President : The question is :

'That in Standing Order 11, after the word 'Secretary' the words 'and signed by the Member giving notice' be inserted.'

The motion was adopted.

Mr. President : The question is :

'That Standing Order 11, as amended, stand part of the Standing Orders.'

The motion was adopted.

Mr. President : The question is :

'That in Standing Order 15, the word 'and' at the end of sub-order (5) be omitted and be re-inserted at the end of clause (6) and after clause (6) the following clause be added, namely :

'(7) It shall not quote anything from a newspaper or mention the name of a newspaper.'

Rai Bahadur Pandit J. L. Bhargava (Ambala Division : Non-Muhammadian) : Sir, may I know the reason for this amendment? It was not given at the time this amendment was proposed nor is it given in the Report of the Select Committee.

Mr. President : The Honourable Member will see from Standing Order 15 (2) that, where a statement is made by a Member in a question, he shall make himself responsible for the accuracy of the statement. It is, therefore, better that facts related in any question should be brought forward on the Member's sole responsibility and that the name of any outside authority should not be brought in. The Standing Orders Committee discussed this question and decided—if I am not mistaken, unanimously—that it was undesirable to give quotations from newspapers for the purpose of conveying information or of asking information. It is the practice in the House of Commons to forbid quotations from newspapers in any question, and I think, to make sub-order (2) of Standing Order 15 really effective, it is better that the Member should assume the sole responsibility for any statement which occurs in his question. It is on that ground that the amendment was proposed to the Standing Order.

Mr. R. A. Spence : Would it be impossible then for any Member of this House to draw the attention of the House to a grossly exaggerated, inaccurate or false statement made by a newspaper. We have seen, unfortunately, far too many of them in the country of late; but would it, under this new rule, be impossible to ask that the Government should take some steps to contradict libellous statements made against Government in a paper?

Mr. President: Well, in that case, Government is no doubt the best protector of its own interests. As far as the Chair is concerned, I object to the list of business being used to give gratuitous advertisement to those who are not connected with this House.

Mr. T. V. Seshagiri Ayyar: Supposing a newspaper writes something libellous about the President or about the Members of this House, cannot this House draw the attention of the Chair or of the Government to the fact that these statements have appeared, namely, grossly libellous statements about the President or about a Member, and that the paper should be dealt with in a proper manner?

That is one difficulty. Another matter is, even after your explanation, I do not see why the name of a paper should not be mentioned. I am familiar with the practice in the High Court where the Judges do not accept a particular report as being authorised. In such cases, the practitioner can use as his own the ideas contained in the report and as if it were his own language. I can understand that; but I cannot understand why it should be sacrilegious to mention the name of a newspaper. You may not take a statement from a newspaper without verification, because the editor of the newspaper cannot be brought before this House; but I cannot understand why the name of a newspaper should not be mentioned.

Mr. Harchandrai Vishindas: I think there is also another utility in mentioning the name of a newspaper and that is if you raise a question based on something which has appeared in a newspaper, the Government Member may not see the basis of that particular occurrence, whereas if you mention that particular newspaper he will do so at once.

And as regards giving an advertisement to a newspaper by merely mentioning its name, I do not think that in practice that has ever occurred and that the sale of a newspaper has risen simply because it has been mentioned in this House.

Another thing is whether the responsibility of the Member would in any way be lessened by his shifting it on to the shoulders of a newspaper. I think that will not arise, because, according to another part of the Standing Order, even if a Member mentions the name of a newspaper he is not exonerated from the responsibility which attaches to him, and that should remain. For the reason Mr. Spence has adduced, I think the original provision should remain, and this provision should not be inserted. A newspaper's name may be mentioned; there is no harm in that.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, this question of mentioning the name of a newspaper was discussed, and the arguments against allowing a newspaper to be quoted seemed to me to be very sound. There are newspapers and newspapers. All newspapers are not of the type which would deserve quotation in this Assembly. Supposing a newspaper publishes a libel against a public servant, if you base your question upon an extract from that newspaper, you, in the first place, libel the public servant in a place where he has not the chance of defending himself. That is the first thing. And, then, that paper may be an unknown one, and, when you mention its name here, that name is telegraphed all over the country. That name is published in official proceedings, and the existence of that paper comes to the knowledge of a large

[Rao Bahadur C. S. Subrahmanayam.]

number of people who otherwise would not have heard it. Knowing as we do the taste of the reading public, that is, of a large section of the reading public which revels in being offered libels, slanders and exaggerations—sensational news as it is called—is it not wise to keep out the names of all newspapers impartially, whether they are good or bad, from the precincts of this House? That consideration ought to outweigh all the others that may be brought forward in support on the other side.

There is another matter. We are all agreed that questions put here in this Assembly ought to be on the responsibility of the Member who puts them. Now that responsibility would be lessened if he can quote from a newspaper. No sooner is he contradicted than he turns round and says: 'I am sorry I was misled into putting this question by what I read this morning in a particular newspaper.' On the other hand, it does not, in any way, muzzle our liberty to put questions, only it will make a Member pause and think before he puts a question. If he reads something sensational in a newspaper, and if he thinks it is worthy of being brought before Government for contradiction or explanation, I think the obvious course for him is to telegraph to that newspaper: 'I read such and such a thing in your paper: are you sure of your facts? Can you furnish me with further facts, because I want to take it before the Government.' Well, that will be a responsible way of doing our work, because, if we hear a particular thing or read a particular matter in the newspapers, it is not our duty that we should at once pass it on to the public or to the Government and get it published all over the country. That, no doubt, imposes a certain amount of trouble and expense on a Member who questions on the basis of a newspaper report. But should we not take that trouble? Should we not face our responsibility in the way in which a business man will face it? Therefore, I think that, taking this standpoint, the exclusion of quotations from newspapers or the mention of names of newspapers is a wise and sound one. One remark of my Honourable friend, Mr. Seshagiri Ayyar, that you adopt what is stated in a newspaper as your own, that is just the thing that this rule contemplates. The practice in Courts is that, when a case is cited or when certain dicta are placed before the judges which have not found a place in the authorised reports but are taken from newspaper reports, some judges—not the great majority, but those who are punctilious in their observance of rules,—will not hear the names of the newspaper mentioned. Then, what a skilful advocate does is to read the dicta and simply put them forward as his own arguments. That is just the thing that this rule contemplates, that, if you read in the newspapers anything of a sensational character, you might adopt it as your own, after making some sort of inquiry, or be bold enough to face the responsibility of asking the question in this form: 'Has such and such a thing occurred? Are these facts true?' That is, we can have what we want put in questions without mentioning the name of a newspaper or giving that newspaper perhaps an unnecessary advertisement. Therefore, I think the Assembly would do well to retain this new sub-clause, because in one way it may be an advantage when you want to protect the Government from libel. The time will come very soon when Members of this Assembly will also be libelled and other public servants will be libelled and it will all come back on us. Therefore, I think this rule which is added is a very safe rule which ought to be there.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : I am sorry, Sir, I cannot agree personally with the opinion of my Honourable and learned friend from Madras. I think, first of all, that this will rather go to curtail the privileges of Honourable Members of this House, and, secondly, for the purpose we meet here, it appears to me that that very object will be frustrated. We Members of the Assembly have got certain privileges, rights and powers that we have to exercise. Sir, it was proposed the other day that the Press Act of 1910 should be abolished. Are we, Sir, again to deal with the same subject and try and begin *de novo* and get that thing passed again to debar the liberty of the press ?

Mr. President : I fail to see relevancy of the Press Act to this amendment.

Mr. K. Ahmed : The name of the newspaper has to be mentioned sometimes when questions are put by Members of this Assembly and I do not see why any Honourable Member answering question on behalf of Government should have a terrible fit or faint on that account. Suppose there is certain information published by a newspaper. My Honourable friend says : ' Send a telegram and get it corroborated whether the facts are true. Let there be a witness.' My Honourable friend is a practising pleader. I say, if the information is wrong, let that witness who will give that testimony be prosecuted under section 193 I. P. C., would that not promote litigation and encourage multifariousness of cases ? I think the Members of the House of Commons—I have not been there so much myself—do mention the names of newspapers. Are we not Members of the House of Common here of India ? Is this House going to be an imitation of Parliament or not ? Or are we simply to sit still and not uplift the condition of our country and uplift ourselves to the dignity of the Members of the House of Common ? Is not that a set-back ? Sir, I am sorry that I do not think there will be much support for my Honourable friend in the Assembly with regard to the position that he has taken up. I agree with my friend, Mr. Seshagiri Ayyar, and other Honourable Members who have spoken on the subject.

Mr. F. McCarthy (Burma : European) : Sir, I agree with every word that has been said by Mr. Subrahmanayam. I have taken the trouble to go through the official reports of this Assembly from the first day in Delhi last year and it is very seldom that one finds in the questions a responsible newspaper quoted, while you have large numbers of irresponsible papers. I think the Member on my left, Mr. K. Ahmed, is responsible for a lot of these questions. I doubt if any Member of the House had ever heard before of these papers. What Mr. Subrahmanayam says is true ; these questions merely serve to advertise obscure journals.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhammadan Urban) : Sir, not being acquainted with the practice of the House of Commons and having no desire at all to advertise any newspaper, I wish to place my difficulty before the House in the hope that some Honourable friend of mine may be pleased to enlighten me on the point. If I read to-day in a paper of recognised worth and repute a certain fact about what is happening, say in Madras—a very important matter—how am I to find out—I wish only to know, I am not making any positive statement—how am I to know the truth of that particular report which has appeared in the paper ? Am I expected—I am only putting the question—to send a wire to some friend ? And if I have

[Munshi Iswar Saran.]

no friend, what am I to do? Can I not in that case mention the name of the newspaper which is the source from which I have taken the facts? I do not think my Honourable friend from Burma is right when he says that a good many newspapers are mentioned in these questions, because Honourable Members are anxious to advertise those papers. I do venture to hope that he will be inclined in his calmer moments to think that he has not been just to his own colleagues in this House. What I submit is this. Is it not proper to leave it to the discretion of the Honourable Members of this House whether or not they will mention a particular paper? We have been told that there are so many rags in this country. It has become rather fashionable to use that word with regard to newspapers that write pungently and that write things that we do not like. Be that as it may, having regard to these difficulties I hope I am in order in requesting you, Sir, to be pleased to enlighten us as to the correct procedure to be adopted. I have placed before the House quite frankly the difficulty which strikes me in accepting the suggestion which has been made by my Honourable friend from Madras.

Mr. T. V. Seshagiri Ayyar: Am I in order, Sir, in moving an amendment now?

Mr. K. M. Nayar (West Coast and Nilgiris: Non-Muhammadian Rural): Sir, some of us come from very distant parts of India and for some two or three months at a stretch we have to rely for information as to what is happening in our part of the country on newspaper reports; and, if we cannot have recourse to them, I do not see how we can bring important matters to the notice of the House; then again, we may not be able to move an adjournment of this House when the Secretary of State is likely to be taken to task next time in England over the Indian situation if we are not to believe what appears in the newspapers.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadian Urban): May I ask what the practice in the House of Commons is on the point?

Mr. President: The practice in the House of Commons is that not only is a Member not allowed to quote the name of the newspaper but he is not allowed to quote anything. My attitude on this subject is that this Assembly is much more important than any purveyor of news outside, and that, where an event has occurred, as put to me by my Honourable friend on the right, which deserves the attention of this House he must be presumed to draw his information from sources which satisfy him, and therefore to be able to stand any inquiry that may arise under sub-order (2) of Standing Order 15. Honourable Members are well aware that anyone engaged in controversy with a newspaper is likely to get the worst of it, for the very good reason that the newspaper must have the last word. In view of that, it seems to me undesirable that any opportunity of controversy between this House as a body and newspapers should arise; and, on that ground, I should be sorry to see this new sub-order defeated.

It is not out of any desire to draw a distinction between one newspaper and another or to say what is a rag and what is not a rag,—because I am not an expert in these matters,—but it is simply because, if an Honourable Member were to put a question containing statements in a newspaper quoting the newspaper's name and I were to admit it and the newspaper afterwards complained to me that nothing of the kind ever appeared and charged me

with carelessness in the discharge of my duties, I would have to satisfy myself that these statements were true. I think the occasion can hardly arise where any matter, which is of sufficient importance to be brought to the notice of this House and the Government, is not accessible to Members in such a form as to enable them to rely implicitly upon it. There is no necessity whatever for quotations from newspapers except in the one conceivable case where a newspaper might be made the subject of proceedings in contempt, and then it might be necessary to mention it by name in this House.

That is the only instance where the real spirit of the rule might be said to lead to breaking the letter of it. Otherwise, I maintain the position which has been put, as I think, with a great deal of force, by my Honourable friend, Mr. Subrahmanayam, and I would suggest to the House that it is desirable that statements made here, whether in questions or in any other way should be made with a full sense of responsibility. Members here are not private individuals who can engage lightly in controversies with newspapers or any one else. They are here as representatives of a great Indian electorate. Representative Assemblies existed long before the press came, and we may assume that our business here can proceed without undue reference to newspapers.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions : Non-Muhamadan Rural) : Sir, I would submit that the conditions prevailing in this country are quite different from those obtaining in England. Of course, I am averse to referring to any newspapers for the purpose of entering into a controversy. But we have to take into consideration that news agencies are not well-developed in this country, and further, franchise in this country is not very wide-spread. In England, every county, every borough and every centre of population is represented in the House. But it is not so here. Here we have to deal with a very extensive country, and for our information we have to depend largely on provincial newspapers and even local newspapers. There is no question of advertising any newspaper before this Assembly or outside, nor even of entering into any controversy with them. That would, no doubt, be derogatory to the dignity of the House and of the individual Members. But, I would respectfully submit before you, Sir, and also before this Assembly whether, having regard to the special circumstances of the country, it would not be desirable that, for purposes of information, we should be allowed to refer to reports or items of news which have been published in any of the provincial or local newspapers, and name them, when necessary. I may say, in this connection, that news or a report published in good faith and in the public interest in the newspapers is privileged. Any information we seek by way of interpellation as also any statement we make or elicit, is privileged in this House. Of course, we may be trusted to use our judgment and discretion quite properly, and I confess I have sufficient confidence in the Members of this House that they would not refer to any matters for purposes of libelling others, for the purpose of entering into controversies with others or maligning others, or for any purpose other than that of public benefits and public interest. But the question is this, that in a wide and extensive country like India, it will be impossible for us to get information first-hand; I think the proposition put forward by my Honourable friend, Mr. Subrahmanayam, is impracticable, that we should send wires all over the country for getting information first-hand. So, I venture to submit that, in the present circumstances of the country, it will be nothing out of the way or improper to refer, when necessary, to the names of newspapers when

[Mr. J. Chaudhuri.]

we want corroboration or contradiction, inquiry or Government action, with regard to matters referred to in particular items of news or reports. For instance, even for information of such importance as the Gorakhpur outrage and the Bareilly outrage and events of that kind we have had up to this day to depend on newspaper reports, and it will be impossible for us to carry on our business here or discharge our responsibilities or perform our duties to our constituencies or to the public and the Government unless we rely on the information that is available to us from newspapers. So I say, without any desire on our part to advertise any newspaper, we should be allowed to refer to newspapers, when necessary, for purposes of interpellation.

Mr. F. McCarthy : Before you put the question, Sir, I wish you to explain what we are actually voting on. I find, in my corner of the House, there is an impression that, under this suggested rule, nobody can quote a report from a newspaper. That is not the fact. The rule means to prohibit the publication of the name of a particular paper. Reports in the newspapers can be used and questions based upon them.

Baba Ujagar Singh Bedi (Punjab : Landholders) : What about the fact, Sir, that has just been pointed out by the Honourable Mr. Subrahmanayam, that, if any Member wishes to give a quotation or refer by name to any particular paper, he should send telegrams all over the country to make certain whether the information is correct or not and to make sure of himself?

Mr. President : The explanation put upon the question which I put from the Chair by the Honourable Member from Burma (Mr. McCarthy) is quite correct. The question I put is :

'That in Standing Order 15 the word 'and' at the end of clause (5) be omitted and be re-inserted at the end of clause (6), and after clause (6) the following clause be added, namely:

'(7) it shall not quote anything from a newspaper or mention the name of a newspaper'.

That is to say, the name of a newspaper may not be mentioned in the question, and there should be no quotation from a newspaper in marks of quotation to show that the *ipsissima verba* have been lifted out of the newspaper and put on the Question Paper in a manner which suggests that the Honourable Member does not make himself responsible for the substantial accuracy of the report. It does not mean that where there is a strike on the East Indian Railway, for instance, a Member may not get his information from a newspaper and ask Government for a statement upon the alleged facts. It simply means that he is not to use the words of the newspaper in a manner so as to avoid his own responsibility.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Upon whose authority, Sir, would the question be? If a question is put: 'Is there a strike' and the Government say that the Honourable Member is entirely misinformed, then upon whose authority is this Member to put a question? What is troubling this House at the present moment is that, if we are debarred the use of newspaper information, and if we are to embody that information as our own and put them in question form, we may not be in a position to endorse the accuracy of that information, and yet, at the same time, there would be a suggestion in the question, if it did not quote the

newspaper or quote the *ipsissima verba* of the newspaper, that we take the responsibility for its accuracy. That is the question which is troubling the House.

Mr. President: I think no Member is entitled to raise a question here unless he is sure that there is a reasonable supposition that the facts he is quoting are true. It would be a reckless and irresponsible use of the privileges of this House to circulate any rumour without making a serious attempt to test the *bona fides* of its source.

The Assembly then divided as follows :

AYES—31.

Abdul Quadir, Maulvi.
Abdul Rahim Khan, Mr.
Bhanja Deo, Raja R. N.
Bradley-Birt, Mr. F. B.
Bridge, Mr. G.
Bryant, Mr. J. F.
Cotelingam, Mr. J. P.
Dalal, Sardar B. A.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Hullah, Mr. J.
Jamnadas Dwarkadas, Mr.
Jejeebhoy, Sir Jamsetjee.
Joshi, Mr. N. M.
Keith, Mr. W. J.

McCarthy, Mr. F.
Misra, Mr. P. L.
Mitter, Mr. K. N.
Mukherjee, Mr. J. N.
Percival, Mr. P. E.
Ramayya Pantulu, Mr. J.
Rao, Mr. C. Krishnaswami.
Renouf, Mr. W. C.
Samarth, Mr. N. M.
Sim, Mr. G. G.
Spence, Mr. R. A.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Thackersey, Sir Vithaldas D.
Way, Mr. T. A. H.

NOES—40.

Abdul Majid, Shaikh.
Agarwala, Lala G. L.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Akram Hussain, Prince A. M. M.
Amjad Ali, Maulvi.
Asjad-ul-lah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Chaudhuri, Mr. J.
Das, Pandit R. K.
Ghulam Sarwar Khan, Chaudhuri.
Gour, Dr. H. S.
Hussanally, Mr. W. M.
Ibrahim Ali Khan, Lieutenant Nawab M.
Ikramulla Khan, Raja M. M.
Lakshmi Narayan Lal, Mr.
Mahadeo Prasad, Munshi.

Manmohandas Ramji, Mr.
Man Singh, Bhai.
Mudaliar, Mr. S.
Muhammad Hussain, Mr. A. B.
Muhammad Hussain, Mr. T.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Nayar, Mr. K. M.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Reddi, Mr. M. K.
Sarfaraz Hussain Khan, Mr.
Sarvadhikary, Sir Deva Prasad.
Schamnad, Mr. Mahmood.
Singh, Babu B. P.
Sinha, Babu Adit Prasad.
Sohan Lal, Bakshi.
Ujagar Singh, Baba Bedi.
Vishindas, Mr. H.
Zahiruddin Ahmed, Mr.

The motion was negatived.

Mr. President : The question is :

'That in Standing Order 19 for the words 'the Member to whom the question is addressed' the words 'any Member' be substituted, and the words 'on the ground of public interest' be omitted.'

The motion was adopted.

Mr. President: The question is that Standing Order 19, as amended, stand part of the Standing Orders.

The motion was adopted.

Mr. President : The question is :

'That in Standing Order 23 after the words 'at 4 P.M.', the following words be inserted namely :

'Or, if the President with the consent of the member of the Government concerned so directs, at any earlier hour at which the business of the day may terminate.'

The motion was adopted.

1 P.M. **Mr. President:** The question is :

'That in Standing Order 25 :

(a) after the word 'count' the words 'being demanded by a Member' be inserted, and

(b) the following proviso be added, namely :

'Provided that no demand for a count, to ascertain the presence of a quorum be made within one hour of any previous count.'

The motion was adopted.

Mr. President: The question is :

'That to Standing Order 31 the following proviso be added, namely :

'Provided that nothing in this Standing Order shall, unless the President in any case otherwise directs, be deemed to prevent the making of any of the following motions, namely :

(a) a motion for the taking into consideration or the reference to a Select Committee of a Bill, where an amendment has been carried to a previous motion of the same kind to the effect that the Bill be circulated or re-circulated for the purpose of eliciting opinions thereon ;

(b) any motion for the amendment of a Bill which has been re-committed to a Select Committee, or re-circulated for the purpose of eliciting opinions thereon ;

(c) any motion made as the result of a conference under rule 40 ;

(d) any motion for the amendment of a Bill made after the return of the Bill by the Governor General for re-consideration by the Assembly ;

(e) any motion for the amendment of a Bill which is consequential on, or designed merely to alter the drafting of, another amendment which has been carried ;

(f) any motion which has to be or may be made within a period determined by or under the Rules or Standing Orders.'

The motion was adopted.

Mr. President: The question is :

'That to sub-order (3) of Standing Order 32 the following proviso be added, namely :

'Provided that nothing in this sub-order shall be deemed to give any right of reply to the Mover of an amendment to a Bill or a Resolution, save with the permission of the President.'

The motion was adopted.

Mr. President: The question is :

'That for sub-order (3) of Standing Order 34 the following be substituted, namely :

'(3) Where a motion is made under sub-order (1), or a request is made under sub-order (2), the motion, and, if it is carried, the question, or, as the case may be, the question shall be put without amendment or debate :

Provided that the President may allow any Member any right of reply which he may have under these Standing Orders'.

The motion was adopted.

Mr. President: The question is :

'That in clause (b) of sub-order (1) of Standing Order 38 the words 'composed of such Members of the Assembly as he may name in his motion' be omitted.'

The motion was adopted.

Mr. President: The question is :

'That in Standing Order 40 :

(a) to sub-order (1) the words 'and it shall not be necessary to include their names in any motion for appointment of such a Committee' be added ; and

(b) in sub-order (2) after the words 'is made or' the words 'in the case of a motion made by way of amendment under clause (a) of sub-order (2) of Standing Order 39' be inserted.'

The motion was adopted.

Mr. President: The question is :

'That in sub-order (1) of Standing Order 54 for the words 'ten clear days' the words 'one month's' be substituted.'

The motion was adopted.

Mr. President: The question is :

'That in clause (a) of the proviso to Standing Order 59 for the word 'a' the words 'substantially one' be substituted.'

The motion was adopted.

Sir Vithaldas D. Thackersey (Bombay Millowners' Association : Indian Commerce) : I beg to move :

'That after sub-clause 1 (b) of Standing Order 61 the following be inserted :

'or (c) with the permission of the President may authorise another Member, who has balloted for the same Resolution and whose name stands below in the List of Business the same day, to move the Resolution, in which case the latter Member may move it.'

The point has already been debated and my Honourable friend, Mr. Samarth, has pointed out that, even when a Resolution gets a higher place in the List in the ballot, still the Member who is conversant with the Resolution may not get a chance of moving it, and the great disadvantage would be, in the first place, that the Member who moves it may not be able to do justice to the Resolution and, in the second place, he may not be able to reply to any argument that may be advanced by the Government Member. I do not think that this will be satisfactory. It will be a very weak opening of the case when a Member moving a Resolution does not know much about it and the Member who would handle the Resolution in a very able manner cannot reply to the debate. In the Report of the Select Committee, the principle of giving priority is thus mentioned. They are against giving priority to any Resolution and they make it depend on the method of several

[Sir Vithaldas D. Thackersey.]

Members giving notice of the same Resolution. The Select Committee says :

' We understand that this procedure was suggested as a substitute for the practice under which in the past Government has given time on official days for selected Resolutions of general public interest. Most of us think that this object, namely, of securing the discussion of a Resolution in which Members are generally interested, should be capable of attainment under the Standing Orders as they are. If Members are generally desirous that a particular Resolution should obtain time for discussion, their object can be secured by concentrating on that Resolution in one ballot. This would probably result in the particular Resolution obtaining an early place in the ballot, and its position could be secured if Members earlier on the list would withdraw in its favour.'

It seems that the Select Committee realised that occasions might arise where priority might be necessary, when an important Resolution is brought before the House. But, at the same time, I may point out that that will not serve the object when a Member who has not studied the subject thoroughly about that Resolution moves the Resolution and the man who is an authority on the subject has no right of reply. Of course, the Member who knows the subject may follow by seconding the Resolution, but the most important thing, the right of reply, which may arise on an important subject after the Government Member has spoken, is denied to him. I do not think that that is a very satisfactory procedure and I hope the House will accept my amendment.

Mr. G. G. Sim (Joint Secretary Finance) : Sir, I think the Honourable Member can give effect to the object he has in view by the amendment proposed in sub-order (2) of this Standing Order. Sub-order (2) provides that another Member authorised by the original Member may move a Resolution if the Member in whose name it stands is absent. It would be perfectly simple for the Democratic Party, if any Member who had been successful in getting a ballot on any question in which they were particularly interested did not know much about it and they wished to see somebody else move the Resolution to keep that Member out of the room for five minutes, in which case he would authorise some other Member to bring forward the Resolution in his place. This would be a much more simple method than the method suggested by the amendment. I do not think that the amendment is necessary, as the case can suitably be dealt with under the amendment of sub-order (2).

Sir Vithaldas D. Thackersey : I wish to say a word in explanation with regard to the remarks of the last speaker. His suggestion that the Mover should absent himself for the time being does not meet my case, because the permission of the President is necessary, and when such a dishonest way of dealing with an important question is adopted, the President might say that the Mover was present only half an hour earlier and he purposely went away and, therefore, he would not permit such a dubious course.

I ask the House to deal with the matter in a straightforward manner and not to ask us to do anything in a wanton manner.

Mr. N. M. Samarth : Not place a premium on dishonesty.

Dr. H. S. Gour : I should say one word and it is this. I think if the Member, when called on, authorises another Member to move his Resolution, he should be allowed to do so. In other words, I would suggest that the order be so amended so as to entitle a Member who has got the right to move the

Resolution to authorise another Member either in writing or verbally to move the Resolution for him, and that will meet the difficulty.

Rao Bahadur C. S. Subrahmanayam: Sir, what Sir Vitaldas says was not exactly contemplated, that on the same day the same Resolution comes in two places. A number of Members have balloted on the same Resolution, and it may happen, as it has happened, that the same Resolution would come in two places on the same day. What Sir Vitaldas says is this: Suppose the Resolution comes first. The Mover of that Resolution, though not incompetent or quite unequal to the work, may not be expert enough to speak on that subject, but the same Resolution coming as fourth or fifth on the list is in the name of the Member who is the expert and at whose instance this Resolution comes before the Assembly. What he says is that he cannot ask the Member who has balloted in the first place to be absent. That would not be quite straight; nor is it fair to ask him to move his Resolution coming in later on, so as to have the right of reply. It is very important that he should be able to say in reply all that can be said for the Resolution, and the man who is capable of dealing with the points which have not been anticipated should have the chance of speaking. Therefore, what he says is, if the same Resolution takes two places on the same day, why not allow the man who has got that Resolution to change places? This particular aspect of the case was not contemplated by the Select Committee. We made arrangements for men who were absent, which was all right; but this is a concrete case which he puts before us, and it is, therefore, for you, Sir, to see whether it is not worth accepting.

Mr. K. Ahmed: Sir, I beg to differ from my friend, who, if I may say so, is 'putting the horse behind the cart.' The principle on which this ballot is held presents no difficulty whatever. If we have a majority of Members balloting for the same Resolution, what happens? Does it not mean finally the same thing? What harm is there if more than one Member gets preference over some other Members on whom fortune may not be smiling? I cordially agree with my Honourable friend from Bombay and I approve of each and every word of his. There is no sentiment at all in what my Honourable friend on my left says.

Mr. President: The question is :

'That after sub-clause 1 (b) of Standing Order 61, the following be inserted :

'or (c) with the permission of the President may authorise another Member, who has balloted for the same Resolution and whose name stands below in the List of Business the same day, to move the Resolution, in which case the latter Member may move it.'

The motion was adopted.

Mr. President: The question is :

'That for sub-order (2) of Standing Order 61 the following shall be substituted, namely :

'(2) If the Member when called on is absent, any other Member authorised by him in writing in this behalf may, with the permission of the President, move the Resolution standing in his name. But if no Member has been so authorised or such permission is not granted, the Resolution shall be deemed to have been withdrawn.'

Dr. H. S. Gour: If the Member, when called on, is absent, would it come within the scope of this rule to allow a Member, whether absent or present, to authorize any Member in writing or orally in this behalf to move the Resolution? I submit this will improve the clause, and would authorise the Member, who is prepared to speak on the Resolution which he has drawn in the ballot, to authorise any Member who is better prepared to move that Resolution.

Mr. President: The Honourable Member has just forced a division on that very point. I do not now understand the Honourable Member's point.

Dr. H. S. Gour: That was more limited, Sir.

Mr. President: The only difference that the Honourable Member makes now is the introduction of the word 'orally.'

Mr. T. V. Seshagiri Ayyar: Sir, the practice suggested is a very dangerous one. You must allow everybody who has a motion in his name to move it himself. One can understand that, if there are a number of Resolutions of the same kind, and they are of a very important character, the suggestion of my Honourable friend, Sir Vithaldas Thackersey, that a Member who is an expert should be allowed to move it, but to say that all Resolutions should be allowed to be moved by somebody else, just because the person who has given notice wishes to absent himself, is a tall order, which this House should not permit.

The motion was adopted.

Mr. President: The question is that Standing Order 61, as amended, do stand part of the Standing Orders.

The motion was adopted.

Mr. President: The question is :

- 'That to the proviso to Standing Order 62, the following be added, namely :
- 'or for such longer time as the President may permit,'

The motion was adopted.

Mr. President: The question is :

- 'That for Standing Order 72, the following shall be substituted, namely :
- 'If notice of a motion to omit or reduce any grant has not been given two clear days before the day on which the demand is to be considered, any Member may object to the moving of the motion, and such objection shall prevail, unless the President, in the exercise of his power to suspend this Standing Order, allows the motion to be made'.

The motion was adopted.

Mr. President: The question is :

- 'That in Standing Order 75, for the words 'Governor General' the word 'President' be substituted'.

The motion was adopted.

Mr. President : The question is :

'That after Standing Order 75, the following Standing Order be added, namely :

'76. The President may, by order in writing, delegate to the Deputy President all or any of his powers under these Standing Orders.'

The motion was adopted.

Mr. President : The question is :

'That for clause 1 of Schedule I the following shall be substituted, namely :

'1. Not less than 17 days before each day allotted for the disposal of non-official business, the Secretary will cause to be placed in the Assembly Office a numbered list. This list will be kept open for two days, and during those days and at hours when the office is open, any Member who wishes to give or has given notice of a Resolution, or has given notice of a Bill, as the case may be, may have his name entered, in the case of a ballot for Resolutions, against one number only, or, in the case of a ballot for Bills, against one number for each Bill of which he has given notice up to the number of three.'

The motion was adopted.

Mr. President : The question is :

'That in clause 2 of Schedule I for the words 'on the third day a ballot' the words 'the ballot', and for the words 'at which' the word 'and' be substituted.'

The motion was adopted.

Mr. President : The question is :

'That in clause 4 of Schedule I after the words 'all the numbers' the words 'or, in the case of a ballot for Resolutions, five numbers' be inserted.'

The motion was adopted.

Mr. President : The question is :

'That for clause 5 of Schedule I the following be substituted, namely :

'5. Priority on the list will entitle the Member to have set down, in the order of his priority for the day with reference to which the ballot is held, any Bill or any Resolution, as the case may be, of which he has given the notice required by the Rules or Standing Orders :

Provided that he shall then and there specify such Bill or Bills or such Resolutions'.

The motion was adopted.

Mr. President : The question is :

'That clauses 6 and 7 of the Schedule be omitted.'

The motion was adopted.

TIME FOR BALLOTING.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Before the House is adjourned to-day, may I request you, Sir, to change the time for the balloting to-day, which has been fixed for 4 O'clock. If it could be taken half an hour after the adjournment, it would suit the convenience of most of the Members or all of the Members here, so far as I know. We have to attend another function later on in the afternoon.

Mr. President: I am perfectly prepared to alter the arrangement for holding the ballot at 4 O'clock, but the Honourable Member has given rather short notice and I am not quite sure whether the officers of the Department can be ready.

Can you be ready, Mr. Secretary?

The ballot will be held this afternoon at 2 O'clock in place of 4 O'clock.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural: May I be permitted to say one word, Sir? I am on the horns of a dilemma! May I ask for a little enlightenment! From the debates to-day in this House I have formed an apprehension that this House will be trying to ape the House of Commons in Great Britain. Should we try to equalise or should we be aiming at an improvement? With Members of such capacity in this House I will not be satisfied with equalising, but we should aim at an improvement. That should be our goal. We have got the materials in this House for it and these materials cannot be spoiled. Sir, you are the best man to help us in reaching our goal.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions: Non-Muhammadan): I rise to a point of order. What has this to do with us?

Mr. President: Order, order. What question is the Honourable Member raising?

Khan Bahadur Zahiruddin Ahmed: What is to be our end, Sir? (Laughter.)

Mr. President: I cannot be a prophet. Nor do I yet understand what exactly the Honourable Member is seeking to do.

Khan Bahadur Zahiruddin Ahmed: Whether we should try to be equal to the House of Commons or be an improvement over it?

Mr. President: The Honourable Member may think over that point of order for the next ten days and put it to me on the 22nd.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 22nd February, 1922.

LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 22nd FEBRUARY, 1922

Vol. II—No. 34

OFFICIAL REPORT



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DELHI
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1922

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LEGISLATIVE ASSEMBLY.

Wednesday, 22nd February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

AVIATION IN INDIA.

194. * **Mr. Ahmed Baksh Khan:** (a) Will the Government be pleased to state the number of civil aviation schools in British India which have been granted licenses to give instructions in aviation?

(b) Will the Government be pleased to state the number of aeroplanes presented to the

(a) Ruling Princes of India,

(b) Europeans, and

(c) Indians?

Colonel Sir S. D'A. Crookshank: (a) No licenses are required by Civil Aviation Schools to enable them to give instruction in aviation.

(b) (a) Indian States	20
(b) (1) European firms	10
(2) European private persons	28
(c) Indians	3

INDIANS IN EAST AFRICA.

195. * **Mr. Ahmed Baksh Khan:** (a) Has the attention of the Government been drawn to the speeches delivered by Mr. Churchill and Lord Delemere at the East Africa Dinner held in London?

(b) Is the Government aware that these speeches have created deep feelings of indignation and resentment among the Indians at large?

(c) What steps, if any, do the Government propose to take in order to safeguard the interests of the Indians?

Mr. J. Hullah: (a) and (b). Yes.

(c) Kenya is a Crown Colony and a Protectorate, and the final decision on the questions at issue rests with the British Government. The Government of India and the Secretary of State have taken steps to ensure that the British Government are fully apprised of the Indian case and of the necessity of reaching a settlement which will be in accordance with the principle embodied in the Resolution adopted at the last Imperial Conference regarding the status of Indians. This Assembly has already expressed its views on the question in the form of a Resolution which has been communicated by telegram to the Secretary of State for the information of the British Government and the

(2) If so, is any legislation going to be undertaken on the basis of the said recommendations, and when?

Sir Godfrey Fell: (a) Yes.

(b) The Committee's recommendations relate to a variety of matters, some of which require legislation to put into effect, some involve administrative action not necessitating legislation, and some again can be effected by amendment of the Cantonment Code after prior publication in the Gazette of India.

As regards the first class, the Government of India are at present engaged in drafting a Bill to amend the Cantonment House Accommodation Act. They hope to introduce the Bill during the present Session. They are also considering the lines on which the Cantonments Act should be amended, but this is a heavy task and they see little prospect of initiating legislation in this Session.

The amendments, moreover, will, in some cases, depend upon the decision which may ultimately be arrived at regarding the second class, namely, those requiring administrative action.

As to these matters, the Government of India are consulting Local Governments regarding certain recommendations of the Committee, such as the exclusion from Cantonments of large sadar bazaars, the introduction of the elective principle into Cantonment Committees, and separation of the judicial and executive functions now combined in the person of the Cantonment Magistrate. It will obviously take some time to obtain and consider the views of Local Governments on these important proposals.

As regards the third class, a notification has already appeared in the Gazette of India on the subject of the amendment of section 216 of the Cantonment Code, and action is being taken to amend other sections.

I should like to add that, if my Honourable friend, or any other Members of this Assembly, who are interested in the reform of Cantonment Administration, would care to have further details as to the progress we are making, I shall be very happy to furnish them with information.

EXPENSE INCURRED BY THE CENTRAL GOVERNMENT IN ANSWERING QUESTIONS.

198. * **Mr. R. A. Spence:** (1) Can Government give this House an estimate of the expense incurred by the Government of India (apart from Provincial Governments) in answering questions put (a) in this Assembly, (b) in the Council of State during (i) the first Sessions, (ii) the second Sessions, and (iii) the present Sessions up to the 1st February?

(2) Does the Government estimate of cost include the cost to Government of the salary drawn by officers of Government during the time spent by them on answering these questions? If not, can Government give an estimate of such further cost?

The Honourable Dr. T. B. Sapru: In order to estimate the cost to Government of the questions put in the Central Legislature since its inauguration, Government would have to take into consideration a large number of

factors. The notices are printed, the questions in their admitted form are printed for the purposes of the List of Business, and finally, questions and answers appear in printed form in the Debates. As the Honourable Member's question rightly indicates, any estimate of the cost should take into account part-salaries of the officers of the Government who, in the Legislative Department, are engaged in examining and revising questions from the point of view of admissibility, and in all Departments are entrusted with the preparation of answers. The Honourable Member's attention is drawn to the facts stated in that portion of the Report of the Select Committee on the Standing Orders which refers to Standing Order 18. The Committee reported to the Assembly on the 2nd of this month that the cost of printing the answers to five questions only cost nearly Rs. 2,500. This sum by no means represents the total cost to Government of the five questions referred to. The Honourable Member will no doubt realise that considerable expense is involved in dealing with notices of questions which are not admitted and therefore are not put. For these reasons, the Government regret that they are unable to make the calculations asked for by the Honourable Member though they feel that the figures, if obtained, might prove both useful and illuminating.

Mr. K. Ahmed : Has the Honourable the Law Member got any idea of the expense that is incurred in the House of Commons, House of Lords and other Houses in Colonies such as Australia, Canada, etc. ?

The Honourable Dr. T. B. Sapru : I can ascertain that by a reference to the proper books.

EXPENDITURE ON THE REPRESSIVE LAWS COMMITTEE.

199. * **Rai Bahadur Pandit J. L. Bhargava :** Will the Government be pleased to lay on the table a statement showing the expenditure incurred on the Repressive Laws Committee ?

The Honourable Sir William Vincent : A statement showing the expenditure incurred is placed on the table.

REPRESSIVE LAWS COMMITTEE.

EXPENDITURE.

Travelling and local allowances of Members of the Committee.

Members names.	Amount.		
	Rs.	A.	P.
Sir Sivaswamy Aiyer	400	0	0
Mr. N. M. Samarth	921	8	0
The Honourable Mr. Bhurgri	814	2	0
Dr. H. S. Gour	872	4	0
The Honourable Mr. E. L. L. Hammond	1,191	6	0
Mr. J. Chaudhuri	787	2	0
Total	4,986	6	0

Travelling and local allowances of non-official witnesses.

Witnesses names.	Amount.		
	Rs.	A.	P.
Pandit H. N. Kunzru	304	8	0
Mr. Anand Narain Sewal	192	4	0
Babu K. K. Mitter	527	2	0
Mr. N. A. Dravid	476	12	0
Mr. E. B. Desai	541	8	0
Mr. G. A. Natesan	974	8	0
Dr. Alamum Suhrawardy	588	8	0
Mr. Dwarka Nath	421	6	0
Mr. Manohar Lal	192	4	0
Mr. Mohamed Yunus	410	0	0
Mr. Tahl Ram	332	12	0
Mr. Sanjiva Rao	314	8	0
Total	5,276	0	0

Travelling and local allowances of official witnesses.

Witnesses names.	Amount.			
	Rs.	A.	P.	
Major Ferrer	302	0	0	(Approximately.)
Mr. W. W. Smart	485	4	0	
Mr. J. Donald	517	0	0	
Total	1,304	4	0	

Stenographers Fees.

One Home Department Stenographer	260	0	0
Total	260	0	0

TOTAL EXPENDITURE.

Particulars.	Amount.		
	Rs.	A.	P.
1. Travelling and local allowance of Members of the Committee	4,986	6	0
2. Travelling and local allowances of non-official witnesses	5,276	0	0
3. Travelling and local allowances of official witnesses	1,204	4	0
4. Stenographers fees	260	0	0
GRAND TOTAL	11,726	10	0

Mr. K. Ahmed : Will the Government be pleased to state what was the amount of money spent during the last visit of His Excellency the Viceroy to Calcutta when the Honourable Members of the Executive Council went there to meet at 'Belvedere' in Alipur to discuss the Round Table Conference with regard to the present repressive measures?

The Honourable Sir William Vincent : I am afraid I cannot hear the Honourable Member.

Mr. K. Ahmed : What was the amount of money spent by Government for repairing 'Belvedere' this year?

Mr. President : The Honourable Member had better give notice of that question.

INSTALLATION AND WORKING OF WIRELESS STATIONS IN INDIA.

200. ***The Mr. P. L. Misra :** (1) Will Government be pleased to lay on the table a statement showing :

- (a) The total number of wireless telegraph stations in British India, now being worked by the Indian Telegraph Department,
- (b) Their location, and
- (c) Capital expenditure incurred up to date, on each of the above stations?

(2) Were the stations referred to above erected by a Wireless Telegraph Company? If so, will Government be pleased to state the name of the Company and the terms on which it carried out the installation?

(3) Will Government be pleased to state as to what has been, in actual working, the maximum distance range for sustained direct communication of each of the above stations, also specify the corresponding wattage capacity of the generating plant of each station?

Colonel Sir S. D'A. Crookshank : 1. (a) 22.

- | | | |
|-----|----------------------|--------------------------------------|
| (b) | (1) Bombay | } Power 30 KW Spark also 5 KW Spark. |
| | (2) Calcutta | |
| | (3) Karachi | |
| | (4) Madras | |
| | (5) Allahabad | |
| | (6) Delhi | |
| | (7) Lahore | |
| | (8) Maymyo | |
| | (9) Nagpur | |
| | (10) Peshawar | |
| | (11) Quetta | |
| | (12) Secunderabad | |
| | (13) Mhow |  | } 10 KW Spark 6 KW C. W. |
| | (14) Port Blair | } 10 KW Spark. |
| | (15) Rangoon | |
| | (16) Victoria Point | } 5 KW Spark. |
| | (17) Diamond Island | |
| | (18) Jutogh | } 5 KW Spark. |
| | (19) and } Sandheads |  | } P. S. V. Fraser " Lady Fraser } 2 stations. |
| | (20) } Sandheads | } ½ KW Spark. |
| | (21) Patna |  | } 500 watts tonic train. |
| | (22) Poona | |

(c) The information is being collected.

2. No.

3. Guaranteed normal working—but stations 1 to 13 inclusive enumerated at (b) above regularly communicate with each other and with Jutogh.

Recently Mhow communicated at 3,100 miles with H. M. S. 'Renown' and maintained communication until that vessel arrived at Bombay. As regards wattage capacity, attention is invited to the answer to part (b) of the question.

EXPENDITURE ON RESEARCH AND EXPERIMENTAL WORK IN WIRELESS TELEGRAPHY AND TELEPHONY IN INDIA.

201. * **Mr. P. L. Misra** : (i) Will Government be pleased to lay on the table the total expenditure incurred on research and experimental work by the Indian Telegraph Department during the year 1921, as regards :

(a) Wireless telegraphy, and

(b) Wireless telephony,

including apparatus, plant, salaries, wages, etc., in each case that is, (a) and (b)

(ii) Will Government be pleased to lay on the table a similar statement for the year 1922 ?

Colonel Sir S. D'A. Crookshank : The attention of the Honourable Member is invited to pages 47 and 48 of the Posts and Telegraphs Budget for 1922-23 (second edition). As the expenditure involved on research work alone is included with the total expenditure incurred on the Wireless School, Training Centre and Repairs shops, the detailed statistics asked for are not readily available.

Attention is invited in this connection to the reply given to part (c) of Question No. 202.

RESEARCH WORK IN THE INDIAN TELEGRAPH DEPARTMENT.

202. * **Mr. P. L. Misra** : (a) Will Government be pleased to state the definite pieces of research work carried out by the Indian Telegraph Department during the year 1921, with their results ?

(b) The character of the research undertaken, and

(c) The expenditure incurred thereon ?

Colonel Sir S. D'A. Crookshank : Sir, as the answer to this question, even after it has been cut down as much as possible, covers no less than three pages, with your permission, I propose to lay it on the table.

(a) The following items of research work were carried out by the Wireless Branch :

(1) A new 6 kilowatt valve set with high speed transmission was installed and tested at Mhow. Dictaphone reception was tried in the case of Spark and Continuous Wave stations other than Mhow. It was found to be unsuited to Continuous Wave work.

- (2) Valve receiving apparatus from England was fitted at 11 stations. Instructional pamphlets were issued and staff trained in use of same apparatus.
- (3) Elimination of local noises with special reference to power mains in the Fort at Calcutta. Various devices were tried, but it was decided that in the event of Calcutta Radio being required to deal with heavy traffic, it would be essential to erect a separate Receiver elsewhere.
- (4) Some preliminary work was carried out with Duplex telephony which was subsequently stopped on learning that suitable apparatus was being sent from England.
- (5) In connection with the temporary provision of wireless communication between Ajmer and Bikaner on the occasion of His Royal Highness the Prince of Wales' visit, it was necessary to place two valve transmitting stations in close proximity. Investigation was carried out as to whether any difficulty would arise owing to influence of one set on the other.
- (6) The design for apparatus for testing valves was drawn up and is now awaiting manufacture.
- (7) Considerable work was done on reception in India of European Stations, particularly Carnarvon and Leafield. A special receiver was constructed and observation carried out for several months when personnel was available. Press messages were received from Carnarvon and Leafield regularly and a quantity of valuable information obtained. These observations are being continued.
- (8) An independent oscillation generator for long wave lengths was required in connection with (7) above. Instruments were designed and made, and proved satisfactory.
- (9) Special grid control for high speed transmission was applied satisfactorily to a half kilowatt valve set. This work was discontinued as it was found that this work had already been carried out in England.
- (10) A temporary direction finding station was erected at Karachi and a few observations made from time to time as personnel was available.

(b) The above instances of the research work undertaken sufficiently illustrate its general character.

(c) Steps are being taken to obtain particulars as to cost but, owing to shortage of personnel and apparatus, it has not been possible to employ separate establishment solely on experimental work so that expenditure in many cases can not be separated from other expenditure.

REPORTS ON WIRELESS TELEGRAPHY AND TELEPHONY.

203. * Mr. P. L. Misra : (a) Does the Indian Telegraph Department publish reports on Wireless Telegraphy and Telephony ?

(b) If the answer be in the negative, will Government be pleased to do so in future in order to stimulate interest among Indians in this scientific work ?

Colonel Sir S. D'A. Crookshank : (a) At present only such reports as do not pertain to technical matters are published.

(b) With effect from April 1922, reports dealing with technical matters of use to India will also be published.

Mr. P. L. Misra : May I put a Supplementary Question, Sir? Is there any report published regarding any original discovery or invention in wireless telegraphy?

Colonel Sir S. D'A. Crookshank : I think the reply to that question will be found in the reply which I have just placed on the table in connection with Question No. 202.

PARTICULARS OF OFFICERS ENGAGED IN WIRELESS TELEGRAPHY AND TELEPHONY.

204. * **Mr. P. L. Misra :** Will Government be pleased to lay on the table the following information :

- (a) Names, (b) scientific qualifications, (c) salaries of officers engaged on research work in connection with Wireless Telegraphy and Telephony, (d) the period for which they have been engaged, and (e) the places they have been carrying on the experiments?

Colonel Sir S. D'A. Crookshank : (a) Mr. P. J. Edmunds, Wireless Research Officer.

(b) Open Mathematical Scholar, Queen's College, Oxford. Obtained 1st Class Honours Mathematics, B. A. Oxon. Thesis on Electrical Research work accepted for Degree of B. Sc Oxon.

Employed on special scientific wireless work in the Army during the war (1915-19).

Demobilised with rank of Captain R. E.

Research Engineer to Marconi Company, March—November 1919.

(c) Rs. 775—1,625 (inclusive of overseas and technical pay).

(d) Permanently employed in the Post and Telegraph Department.

(e) Chiefly at Karachi but also at other stations where found necessary.

STAFF ENGAGED ON WIRELESS COMMERCIAL AND RESEARCH WORK IN INDIA.

205. * **Mr. P. L. Misra :** Will Government be pleased to give the following information :

- (a) Total number of superior staff, assistants and telegraphists at present engaged by the Indian Telegraph Department on wireless work, commercial and research work, and
 (b) Percentage of Europeans, domiciled Europeans, and Indians, respectively, mentioned in (a) ?

Colonel Sir S. D'A. Crookshank :

(a) Superior Staff	.	.	.	.	5
Assistants (Upper Subordinates)	.	.	.	.	10
Subordinate Operating staff	.	.	.	.	about 140
(b) Europeans	.	.	.	.	46 per cent.
Domiciled Europeans	.	.	.	.	51 per cent.
Indians	.	.	.	.	Nil

TRAINING OF INDIANS FOR WIRELESS TELEGRAPH SECTION.

206. * **Mr. P. L. Misra** : (a) Will Government be pleased to state if the Indian Telegraph Department has formulated any scheme for the training and enlistment of Indians in the Wireless Telegraph Section?

(b) If so, will Government be pleased to state the date on which such a scheme will be put into operation?

Colonel Sir S. D'A. Crookshank : (a) Yes.

(b) The scheme is already in operation and the first class will commence training next month.

Mr. P. L. Misra : May I ask a Supplementary Question in this connection, Sir? What was the annual approximate output as a result of the working of the scheme?

Colonel Sir S. D'A. Crookshank : I will make inquiries and inform the Honourable Member in due course.

PARTICULARS ABOUT MAJOR LEE AND HIS RESEARCH WORK IN WIRELESS TELEGRAPHY.

207. * **Mr. P. L. Misra** : Will Government be pleased to state :

(a) The scientific qualifications of Major A. G. Lee who is reported to have arrived in India to conduct certain experiments in wireless telegraphy,

(b) The period for which he has been engaged,

(c) The salary he will draw, and

(d) The character of research work he will undertake?

Colonel Sir S. D'A. Crookshank : (a), (b) and (c). The Government of India have no information on these points.

(d) Major Lee is in the permanent employ of, and was sent out by, the British Post Office, with the permission of the Government of India, to carry out receiving tests in India from the Imperial Station at Leafield (Oxon.), and to investigate other aspects of wireless reception in India for the information of the Technical Commission which is planning the Imperial Wireless Scheme. Major Lee has now proceeded to Cairo for a similar purpose.

He draws no salary from the Government of India.

Mr. P. L. Misra : May I ask a Supplementary Question, Sir?

Will Government be pleased to state what was the substantive appointment of Commander Nicholson before he joined the Government of India?

Mr. President : It does not arise out of the question. The Honourable Member must give notice.

TRAINING OF AFGHAN STUDENTS IN WIRELESS TELEGRAPHY.

208. * **Mr. P. L. Misra** : Will Government be pleased to lay on the table the following information :

- (a) Number of Afghan students trained in India in wireless telegraphy ?
- (b) Names of places where they were trained ?
- (c) Average period of their training as wireless operators ?
- (d) Expenditure incurred on their training ?
- (e) Who bore the expenditure, the Afghan Government or the Government of India ? If the latter, to what head it was charged ?

Mr. Denys Bray : (a) 6 students were sent out for training but only 5 completed the course.

(b) Karachi

(c) 10½ months.

(d) and (e). The Afghan Government bore all expenses with the exception of about Rs. 1,350 on account of an interpreter's salary, which was borne by the Government of India. The head to which this is charged is not yet known, but I will make inquiries and let the Honourable Member know in due course.

PARTICULARS OF TELEGRAPH EQUIPMENT PRESENTED TO THE AFGHAN GOVERNMENT.

209. * **Mr. P. L. Misra** : Will Government be pleased to state :

- (a) The total cost of telegraph equipment presented by the Government of India to the Afghan Government ?
- (b) Mileage the equipment will cover ?
- (c) Do the Government of India propose to carry out the erection ?
- (d) The total expenditure of this erection, and
- (e) The head the expenditure will be debited to ?

Mr. Denys Bray : (a) About Rs. 4,40,000 exclusive of transport charges from railhead into Afghanistan.

(b) 460 miles.

(c) No.

(d) Therefore does not arise.

(e) 29—Political.

APPLICATION FOR LICENSE FOR WIRELESS COMMUNICATION BETWEEN INDIA AND ENGLAND.

210 * **Mr. P. L. Misra** : Will Government be pleased to state :

- (a) If an application has been received from an Indian financier for license to work wireless telegraph direct between India and England ?
- (b) If so, will Government be pleased to state the name of the applicant and the terms of the license ?
- (c) Has the applicant specified the name of the wireless telegraph company that will erect and work the wireless station for him ?
- (d) If so, will Government be pleased to give the name of the company ?

Colonel Sir S. D'A. Crookshank : (a) Yes.

(b) Government do not propose at this preliminary stage in the proceedings to disclose the name of the applicant. No license has yet been arranged.

(c) Yes.

(d) Messrs. Marconis Wireless Telegraph Company, Limited.

COST OF ASSESSMENT AND COLLECTION OF CUSTOMS DUTY ON POSTAL ARTICLES RECEIVED IN INDIA.

211. * **Mr. Darcy Lindsay† :** (a) Will Government be pleased to state the approximate annual cost of assessing and collecting customs duty upon postal articles coming to India ?

(b) What proportion of this amount has to be borne by the Department of Posts and Telegraphs ?

(c) Is there any special Department established and maintained in district post offices for the collection of customs duty levied on postal articles ?

(d) If the answer is in the affirmative, what is the approximate annual expenditure upon this establishment and is the whole cost borne by the Department of Posts and Telegraphs ?

The Honourable Mr. C. A. Innes : The information will be collected and will be laid on the table when available.

POSTAL ARTICLES AND CUSTOMS DUTY IN INDIA.

212. * **Mr. Darcy Lindsay† :** (a) Will Government be pleased to state the total number of postal articles received in India during the financial year 1919-20 and 1920-21 upon which customs duty was assessed, stating also the amount of customs duty in each year ?

(b) What is the approximate number of postal articles of the value of £5 and under annually assessed with customs duty and what is the total amount of customs duty upon such articles during the above periods ?

(c) Would it be feasible to exclude from customs duty all postal articles of the declared value of £5 and under ?

The Honourable Mr. C. A. Innes : The information will be collected and will be laid on the table when available.

COST OF DR. NORMAN WALKER'S DEPUTATION.

213. * **Mr. K. G. Bagde :** Will the Government be pleased to state :

(a) What will be the expenditure, at least approximate, incurred in connection with the inquiry to be held by Dr. Norman Walker and others into the condition of Medical Training in India ?

(b) What share of this expenditure would be borne by the Central Government, and what share, if any, will be respectively borne by different Provincial Governments ?

(c) What will be the total amount of costs incurred in connection with the deputation of Dr. Norman Walker ?

Mr. H. Sharp : The estimated expenditure from central revenues in connection with the deputation of Dr. Norman Walker and the Medical Officer appointed by the Government of India to accompany him is Rs. 14,700.

†The Honourable Member being absent, the question was put by Sir Frank Carter.

The Government of India have no information as to the expenditure which will be incurred by the Local Governments concerned. It is proposed that three medical men, one official and two non-officials, in each of the provinces concerned, should assist Dr. Walker and his colleague. Any expenditure on this account will be met from provincial revenues.

UNSTARRED QUESTIONS AND ANSWERS.

RECORD OF STATEMENTS SUPPLIED TO INDIVIDUAL MEMBERS IN REPLY TO QUESTIONS.

267. **Mr. B. H. Jatkari**: With reference to the statements of information supplied to individual Members of the Assembly, in reply to their questions, and not printed in the official reports of the Debates, will Government kindly have a file of such statements kept in the Library for each Session separately?

The Honourable Dr. T. B. Sapru: A file of the statements referred to by the Honourable Member will in future be kept in the Library, for each Session separately.

WEDNESDAYS AS HALF HOLIDAYS.

268. **Mr. B. H. Jatkari**: With reference to the answer to Question No. 147, printed at page 1585, Legislative Assembly Debates, Volume II, No. 16, will the Government kindly state the reasons for treating Wednesdays as half-holidays in the Department concerned?

The Honourable Sir William Vincent: Thursday is a universal holiday throughout the Army in India. Instead of granting a full holiday on Thursdays, a half holiday was, before the war, allowed on all Wednesdays to the Establishments of the Army Headquarters Offices owing to these being largely composed of soldier clerks. During the war, all holidays ceased, but in November 1920, the Wednesday half holiday was re-instituted for Army Headquarters and an order was issued that the same practice should be followed in the Army Department Secretariat. This order has not, in practice, been followed, since every one in that Department works on Wednesday afternoon, just as on any other afternoon. However, the order has been formally cancelled.

DEFICIENT PLATFORM LIGHTING AT MORIANI STATION.

269. **Rai D. C. Barua Bahadur**: (a) Is it a fact that at such a big and important junction station as Moriani on the Assam-Bengal Railway no lamps are kept burning at night between arrival and departure of trains on the platform?

(b) Is it a fact that owing to darkness of night intending passengers find it very difficult to find out their compartments, especially to avoid entering those compartments that are meant for ladies?

(c) Is it a fact that in the Assam-Bengal Railway the words 'For Ladies only' on those compartments meant to be reserved for ladies are not written

on conspicuous parts, and in darkness as stated in part (a) of this question they cannot be seen by lighting of match in the pocket?

(d) If the answers to the above questions or any of them be in the affirmative, will the Government be pleased to issue necessary instructions for removal of those defects?

Colonel W. D. Waghorn: (a) and (b). No. The lamps which are lighted at dusk are extinguished after the departure of the last train at 2-50 A.M.

(c) I don't quite understand the question. But compartments reserved for ladies are clearly distinguished from others.

(d) The further improvement of the platform lighting arrangements at stations on the Assam-Bengal Railway as a whole is receiving the attention of the railway authorities.

HARDSHIPS OF PASSENGERS DURING MORADABAD EXHIBITION OWING TO OVER-CROWDING ON THE OUDH AND ROHILKHAND RAILWAY.

270. **Mr. Syed Nabi Hadi:** With reference to the Resolution passed by the Legislative Assembly on 12th January, 1922, submitting recommendations to His Excellency the Governor General in Council to adopt measures to avoid over-crowding in the railway compartments, will the Government be pleased to state whether they are aware that:

- (a) There was a very insufficient number of passenger carriages in the train which runs between Chandpur Siao and Moradabad of the Oudh and Rohilkhand Railway during the Moradabad Exhibition week last week?
- (b) Passengers had to travel in goods trucks and coal carriages owing to heavy traffic on those days?
- (c) Those passengers who for want of accommodation used higher class compartments in this train had to pay penalty charges in addition to the excess fares?

Colonel W. D. Waghorn: (a) It is reported that the accommodation provided in the train referred to was ample for the number of passengers travelling during the Exhibition week.

(b) Goods wagons were not attached for the accommodation of passengers.

(c) Excess fares amounting to Rs. 22-2-0 were recovered during the Exhibition week from 11 passengers who were found to be travelling in accommodation of a class higher than that by which they had booked.

STATEMENT LAID ON THE TABLE.

The Honourable Sir William Vincent (Home Member): Sir, may I now lay on the table the information promised in reply to a question* by Mr. N. M. Joshi on the 10th March, 1921, regarding cases dealt with during the years 1918, 1919, and 1920 under certain enactments relating to breach of contract of service.

* *Vide* Legislative Assembly Debates, Vol. I, page 849.

Statement containing information re : cases dealt with during the years 1918, 1919 and 1920 under certain enactments relating to breach of contract of service promised on the 10th March, 1921 in reply to a question by Mr. N. M. Joshi.

Name of Province.	1918.			1919.			1920.		
	Workman's Breach of Contract Act, 1859.	Indian Penal Code, 1860, Chapter XIX.	The Assam Labour and Emigration Act, 1901, or the Madras Planters' Labour Act, 1903.	Workman's Breach of Contract Act, 1859.	Indian Penal Code, 1860, Chapter XIX.	The Assam Labour and Emigration Act, 1901, or the Madras Planters' Labour Act, 1903.	Workman's Breach of Contract Act, 1859.	Indian Penal Code, 1860, Chapter XIX.	The Assam Labour and Emigration Act, 1901, or the Madras Planters' Labour Act, 1903.
Madras*	Under trial during the year. 3,071	Acquitted, discharged, died, escaped or otherwise disposed of 1,216	Under trial during the year. 1,784	Under trial during the year. 2,010	Acquitted, discharged, died, escaped or otherwise disposed of 1,400	Under trial during the year. 400	Under trial during the year. 3,325	Acquitted, discharged, died, escaped or otherwise disposed of 387	Under trial during the year. 1,001
Bombay	1,638†	1,403†	102*	385*	2,831*	278*	3,568	2,13*	278*
United Provinces*	730	333	287	687	711	4	823	389	308
Punjab*	1,605	1,356	104	181	1,647	33	1,764	1,638	167
Burma	1,380	1,332*	91*	168*	1,870*	14	1,047	1,772*	134*
Bihar and Orissa	...	...	12	...	...	23	...	...	...
Central Provinces	1,239	868*	187*	123*	4,0*	8	1,351	603*	210*
North-West Frontier Province.	287	172	92	70	148	1	227	103	34
Coorg	3,034	2,350	11	4,083	2,589	10	5,746	2,627	33
Delhi	63	63	...	71	71	...	170	168	2
Bengal*	237	97	137	287	119	144	486	332	125
Assam*	325	116	203	317	100	208	445	179	262
	53	2	902	195	663	3,505	2,010	28	15
	65	1*	...	...	...	2	3*	1*	...
	56	4	...	...	...	61	57	4	...
	39	11	...	...	...	51	33	16	...
	14	14	...	...	...	168*	...	...	...
	12	12*	22	3*	16*	...	...	...	...
	3	4*	3	...	...	832	4,0*	...	...
	19	18	6	...	...	227	148	70	1
	11	...	...	...	...	4,083	2,589	10	...
	63	63	...	...	...	71	71	...	...
	137	97	137	...	...	287	119	144	15
	203	22	20	3	317	100	208	...	...
	1,195	207	973	725	3,325	387	1,001	40	38
	1	...	...	...	...	5*	278*	5	5*
	4	...	...	...	...	71	4	...	...
	25	...	...	...	...	84	25	...	...
	5	...	...	...	...	5	...	...	...
	13	2*	10*	...	...	27	27*	9*	13
	2	1*	1*	...	...	3	210*	3	1*
	3	...	...	...	...	4	34	7	4
	...	...	...	...	...	...	33	...	...
	...	...	...	...	...	...	2	...	...
	...	...	...	...	...	...	125	31	10
	...	...	...	...	...	...	179	262	8
	33	...	...	...	...	...	262	8	...
	5	...	...	...	...	...	179	262	8
	28	...	...	...	...	...	179	262	8

*No. of persons. †No. of cases filed during 1918. The Assam Labour and Emigration Act, 1901, is apparently in force in Bihar and Orissa and the Central Provinces also.

MESSAGE FROM THE SECRETARY OF STATE.

The Honourable Sir William Vincent (Home Member) : Sir, may I also read out a Message which I have received from the Right Honourable the Secretary of State in reply to a telegram sent by the Government of India on the 13th of February last at the request of the non-official Members of this Assembly? Secretary of State wires as follows :

' Please convey to non-official Members of Legislative Assembly my grateful thanks for their inspiring Message. I can only show my thanks for their confidence by continuing to do my best in service of India.'

THE INDIAN LIMITATION (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I move :

' That the Report of the Select Committee on the Bill further to amend the Indian Limitation Act, 1908, be taken into consideration.'

This Bill has had a somewhat varied career. It went to a Select Committee last year and was amended in various particulars. In fact, it was amended in so many important respects that the Assembly thought it better later to direct that it should be further circulated for the opinion of Local Governments. Later we received the opinions of Local Governments and a new Select Committee has sat on that Bill and has amended it still further. The Committee consisted of eminent lawyers of this Assembly, and I can assure the House that it has been submitted to very careful scrutiny. When I say that it has been under the eagle eye of Mr. Mukherjee, I believe that the Assembly will be satisfied that no detail was left unexamined. There were also lawyers from the Central Provinces, from Bombay and Madras on the Committee and I really believe that as the Bill stands now, it is not open to any objection.

The motion was adopted.

The Honourable Sir William Vincent : Sir, I move that the Bill, as amended, be passed.

The motion was adopted.

THE CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I move :

' That the Report of the Select Committee on the Bill further to amend the Provincial Small Cause Courts Act, 1867, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits, or proceedings, be taken into consideration.'

I do not propose to detain the Assembly for any length of time over this Bill either. The changes that have been made in the Select Committee, which is really the second Committee that has sat on this Bill, are fully explained in the Report of that body.

The modifications that were suggested by Honourable Members in the measure when it was last before the Assembly, were placed before that Committee in order that the criticisms might be fully examined, and I believe

that the Bill as now modified is open to no serious objection. I will deal with particular amendments (including one of my Honourable friend, Sir Deva Prasad Sarvadhikary, which is mainly of a drafting character), later on.

The motion was adopted.

Mr. President : Clause 1.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muharumadan) : Sir, I beg leave to move the amendment which stands in my name. In the title of the Bill

Mr. President : The Honourable Member must move his amendment to clause 1. The title of the Bill comes last.

Mr. K. B. L. Agnihotri : My amendment is :

'In clause 1 insert the following as sub-clause (2) :

'(2) Nothing in this Act shall apply to any suit or proceeding under the Provincial Small Cause Courts Act, 1887.'

Sir, my reasons for moving this amendment are that the proceedings in the Small Cause Courts are very summary and very brief. Practically no record of the evidence is kept in those Courts. There will be no material for an Appellate Court on which they could be able to decide in the event of an appeal. Moreover, Sir, the judges of the Small Cause Courts are always in a hurry to decide cases and, having regard to human weaknesses, we find that generally people do not get proper justice.

The object of this amendment is to restrict the provisions of this Bill only to those cases which are tried on the regular side under the Civil Procedure Code, 1908, and not to those cases which are tried under the Small Cause Courts Act, 1887. The reasons are, as I have shown a few minutes ago, that the proceedings of the Small Cause Courts are very summary and no proper record is kept of the evidence but only a short memorandum, which often leads to miscarriage of justice. The Small Cause Courts are more or less always in a hurry to decide cases and the cases never occupy more than ten or fifteen minutes for decision. In these circumstances, when there is no record of evidence kept, when the judges are in a hurry, there will be no proper material for the Appellate Court on which they could be able to decide in a case in which compensation were to be allowed under this Act. Moreover, Sir, it has already been discussed in the previous debates of this House that some corruption is to be found in many such Courts also and this Act will be a further handle in the hands of such as well as those judges who do not pay proper attention to cases and deal out decisions in hurry and impatience. They will use it as a weapon of tyranny and even of oppression against the litigant public. Again, the suits in the Small Cause Courts are generally from the mofussil for paltry sums, and, as we go further with the Bill, we will find that the compensation that it is proposed to allow a party is of a materially high amount. This will encourage unscrupulous parties to speculate and bring false witnesses to prove their claims. The result will be that this will frustrate the very object for which this Act is being enacted. Many judges, being in a hurry to dispose of cases, do not pay proper attention to the procedure, often lose their temper and get biased and prejudiced against parties on the slightest provocation from a litigant, due may be to over-work. And in case of their deciding under such a condition of mind that the case was false and vexatious, this Act would work a veritable hardship to people at large. More-

[Mr. K. B. L. Agnihotri.]

over, in the suits in Small Cause Courts the issues are very simple. If we apply this Act to the Small Cause Courts also, then further issues will have to be raised such as whether the case was a false and vexatious one, and that might lead to certain complications. The Small Cause Courts are meant to give hurried justice in the case of paltry suits. The application of this Act to such Courts will lead to delay in the trial of suits in which complicated issues may be raised, which will not be desirable, looking to the amount of work of the Courts at present. Therefore I move that this Bill may have nothing to do with the Small Cause Courts.

The Honourable Sir William Vincent: Sir, I think this Bill has been before the House on not less than four occasions, at least three, and the Honourable Member would have been a little more considerate to us if he had put this amendment on one of the previous occasions. This Bill has been before Committee after Committee, and every opportunity has been given to Members to express their opinions on it. But Sir, if I regret this delay on the part of the Honourable Member, I regret very much more the attack that he has thought fit to bring against judges of the Small Cause Courts, which I believe to be entirely unjustified by the facts. I believe that they do their work honestly and well. It is true that *ex parte* cases are necessarily decided quickly, because there is no opposition. Contested cases are however fully inquired into. Moreover the objection which the Honourable Member takes to this procedure in regard to the Provincial Small Cause Courts applies equally to the Presidency Small Cause Courts, where compensation of a similar character is already allowed. Further, the Act already provides for the High Courts exercising more complete revisionary powers over the proceedings of Provincial Small Cause Courts than it does over the ordinary work under the Civil Procedure Code, and that is another safeguard. But I want to go to the root of this matter. What was this Bill intended for? It was intended to prevent fraudulent and vexatious suits being brought against persons in their absence. Cases in which a man in Calcutta sues a man in Delhi, does not serve the process on him, gets a decree *ex parte* and ruins an enemy by an unjust claim. Now our experience has been that the very Courts where these suits are brought were Small Cause Courts. (*The Honourable Member:* 'Hear, hear'),—that Court may be in Sealdah, in Alipore or in any suburb of Calcutta or even in such places as Hooghly or Burdwan or,—and if the Assembly propose to take out Small Cause Court suits from the purview of this Bill they will emasculate the whole Bill and render it useless. That is the real effect of this amendment, and, indeed, if it is carried, I think the Government will be well-advised to consider further as to whether they will proceed with this Bill any further at all.

We have had these scandalous cases going on for years, cases in which men in one part of India institute proceedings against absentee defendants on entirely false allegations, get decrees against them and ruin them in a way that brings disgrace upon Government and our Courts as instruments of injustice.

Mr. K. B. L. Agnihotri: I was only referring to the Provincial Small Cause Courts and not the Presidency Small Cause Courts.

The Honourable Sir William Vincent: I am well aware what Courts the Bill deals with. When I talk of Provincial Small Cause Courts

I mean the suburbs of Calcutta. I said Sealdah, Alipore, Hooghly, Burdwan, and various other parts of the country. As I said before, if the Assembly seek to make this amendment, which I hope most earnestly they will not, they will be really destroying the very object of the Bill. It has been very carefully examined by two Committees, which after full consideration left these portions of the Bill relating to Small Cause Courts untouched.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : I also oppose this amendment. The Honourable the Mover of this amendment seems to be under some misapprehension. As the law at present stands, under the Code of Criminal Procedure, section 250, a magistrate is empowered in the case of a prosecution found to be frivolous or vexatious to award compensation and this he may do whether the trial is regular or in a summary form. Consequently, if the trial in a criminal case made in a summary manner entails on the part of the unsuccessful prosecutor the penalty of having to pay compensation, the same objection, I submit, which would apply to a summary trial on the civil side should equally apply to summary trials in criminal cases. But can my friend give a single instance where a magistrate has abused the power this section of the Code of Criminal Procedure arms him with. My friend could not be unaware of the existence of section 95 of the Code of Civil Procedure which, in the case of wrongful arrest and attachment, arms the Court, including Small Cause Courts. (*A Voice* : 'No'). The procedure is exactly similar even in Small Cause Court cases. The gist of my friend's argument is that a Small Cause Court case is tried in a summary manner. There is no record of evidence and the facts are not fully recorded and therefore there is likely to be a failure of justice. That is the crux of his argument. I submit that that argument has no force in view of the existing law which empowers magistrates trying cases in a summary fashion to award compensation in case of vexatious or frivolous prosecutions. Then, Sir, I have heard objections from various parts of this House to the whole Bill, and I submit that the whole Bill will have a very salutary effect if it is enacted into law. As the Honourable Members are aware, under the Vexatious Actions Act of 1896, passed as 59 and 60 Vict, c. 61, any person in England who has habitually and persistently instituted vexatious legal proceedings without reasonable grounds may be debarred from instituting further suits except by leave of the Court. That is a very drastic provision, far more drastic. I submit, than the Bill which we are considering here. I therefore think that so far as this measure is concerned, there is nothing objectionable in its underlying principle and I see no reason why it should not be extended to provincial Small Cause Courts.

Khan Bahadur Maulvi Amjad Ali (Assam : Muhammadan) : It is not desirable that men should put in vexatious claims or put in false defence. These things should be checked. There is no doubt about it but the course suggested, so far as this Bill is concerned, is to be followed in summary procedure also. Here the litigant public who are guilty of these deeds are to be dealt with by the Courts exercising small cause power. My friend, Dr. Gour, in opposing the amendment suggests that, in criminal law, similar provisions have been made and that a magistrate can award compensation in vexatious and frivolous cases. I think, when the first class magistrate awards compensation, his orders are not appealable, but, when such orders are passed by the second class magistrates, I think those orders are appealable. Now, in this case, if the Courts of Small Causes are empowered to award

[Khan Bahadur Maulvi Amjad Ali.]

compensations in frivolous or vexatious cases, I think, Sir, that, instead of doing justice to the litigant public, injustice will be done to them a good deal, because nobody can guarantee that a Court of Small Causes can properly investigate the questions because the time is short and the matter before it is also small. Generally, the Courts of Small Causes deal with the Small Court cases summarily and sometimes very summarily for want of time and patience. Now if these Courts are armed with a power like this, namely, to award compensation, I leave it to the Honourable House to judge whether injustice will not be done when awarding compensation by munsiffs and subordinate judges exercising small cause power, from whose orders no appeal lies. I apprehend therefore miscarriages of justice in such cases. I therefore submit that, instead of arming the Small Court judges with any power, such as is contemplated now, to award compensations in these cases, it ought to provide that this Bill when passed does not apply to the Small Cause Courts The danger is that one will be able to get any number of false witnesses to prove a false case in a summary way and obtain a decree and the tribunal sitting will say: 'Well, we are satisfied with the evidence and we therefore award compensation.' As a matter of fact, that decree may be a wrong decree and the claim a false one. So, I submit, that, if the criminal law provides such a summary procedure, there is no reason why the civil law also should enact a similar procedure. A time may come when we shall ask this Assembly to consider the summary power exercised by the magistracy and we will then shew that miscarriage of justice often results from summary trials.

It is in the Appellate Court only that the judgment is tested by severe investigation; but if there is no appeal, the real aggrieved party will not be able to show that he has been wronged, that the decree has been passed against him wrongly, or that the judgment was passed against him without any evidence, because in those cases, as my friend, the Mover of the amendment says, these Courts do not record evidence at length. He is quite right there. A few points are jotted down on a memorandum only, and on that memorandum the Court of revision cannot do anything. The Court of Revision may be asked, Sir, only to look at the thing from the legal point of view,—to see if there has been any illegality committed, but as to the merits of the case, the Court of Revision cannot do anything. Therefore, it is a very dangerous proposition of law that a Civil Court exercising powers of a Small Cause Court should be empowered to award compensation. I support the amendment, and I hope that the Honourable gentlemen of the House will also agree with me in supporting the amendment.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, the point raised by my Honourable friend, Mr. Agnihotri, is that this Bill should not be made applicable to the Provincial Small Cause Courts. That is the simple point. To that the answer was given by the Honourable the Home Member that the Small Cause Courts are controlled by, and are under the supervision of, the High Court, and that it is not fair to say that the Judges exercising Small Cause Court powers are so wanting in the sense of duty that they would award compensation recklessly; and I think that offers a sufficient answer. Further, there was one remark of the Honourable the Home Member which I think it is well for us, in dealing with Bills, to remember. That is, that the time for putting

forward and formulating criticism has generally passed without Members taking advantage, and so, the stages at which criticism could have been conveniently put forward have unfortunately passed. Well, that is one lesson we might learn in regard to Bills of this character, but my Honourable friend, Dr. Gour, who opposed the amendment, I am sorry to say, has not carried the case further, and probably his speech will cloud the fact that the analogy of Criminal Courts have been repeatedly set up by all those competent to speak on this matter. The analogy of Criminal Courts cannot be carried to support this measure. It is one thing to say, in regard to a criminal case, that the case is false and vexatious and a totally different thing to say so in regard to a civil suit. Well, he also introduced the point of 'vexatious' under the English Law. That again does not apply. On the contrary, that argument would go against this Bill. There it was a particular litigant who has been found guilty of habitually and vexatiously worrying the Court and worrying his opponent that comes under the jurisdiction of the Court. It is one individual that is tackled by that Act. That has nothing to do with this Bill. This Bill casts its net over all litigants who can be considered to have put forward false and vexatious pleas. Therefore, the two arguments of my learned friend, Dr. Gour, do not help the House in considering the amendment of my friend, Mr. Agnihotri. Now, the only question for this House to consider is whether it has got sufficient confidence in the Provincial Small Cause Courts to arm those Courts with the power to award compensation in such cases. As to that, the opinions may be different. That is the only point, and I think it would be better if the House would concentrate its attention on that particular point. If we say that they are not competent, that the Small Cause Courts ought not to be authorised, empowered, to award compensation, it is a rather serious matter; it then comes practically to this that, to this extent, these Courts cannot be trusted with powers. Well, that is the point which the House has to consider, and I put it forward for the consideration of the House.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadian Urban) : Sir, as I was a member of the Select Committee, I should like to add a word or two of explanation as to why we thought that the Bill might include Provincial Small Cause Courts in its operation. The Bill, as it has been propounded, provides for sufficient safeguards against any possible miscarriage of justice which might occur under the summary powers with which the Small Cause Courts in the mofussil are vested. It is no doubt a point to be considered why, when the Presidency Small Cause Courts have been vested with powers similar to those provided by the Bill, the mofussil Small Cause Courts were not given such powers. But my submission to the House is that the Bill itself provides for ample safeguards against any miscarriage of justice. The first safeguard is that the Court will have to give reasons for visiting the guilty person with punishment by way of compensatory costs. It is not a mere question of oral evidence against oral evidence, as, for example, where a Court says : ' I believe this set of witnesses and disbelieve another', that will justify an order under the proposed section 35-A. It is not that. The Court will have to give reasons, and to go out of its way, to take the trouble of finding out reasons—good, tangible reasons—for which it thinks that it is just and proper that the man in fault should be punished in the way suggested. In the first place, therefore, that is an ample safeguard, —ample because there must be something substantial to show that the reasons for which the Court thinks that the case for one party or another has not only

[Mr. J. N. Mukherjee.]

not been proved, or that the objection raised is insufficient or invalid or not true, but that there are facts upon which a reasonable mind must come to the conclusion that the suit or defence is deliberately false or vexatious. Therefore, my submission is that the provision on that point in the Bill is ample at any rate, sufficient for practical purposes. The second safeguard in the Bill is that there is a right of appeal. Now, the argument that the record kept in a Small Cause Court case is of a very meagre description, is not sufficient for our present purpose. The Court will have to give reasons for the award of compensatory costs, it will have to point to something definite, and the sufficiency or reasonableness of that will be considered by the Appellate Court. There, it is not merely a matter of revision. The Honourable the Home Member has referred to the powers of revision of the High Court over a Court of Small Causes. That is no doubt a very good argument in favour of the Bill. The High Courts can always keep in check these Courts through their revisional powers. But, so far as the Bill is concerned, a right of appeal has been given, that is to say, in the contemplated class of cases, facts generally will have to be considered by the Appellate Court and not merely the legal aspect of the question. That is to say, in the contemplated class of cases, facts generally will have to be considered by the Appellate Court and not merely the legal aspect of the question. Therefore if these two conditions be kept in view

Khan Bahadur Maulvi Amjad Ali: Sir, I rise to a point of order. In cases tried by a Court of Small Causes there is no appeal

Mr. President: That is not a point of order.

Mr. J. N. Mukherjee: The Bill provides for an appeal. My Honourable friend has overlooked that fact; and if he will refer to clause 3 of the Bill, he will find that an order under the new section 35-A has been included in the list of appealable cases, under section 104 of the Code of Civil Procedure.

Khan Bahadur Maulvi Amjad Ali: A most knotty question may arise

Mr. President: Order, order.

Mr. J. N. Mukherjee: Of course, whether the proviso which has been added to the above clause should be there or not is another question. But the right of appeal has been given in all cases where compensatory costs have been awarded on the ground of the falsity or vexatious character of the suit or defence, and where the person mulcted wants to avoid the order altogether, or to reduce the amount in which he has been mulcted. What the proviso says is that no appeal shall lie against an order for costs where the party getting the costs thinks that he is entitled to more. But, in all other cases, where compensatory costs have been given, an appeal can be preferred for the reduction of the amount of costs awarded, or for setting aside of the order for costs altogether. Therefore, Sir, my submission is that, although ordinarily there is no appeal against a decree passed in a Small Cause Court suit, where an order for compensatory costs has been made under the proposed section 35-A, that order is subject to appeal. Therein lies the safeguard; and I think it is a very satisfactory safeguard. When we are not only aware that cases, as for instance, where people residing in Lucknow or Bareilly are falsely sued in Calcutta and *ex parte* decrees are obtained

against them upon false evidence—cases about which they know nothing until their goods are attached in execution—are in existence, but the report is, that this number is growing, I think under proper safeguards means should be devised for checking the evil. I think the Provincial Small Cause Courts ought to have the power proposed by the Bill. Otherwise the usefulness of the Bill will be destroyed to a very large extent. With these words, Sir, I beg to support the arguments of the Honourable the Home Member, so far as the point now under discussion is concerned.

Rai D. C. Barua Bahadur (Assam Valley : Non-Muhammadan) : Sir, following the Honourable the Home Member, Dr. Gour and Mr. Mukherjee, I oppose this amendment. In the mofussil, to whom are the powers of Small Cause Courts given? I beg to point out that the Small Cause Court judges are appointed from amongst the Munsiffs, who for years try cases under the ordinary Civil Procedure Code; and, after they have had a certain amount of experience which has been tested by the results of their cases in the Appellate Courts, they are vested with Small Cause Court powers. When such is the case, I think we are amply safeguarded against a miscarriage of justice. As has been pointed out by my learned friend, Mr. Mukherjee, although an ordinary order of a Small Cause Court may not be appealable, when that order is combined with an order for costs by way of compensation, then it is appealable. That makes it all the more certain that there will be no miscarriage of justice. On these grounds, Sir, in addition to those enumerated by my learned colleagues, I oppose the amendment.

Mr. P. L. Misra (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I have not the slightest intention of casting any aspersions upon the Munsiffs and Subordinate Judges. They are very competent and efficient officers, no doubt. But as the Honourable Mover has pointed out, the Small Cause Court judges are generally burdened with heavy work; they have not sufficient time to record the depositions of witnesses, nor indeed are they bound to record those depositions at length or even the depositions of the parties concerned. And, although Munsiffs and Subordinate Judges are very honest men, I am bound to confess that in some cases they are biassed against the plaintiffs and the result is that the latter are apt to get into hot water in that the Courts dismiss their suits. Now, if these Munsiffs and Subordinate Judges are given this weapon, namely, power to award compensation for vexatious or false suits, I am sure that, in the hands of some of the weaker members at least, it will be a very dangerous instrument. I therefore submit that this Bill should not apply to Provincial Small Cause Courts. Mr. Mukherjee has pointed out that there is the safeguard of an appeal against such an order; but where is the material for the Appellate Court to judge whether the order is right or wrong? As I have submitted, the depositions taken down are very brief and the Appellate Court cannot come to a satisfactory decision upon them alone. All that it will have before it will be the order appealed against. But the order of the Lower Court is not sufficient for that purpose. Therefore, my submission is that, even with the safeguard provided, this weapon should not be placed in the hands of Munsiffs and Subordinate Judges. Now, an analogy has been referred to by my friend, Mr. Subrahmanayam, from the speech given by Dr. Gour. I am really very surprised that a lawyer of such eminence should have so confused the issue here. He has challenged the Honourable Mover to give a single instance in which section 250 of the Criminal Procedure

[Mr. P. L. Misra.]

Code has been unnecessarily resorted to. I make bold to say that there have been frequent cases in which magistrates have awarded compensation without just ground, and, if he wants chapter and verse for my assertion I will give them to him, and show him cases which were upset on appeal. It is, therefore, not right to challenge the Honourable Mover of the amendment and say that there are no cases of that kind.

On these grounds, Sir, I support the amendment.

Mr. T. A. H. Way (United Provinces: Nominated Official): Sir, I am surprised to see that the Mover and the supporters of this amendment do not consider that India is yet fit for a further instalment of Self-government. If carefully selected and trained, judicial officers, representatives of the cream of the educated classes of this country, are not fit for the small amount of independence and initiative which this Bill proposes to give them, it seems to me that we cannot say that India is fit for Self-government. Sir, the essence of Self-government is trusting the man on the spot. This Bill proposes to trust the man on the spot. The amender and his friends do not trust the man on the spot. Therefore, Sir, I oppose this amendment.

Munshi Iswar Saran: (Cities of the United Provinces: Non-Muhammadan Urban): Sir, little had I expected that the
12 Noon. question of Self-government would be imported into the consideration of a section of the Code of Civil Procedure, but, Sir, we live and learn. Perhaps the Honourable gentleman, who has just resumed his seat, forgets that one consequence of Self-government is not to trust the man on the spot in the sense of the expression as it is understood by the Members of the Indian Civil Service but to so make rules and regulations that the man on the spot, be that officer Indian or European, should not be able to act arbitrarily. Sir, coming to the provision itself, there are only two points to be considered. The first is this. Are these provisions required in the interest of justice in those cases which are tried by the Court of Small Causes? Now, not even the gentleman who has put forward this amendment has contended that these provisions are not wanted in the case of those suits which are triable by the Court of Small Causes. Indeed, as the Honourable the Home Member has said, a large percentage of cases are really filed in Courts of Small Causes in order to destroy an enemy or to take advantage of a man against whom you have got grudge. As he has said, and it is a matter which has come in my own experience, a man in Calcutta brings a suit against a man in Delhi or in Balia for Rs. 500, leads one or two witnesses and obtains a decree. The summons is never served on the defendant. Now, if you do not apply these measures to cases which are triable by the Court of Small Causes, I submit that you really rob this Bill of one of the main reasons why it is being brought into existence. (Hear, hear.) I shall beg the House to consider this point. Not one Member who has supported the amendment has said one word as to the reason why this Bill should not be applied to such cases. Their sole reason, if I do not do them an injustice, is that these persons who decide Small Cause Court cases may in certain cases not be able to do justice to the claimant or to the defendant. Sir, I must make this confession and show that my country, according to Mr. Way, is not yet prepared for Home Rule. It must be admitted, Sir, and I will make that admission for my own countrymen—that, as long as human nature remains what it is, there will be some cases

of miscarriage of justice. Judges will make mistakes and it will be necessary to set them right. But it is not fair to condemn a class of officers who have done and who are doing most excellent and most admirable work. If these reasons apply, then I submit, Sir, that the Courts of Small Causes should be deprived of their right of deciding any cases at all. Why trust these men with cases, the valuation of which comes up in some cases to Rs. 1,000 and in some cases to less? Why do you give them the right to decide any cases at all? My Honourable friend, Mr. Misra, has said that some judges take prejudice against some of the plaintiffs. Sir, I should take a prejudice against some of the plaintiffs myself in view of my experience of them. If I find that, in case after case, a man brings forward false or vexatious or malicious suits, I should be less than human or more than human if I do not entertain a prejudice against that man and it is only right that the presiding officer should have some prejudice against these people who abuse the process of the Court in coming forward with cases which are neither just nor honest nor straightforward. So, I submit, that if you take away this provision, then, as the Honourable the Home Member has put it very forcibly, it becomes practically useless to have this measure at all, because, in the great majority of cases, it is to meet the evil in respect of cases tried by Courts of Small Causes that this Bill is being brought into existence. Take the case of a civil nature where there is the question of adoption or where there is a question of inheritance or of reversionary right. You cannot file a suit against me in Calcutta or in Bombay. Ordinarily speaking, you cannot have the case finished speedily without the summons being served on me. In such cases, too, I admit there is room for one to bring false and vexatious suits, but I submit, in cases which are triable by Courts of Small Causes, there is greater scope for the institution of false and vexatious suits and it is therefore necessary, I submit, that these provisions should be made applicable to that class of cases. I oppose the amendment.

Prince A. M. M. Akram Hussain Bahadur (Calcutta and Suburbs: Muhammadan Urban): I move that the question be now put.

The motion was adopted.

Mr. President: Amendment moved:

'In clause 1, insert the following as sub-clause (2):

'(2) Nothing in this Act shall apply to any suit or proceeding under the Provincial Small Cause Courts Act, 1887.'

The question is that that amendment be made.

The motion was negatived.

Mr. K. B. L. Agnihotri: Sir, I beg to move the following amendment:

'In clause 1, sub-clause (2), insert the words 'with the approval of the local Legislature and' after the word 'may' and before the words 'with the previous sanction'.'

Munshi Iswar Saran: May I request the Home Member, as we have not got the amendment, to read the sub-clause as it would read after the amendment?

Mr. President: The clause after this amendment would read as follows:

'The Local Government may, *with the approval of the local Legislature and with the previous sanction of the Governor General in Council*, by notification in the local official Gazette, direct that this Act, etc.'

The Honourable Sir William Vincent: Sir, it is, I submit, quite unnecessary to bring in the local Legislature in an administrative matter of this kind. We have in the local Governments now a very strong body of Indian Members and Ministers and the action of the Executive is open to challenge at any moment in the Legislative Council, nor do I know how the sanction of the Legislative Council could be taken at all under the present rules. I suggest also that ample safeguards are provided by the necessity of obtaining the sanction of the Governor General in Council. It is not given as lightly as many Members seem to think. Further, I believe that the Legislature has no particular means of obtaining information as to the specific questions that will be brought before them under this clause.

Mr. President: Amendment moved :

'In clause 1, sub-clause (2), insert the words 'with the approval of the local Legislature and' after the word 'may' and before the words 'with the previous sanction'.

The question is that that amendment be made.

The motion was negatived.

Clause 1 was added to the Bill.

Mr. K. B. L. Agnihotri: Sir, I beg to move the following amendment :

'In clause 2, in proposed new section 35 A (1) :

(a) Omit the words 'or any part of it' after the word 'defence.'

(b) Omit the words 'or in part' after the word 'whole'.

Sir, my object in moving this amendment is that the section as it stands in the Bill shows that, if a man were to bring a suit for, say, Rs. 5,000 and even if a pie of it was disallowed by the Court, he would be required to pay compensation to the defendant. If the defendant sets up a defence and even a pie is disallowed, then the other party shall be liable to pay compensation under this Act. It will be a harsh provision no doubt, but I do agree to the principle as it is put forward that, in such cases, people should be punished, but for such paltry sums they should not be punished so harshly. At least there will be a chance of such. I therefore move my amendment.

The Honourable Sir William Vincent: Sir, I do not think there is really any merit in this amendment. Persons often do not put forward an entirely false defence, but a man who puts forward a defence one anna of which is true and 15 annas of which is false, is not, I think, entitled to the consideration which the Honourable Member seeks to give him. I do not think there is really any other answer I need put forward than that. If the defence was not substantially false or vexatious, then there is no question that the Courts will refuse to award compensation.

The motion was negatived.

Rai Bahadur Pandit J. L. Bhargava (Ambala Division : Non-Muhamadan) : Sir, the first amendment which stands in my name is :

'In clause 2, substitute the word 'or' for 'and' between the words 'false' and 'vexatious' wherever they occur in the proposed new section 35-A (1).'

It will be seen from the papers, which are before Honourable Members, that the words 'false' and 'vexatious' appear in two places in section 35-A, which is proposed to be inserted after section 35 of the Civil Procedure Code. The Honourable Members will also remember that when the Bill was first

introduced, it provided for false cases only, and when a motion to refer the Bill to a Select Committee was brought before this House, several Honourable Members pointed out that defences should also be included because false defences were as rife or numerous as false claims. Then the Bill was discussed in a Committee consisting of Members of both Houses. There it was decided that the scope of the Bill should be extended to make provision for false defences also and it was then that the word 'vexatious' was introduced. When the Bill was brought before this House on the last occasion, it contained the words 'false or vexatious'. It is now for the first time that we have the words 'false and vexatious'. The reason which the Honourable Members of the Select Committee have given for making this alteration is contained in paragraph 3 of their Report. There they say that they :

'incline to the opinion that a provision of the nature which this Bill is intended to make should be applicable only in such classes of cases as can be readily and precisely defined'.

With due deference to the opinion of the Honourable Members, I must confess that this reason does not justify the change proposed. To my mind it is not quite clear. Of course, the provisions of the Bill are to be applied only to those cases which can be readily and precisely defined, but this argument will equally apply if the word used is 'or' or 'and'. This reason does not appear to my mind to be sufficient to justify the change proposed. The change which has been introduced would show that, if a claim is false but not vexatious, or vexatious but not false, compensatory costs will not be allowed. In March last, when the Bill was before this House, the Honourable the Law Member referred to a class of cases in which sons brought suits, one after the other, after a creditor had obtained a decree against their father. I apprehend that all such cases will not be covered if the word 'and' is retained, because it is not necessary that all such cases must be false, though there is no doubt that most of them are vexatious. Such cases are very numerous indeed. Only the other day a typical case which occurred in my district passed through my hands. In this case a firm in Delhi obtained a decree against another firm of Delhi. One of the partners was a resident of Bhiwani and had two minor sons. Unfortunately for the plaintiff, these sons had not been impleaded as defendants. When the decree-holder took the decree to my district for execution, a suit was brought by one of the minor sons in the Delhi Court in which he impugned the correctness of the decree and prayed that the decree might be set aside. The property of the father was attached before judgment by the Delhi Court, and the father did not object to its attachment. But as soon as the execution was taken out in the Hissar Court, and the same property was attached, the other son applied for the release of his share of the property from attachment on those very grounds on which his brother had brought a suit at Delhi. Now this objection has been disallowed by the executing Court and he has brought a civil suit which will go on for some time. So such cases will not be covered if the word 'and' is used.

Similar is the case with regard to reversionary suits. Most of them are brought at the instance of the alienor himself, and they are no doubt in some cases vexatious but cannot be called false in all cases. This class of cases also will not be covered by this Act if the word 'and' is retained. Of course, the objection to my amendment will be that I am going to make the Act still more stringent than is proposed by the Select Committee. As a matter of fact, I intend doing that, because, if the growing evil of

[Rai Bahadur Pandit J. L. Bhargava.]

litigation is to be checked, the weapon should be made effective. As was pointed out by the Honourable the Law Member himself, this is also not a very stringent method to check this evil, and the time may come when still more stringent measures will have to be adopted. For the purpose of stopping or checking the growth of false or vexatious litigation, you must have some effective measure. It might also be pointed out by Members who may be opposed to this amendment that the judges might abuse those powers, just as was remarked by some Members on the amendment which was moved by my friend, Mr. Agnihotri. No doubt, human weaknesses and prejudices and idiosyncracies may influence a Court in some cases, and costs may be allowed in those cases also in which they ought not to be allowed. But the danger will remain the same if the word used is 'or' or 'and'. If the Courts can be trusted to decide cases on their merits, they can be safely trusted to decide the question of costs also. This danger is also safeguarded by the provision for appeals where it is provided that, if no order ought to have been made or a less amount ought to have been allowed, an appeal shall lie. There is another safeguard, which is made in the proviso, by which the High Court has been given power to limit the amount which any Court or class of Courts is empowered to award as costs. So this danger may not be apprehended very much. Besides, this Bill is framed on the analogy of section 250 of the Criminal Procedure Code. Though it has been pointed out by some Members that that Code should not be taken as a guide, yet as the question of costs is of the same nature as the question of compensation, and these costs also are to be allowed by way of compensation, we can take a hint from the provisions of that section. You will find that there, too, the words used are 'frivolous or vexatious', and not 'frivolous and vexatious'. For these reasons, I hope that Members will agree with me that defences which are only vexatious should also be penalised because in many cases, when a defendant finds that he has got no case on merits, he tries to prolong the litigation and to defer the day of payment as much as he can by putting in harassing and vexatious pleas. It might be said that everybody has got a right to vex or harass his opponent, but if one indulges in that pastime he must be prepared to bear the consequences also, and those consequences are provided for in this Act. For these reasons, I submit that, in order to allow compensatory costs, both the requirements (*i.e.*, falsity as well as vexatiousness) should not be considered necessary, but that either of them should be considered quite sufficient. There is another amendment

Mr. President : Order, order. We will take this amendment afterwards. Amendment moved :

'In clause 2, substitute the word 'or' for 'and' between the words 'false' and 'vexatious' wherever they occur in the proposed new section 35 A (1)'.

The Honourable Sir William Vincent : Sir, it is only a sense of loyalty to my colleagues on the Committee that compels me to oppose this amendment. Indeed when the Bill was first introduced, the words inserted in the draft with the approval of Government were 'false or vexatious.' I need not enter into the reasons which led the Members of the Government on that Select Committee to give up this point. The proceedings at one time threatened to go on almost interminably. I do not think, however, really that there is as much harm in the change as the Honourable Member thinks. I believe that in few, if any, cases of this

character would compensation be really given unless the defence or the claim was false and vexatious. The Bill, as originally drafted, was intended to meet the case of deliberately false suits, and those are the things to which I attach very much more importance than to this question of false defences. Because, once a man who has got a good case is put into Court by another, he will often put up any kind of plea he can to gain his ends including pleas which may seem very unjustifiable and most vexatious to the person who wants to get money out of him. But the real cases we wanted to get at were false suits deliberately brought to harass men living in distant parts. I myself therefore did not feel very strongly about the words under discussion. I believe that the words 'false and vexatious' would probably meet reasonable requirements, but if the Assembly thinks 'false or vexatious' is a better term, then I should have no objection. I only feel that it is desirable to restrict the award of compensation to cases where such a remedy is really necessary and I think that that was the feeling of the other members of the Committee too, and to avoid any possibility of these compensatory costs being awarded in cases where that was strictly not necessary in the interests of justice.

Chaudhri Shahab-ud-Din (East Central Punjab: Muhammadan): Sir, I rise to support the amendment moved by my Honourable friend, Pandit Jawahar Lal Bhargava. The phrase 'false and vexatious' is followed by the words 'to the knowledge of the party by whom it has been put forward'. I can understand a man being held liable for having deliberately put forward a false claim or for having made a false statement or defence, but my knowledge of human psychology is so deficient that I am unable to conceive that a claim or defence may be vexatious to the knowledge of the person who puts it forward. An injury is measured by the feelings of one who receives it and not by the feelings of one who gives it. If a defence or claim is false and deliberately false, it may be penalised. But if a man puts forward a true and right claim or defence,—it may be vexatious for the other party,—why should he be punished for that? How, in practice, will the Courts of Justice be able to decide, that the two elements—falsity and vexation—concur in the case of a defence or claim, i.e., that it is vexatious as well as false at the same time? A claim or defence may be palpably false, but the party putting it forward might yet contend that it was not vexatious. And how can a person be fixed with the knowledge that what he is putting forward as a claim or defence is vexatious to the other party? Every person who objects to a claim as false should not be expected to plead at the same time that it was vexatious as well. In section 250 of the Criminal Procedure Code, the phrase used is 'false or vexatious'. It is indeed conceivable that a thing may not be false, yet it may be vexatious, and that view is supported, I believe, by the provisions of section 95 of the Indian Penal Code, which do not make everything an offence which, strictly speaking, may be an offence within the meaning of the law. It is for this reason that the phrase used in the Criminal Procedure Code is 'false or vexatious.' A thing may not be false, yet it may be vexatious, that is, it may be technically an offence but still a reasonable man may not care to go to Court and take any action about it where the thing is so trivial that a reasonable man would not take notice of it, if a man comes to Court and moves the machinery of the law, the Court might say: 'You have abused the process of the Court and given unnecessary trouble to the accused, therefore, I award so much compensation against you.' But the same thing cannot be predicated of a civil

[Chaudhri Shahab-ud-Din.]

claim. If the claim is true, that is, if it is justified, then, however vexatious it may be for the other party, that party should have absolutely no right to say: 'Well, the claim is not false; it is a true claim but it is vexatious, and, therefore, I must be given compensation.' Therefore, I would very strongly suggest to the Honourable Members of this House that these words 'and vexatious' should be omitted and only the word 'false' should be retained, as it is quite sufficient to meet all cases of mischief which this Bill is intended to meet. But as the proposed amendment does not go so far, the word 'and' may be changed into 'or'.

Mr. President: The question is that the following amendment be made:

'In clause 2, substitute the word 'or' for 'and' between the words 'false' and 'vexatious' wherever they occur in the proposed new section 35 A (1).

The Assembly then divided as follows:

AYES—29.

Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bradley-Birt, Mr. F. B.
Bridge, Mr. G.
Bryant, Mr. J. F.
Chatterjee, Mr. A. C.
Cotelingam, Mr. J. P.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Gajjan Singh, Sardar Bahadur.
Ghulam Sarwar Khan, Chaudhuri.
Gulab Singh, Sardar.
Hullah, Mr. J.
Ikramullah Khan, Raja M. M.

Iswar Saran, Munshi.
Jejeebhoy, Sir Jamssetjee.
Keith, Mr. W. J.
McCarthy, Mr. F.
Muhammad Hussain, Mr. T.
Percival, Mr. P. E.
Renouf, Mr. W. C.
Schamnad, Mr. Mahmood.
Shahab-ud-Din, Chaudhri.
Sharp, Mr. H.
Sim, Mr. G. G.
Singh, Babu B. P.
Subzposh, Mr. S. M. Z. A.
Way, Mr. T. A. H.

NOES—26.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Amjad Ali, Maulvi.
Bishambhar Nath, Mr.
Carter, Sir Frank.
Ghose, Mr. S. C.
Gour, Dr. H. S.
Ibrahim Ali Khan, Lieutenant Nawab M.
Kabiraji, Mr. J. K. N.
Kamat, Mr. B. S.
Misra, Mr. P. L.

Mitter, Mr. K. N.
Muhammad Ismail, Mr. S.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Ramayya Pantulu, Mr. J.
Rao, Mr. C. Krishnaswami
Samarth, Mr. N. M.
Sarfaraz Hussain Khan, Mr.
Sarvadhikary, Sir Deva Prasad.
Subrahmanayam, Mr. C. S.
Zahiruddin Ahmed, Mr.

The motion was adopted.

Mr. President: Does the Honourable Member intend his amendment to come at the end of sub-section (1) of section 35-A?

Rai Bahadur Pandit J. L. Bhargava: Yes.

The amendment which I now move is:

'In clause 2, add the words 'in addition to the ordinary costs of the litigation' at the end of the proposed new section 35 A (1).'

I presume it is intended by the framers of the Bill that the compensatory costs will be over and above the ordinary costs of the case and it is simply to make the matter clear that I have proposed that these words be added so that no doubt may remain about the costs which are to be allowed by way of compensation.

The Honourable Sir William Vincent : Sir, I am advised by the Legislative Department that this amendment is unnecessary. It is our intention that these costs will be in addition to the ordinary costs of litigation. The expert Department tell me, however, and I accept their advice, that this is already sufficiently provided for in the Bill as it stands.

Rai Bahadur Pandit J. L. Bhargava : As my intention was simply to make that point clear, I do not press my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. K. B. L. Agnihotri Sir, I beg to move :

* That in clause 2, in proposed new section 35-A (2), the words 'exceeding the claim' be substituted for the words 'exceeding the limits of its pecuniary jurisdiction.'

If my amendment is allowed, in that case sub-clause (2) will read like this :

'No Court shall make any such order for the payment of an amount exceeding one thousand rupees or exceeding the claim, whichever amount is less'.

Sir, my object in moving this amendment is that the punishment should be in proportion to the offence. Now, for instance, if we look at the Central Provinces Courts Act, we find that the munsiff's jurisdiction comes to one thousand rupees. Now if a suit for Rs. 5 were to be filed in the Court of a Munsiff, he shall be within his rights to allow compensation of Rs. 1,000 even in that case. I submit, it will be very harsh in ordinary cases. Even in the Vexatious Suits Act in England it was only provided that suits under it would be dismissed. Secondly, even if a man comes forward and files a suit for Rs 5, the defendant, if he is a powerful and influential man and has no scruples, will be able to get hold of many witnesses to prove that the claim was false and vexatious and thus will have a chance of getting Rs. 1,000 which would defeat the very objects of the Bill. I, therefore, propose that this amendment as proposed by me may be allowed. By this amendment there will at the most be an equal chance of speculation to both the parties.

The Honourable Sir William Vincent : Sir, this amendment seems to be based on an assumption that Munsiffs will fail to exercise reasonable discretion in the discharge of their duties under the provisions of this Bill.

Mr. K. B. L. Agnihotri : I only mentioned an illustration. I did not say that Munsiff's will act like that.

The Honourable Sir William Vincent : Why did the Honourable Member speak as he did if he thought that the Munsiffs would not act improperly? Munsiffs are reasonable men and good lawyers. They are Indian gentlemen who do their work very satisfactorily and surely there is no reason to suppose that, if a claim of Rs. 5 is put forward, they would allow Rs. 1,000 compensation. Even then, the order is subject to appeal in the ordinary way. Then Sir, what is the remedy which the Honourable Member proposes? He suggests that the Court should not

[Sir William Vincent.]

make an order for the payment of an amount exceeding the claim. Are there not many suits valued at a nominal figure for the purposes of the suit? Take, for instance, suits for injunction, for declaration of title for accounts or for the restitution of conjugal rights. In such cases the court-fee value of the suit may be only a few rupees. Is the compensation to be limited to the value of the claim? Surely, it would be more reasonable to allow the Court to make an order which would meet the circumstances of the case. Indeed, I may say generally that the amendment will not bear investigation and it is not worth while wasting the time of the Assembly on it.

The motion was negatived.

Mr. K. B. L. Agnihotri: I would ask for permission not to press the other amendment :

'That in clause 2, in the proposed new section 35-A (2), the first proviso be omitted.'

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : The amendment I beg to move is as follows :

'In clause 2 of the Bill, as amended by the Select Committee, for sub-section (4) of the proposed new section 35-A, substitute the following :

'Subject to the provisions of section 95 of the Code of Civil Procedure, 1908, or any other law for the time being in force, the amount of compensation awarded under this section shall be taken into account in any subsequent suit for damages or compensation (where such suit may lie) in respect of the matter declared by the Court to be false or malicious under this section.'

I believe, Sir, that I occupy a somewhat different and, in some matters, less difficult position with regard to this amendment. For example, my friend, the Honourable the Home Member, whose smiling countenance always encourages me to be cautious, will not be able to complain that on not one of the four historic occasions, when this question came up and when he was so disgusted with endless delay, was this question brought up. The matter was recommitted to the Select Committee, a powerful Committee of selected lawyers, whose fresh amendments are shown in italics. Sir William Vincent, in asking for permission to have the Bill taken into consideration, characterised my amendment as one more or less of drafting. I did not really follow him there. I rubbed my eyes and thought there might be a misprint in my copy and that for the first word 'an' the word 'no' ought really to be there or is there. If that was so, it would certainly be a matter of drafting, for the new sub-clause would stand as follows :

'No order for the payment of costs under this section shall bar any suit for compensation in respect of the same claim or defence.'

And that is what I ask for in effect. It is quite the other way, and the effect of the clause as it stands is, that an order made under this sub-clause shall be a bar. Well, Sir, if it is a matter of drafting, why, the Assembly can deal with it, and the Honourable the Home Member can at once rise in his place and say that, subject to any questions of drafting, he accepts my amendment. Sir, I quite agree with my friend when he said that the object of this Bill was to defeat fraudulent, vexatious and false suits as far as possible—a very laudable aim in which the Assembly, I gather, whole-heartedly joins. Penal clauses have been introduced, and penal clauses and the penal remedies, provided for in the Code of Criminal Procedure have been expressly saved in the new Law in addition to the provision for compensation or damages by way of costs. But the matter does not stop there.

While the Bill proposes to put down false, fraudulent and vexatious cases by penal remedies, the atmosphere seems to be full of penal provisions, and the Select Committee, strong and new, proceeds to penalise the poor donee of the remedies. It says: 'Well, if we are going to take the trouble of awarding costs for you, any legal remedies that may be open to you in a separate suit shall be denied to you'. The first question I raise with regard to that, Sir, is a constitutional question. What right, I ask, had the Select Committee to go beyond the scope of the Bill, and, in legislating against fraudulent claims, proceed to say that the victim of that claim shall also be denied his other existing legal rights? That, Sir, is a strong enough objection. In the next place, we meet with serious practical difficulties. What is 35-A? The House will notice that the wording is entirely distinct from what the Civil Procedure Code, section 95, lays down. I will come to that in a minute. But, before I do that, I draw the attention of the House to 35-A, as it will stand when enacted:

'If in any suit or other proceeding, not being an appeal, any party objects to the claim or defence.'

'objects'—that must be at the earliest opportunity. Now, ordinarily, the earliest opportunity of which he can avail himself in objecting is a written statement—we have many lawyers here what lawyer ever forgets to take any objection, that is open to his client?—'omnibus objection,' about 'jurisdiction,' 'misjoinder,' 'no cause of action'—multifarious, just and everything that the law books and the law cases teach are put in. That is 'objection', and is at the earliest possible opportunity. The provision of section 95 of the Civil Procedure Code is, however, entirely different. Where a person applies himself actually for remedy in damages, the remedies enacted in that section shall be vouchsafed unto it. The one process is deliberate and calculated for the purpose of getting any remedies that the law provides, whereas the objector, in objecting against the false claim, unwarily walks in and gives jurisdiction to the Court for awarding damages where he did not or may not intend to do so. Of course, nobody can plead ignorance of the law, and, when this is enacted, it will be difficult for him to say 'I never realized that by taking advantage of the particular objection, in my written Statement, I was going to forfeit any other rights for damages that might have been in store for me. I do not say that you have such rights in every case, because we have not a statute dealing with causes of action at all. I see my friend smiling again, he thinks he catches me—it is quite the other way. We have much larger remedies in the hands of capable people than there would probably be if the remedies were confined within the four corners of the Statute and we had not still to go to the English law of Tort. Anyway, there may be good causes of action, and where such causes of action do exist, you cannot and ought not to take away, as section 95 of the Civil Procedure Code has done, any remedies that may be open. To the aggrieved litigant Mr. Mukherjee effectively quoted the appeals sections, in connection with a previous amendment enacted here. I hope he will not get up in his place and tell me also: 'Why, you, the victim who do not want to forfeit your legal rights, have the right of appeal'. No such thing. What is the 'appeal', allowed Sir?

'Provided that no appeal shall lie against any order specified in clause (ff) save on the ground that no order, or an order for the payment of a less amount, ought to have been made.'

[Sir Deva Prasad Sarvadhikary.]

The appeal is limited distinctly to two classes of cases, either that there should have been no award of costs, or that the costs awarded ought to have been less. That is conceded in favour of the guilty party; but the person who gets the benefit of the costs cannot make an appeal: 'I do not think that the costs that have been awarded to me are sufficient,—I should like to have a little more'. If there was such a provision, it is conceivable that that might meet the objection to this new insertion which I am now urging before the House. However, that is not so. I do not, Sir, wish to labour the matter very much, but there is another serious practical difficulty which I am sure the Honourable the Home Member and the Honourable the Law Member will be good enough to take into consideration. Now, what is the same 'claim' or 'defence'? Let me take, for example, a case in which there is a multitude of reliefs asked for: injunction, about receiver, accounts, dissolution of partnership or family accounts. If it was a matter under section 95, dealing with the particular matters mentioned there, namely, say temporary injunction, section 95 of the Civil Procedure Code would be the last word on the subject of damages. But, in the same suit, there may be a series of false claims with regard to accounts and other matters. There may be also a series of libellous claims regarding which, if it has been dealt with once under section 35-A, the man loses all right for damages, although he may not have intended and does not want to invoke the relief that is provided there. I am giving one of many illustrations that would occur to a practitioner who has to deal with classes of cases in which a multiplicity of claims may be put forward and which cannot be adequately dealt with by a section like this. Therefore, because there is no authority in the House now to take away any right that a litigant may have, having regard to the terms of the reference to the Select Committee and to the terms of the preamble having regard also to the practical difficulties to some of which I have drawn attention, I submit that this clause ought to stand out.

In a manner I am thankful that the clause has been brought in, because, if matters had been left where they were when the Bill was originally drafted and committed to the Select Committee, you would have had the provision for the criminal remedy but not this particular provision. And, then, some capable lawyer, interpreting that omission according to the knotty rules of interpretation, might have effectively held that, as criminal remedies only had been provided, by implication, civil remedies, not having been provided for, had been taken away. That gives me an opportunity of pointedly bringing this question to the notice of the House and asking that it shall be enacted somewhat in the way that I suggest, namely, that nothing that is done under this very salutary clause summarily dealing with more or less small matters shall bar bigger remedies, if any. You are not going to allow more than Rs. 1,000 in particular cases, and that summary relief ought to do in the smaller cases. Should, however, a good cause of action lie, why should a man not be able to make out a case for higher damages? It ought not to be denied to him. But, at the same time, it ought to be enacted, as my suggestion is, that, in a future suit, what is awarded under section 35A shall be taken into consideration, and anything over and above that which the Court thinks fit should be allowed. Well, Sir, it has been said that this will be a deterrent to the evil-doer; let it not also be a deterrent to a man's just claim, who brings his case into the Court in the full belief that, if he succeeds, he will be able to get in another proceeding substantial damages

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out of the man who has brought the false case into Court. That will not be covered by the remedies now provided for.

I need hardly draw the attention of the House to many provisions like the provision in section 68 of the Bengal Tenancy Act, where certain remedies of this nature are provided. Legal remedies of this kind, on a small scale, are not a new feature and I think we ought to express our gratitude to the framers of this Bill for the provision of a more comprehensive class of remedies for getting rid of false and vexatious cases. In doing so, let me however appeal to the House not to get rid, with one stone, of two birds, one of whom may be perfectly unoffending. In allowing this Bill to be introduced and committing it to the Select Committee you did not intend that a person who has been given an award for costs should be deprived of the larger benefits, if any, that the law leaves open to him. In all cases, such benefits may not be open, but, where they are, do not take them away.

The Honourable Sir William Vincent : Sir, I must admit that I went much too far in suggesting in my opening speech that the Honourable Member's amendment was a draft amendment. It goes much further than that. When we proposed that compensation should be awarded under the present Bill we thought that we could safely follow section 95 of the Code of Civil Procedure and make such compensation a bar to any further suits for compensation. We wanted finality in the matter. There are, however, arguments on the other side and what the Honourable Member proposes is really this : ' Let the award of compensation not be a bar to any further suit, but let the amount paid, or ordered to be paid, be taken into consideration in assessing the damages in any future suit.' I think that is about his position. I described his amendment wrongly as a drafting amendment in my opening speech and I apologise for the mistake.

Now, on the merits of the proposal, I do not see any very great objection to it, though I rather incline to the view of Dr. Gour that there are very few, if any, cases of this kind in which a subsequent suit for compensation could be brought.

Sir Deva Prasad Sarvadhikary : Why legislate for that which does not exist ?

Dr. H. S. Gour : But you are legislating for it.

The Honourable Sir William Vincent : I do not object, because it is said, there may be a few rare cases such as were explained to me, in which such suits would lie. The Committee did not think it necessary to provide for such cases and therefore put in the specific provision which is to be found in the Bill. At the same time, I see no objection to this particular amendment of my Honourable friend, subject to certain verbal changes, which, on this occasion, are really drafting changes. In that view, I do not think it is necessary for me to enter into the various questions that he has raised as to the right of the Select Committee to make the changes which they did in the Bill. I must not, however, be understood to accept for one moment as correct his interpretation of the powers of a Select Committee in matters of this kind. Indeed to accept that view would be to impose intolerable limitations on the powers of such a body. I think, however, that the amended amendment, a copy of which I have given to the Honourable

[Sir William Vincent.]

Member, which I am prepared to accept, will meet his views. From his speech it would seem that he thought I would not accept any amendment.

Sir Deva Prasad Sarvadhikary : It is always safe to assume that.

The Honourable Sir William Vincent : But I sent information to him that I was going to accept it. The amendment which I am prepared to accept runs as follows :

'Subject to the provisions of section 95 of the Code of Civil Procedure, 1908, or any other law for the time being in force, the amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.'

So far as the Government Members are concerned, they have no objection to this amendment, which I think may meet the wishes of the Honourable Member and the House.

Sir Deva Prasad Sarvadhikary : Sir, I fully accept the modification proposed.

Mr. President : The original amendment was :

'For sub-section (4) of the proposed new section 35-A, substitute the following :

'Subject to the provisions of section 95 of the Code of Civil Procedure, 1908, or any other law for the time being in force, the amount of compensation awarded under this section shall be taken into account in any subsequent suit for damages or compensation (where such suit may lie) in respect of the matter declared by the Court to be false or malicious under this section.'

Since which an amendment to the amendment has been moved.

'That after the word 'force' all the words be omitted and the following be substituted :

'the amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.'

The question is that that amendment to the amendment be made.

The motion was adopted.

Mr. President : The question is that the following be sub-section (4) of clause 35-A of the Bill :

'Subject to the provisions of section 95 of the Code of Civil Procedure, 1908, or any other law for the time being in force, the amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.'

The motion was adopted.

Clause 2, as amended, and clauses 3 and 4 were added to the Bill.

The Honourable Sir William Vincent : I ask permission to move a verbal amendment of clause 5 which has been necessitated, I believe, owing to a printer's error. At the same time, it is of some importance. If Honourable Members will look about the fifth line of this clause, they will see

'The words and figures' section 104 of the Code of Civil Procedure, 1908'.

I find that unaccountably the words and figure :

'Clause (ff) and clause (k) of sub-section (1) of'

have dropped out by error. It is quite obvious that we do not seek to increase the general rights of appeal under section 104 in Small Cause Court cases, but only to provide for cases in which compensation is awarded. I, therefore, move that the words I have read be inserted. I do not think I need say anything more except to point out that the whole of the clause makes perfectly clear what the right of appeal in these cases is.

Mr. President : Amendment moved :

'That in clause 5 of the Bill, as amended in the Select Committee, before the word and figures 'section 104' the words and figures 'clause (f) and clause (h) of sub-section (1) of ' be inserted.'

The question is that that amendment be made.

The motion was adopted.

Clause 5 and the preamble were added to the Bill.

The Honourable Sir William Vincent : Sir, I beg to move a consequential amendment on an amendment passed, *viz.*

'That in line 5 of the title of the Bill, the word 'or' be substituted for the word 'and' between the words 'false' and 'veracious'.'

The motion was adopted.

The title, as amended, was added to the Bill.

The Honourable Sir William Vincent : I move :

'That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or veracious claims or defences in civil suits or proceedings be passed as amended.'

The motion was adopted.

The Assembly then adjourned for Lunch till Fifteen Minutes past Two of the Clock.

The Assembly re-assembled after Lunch at Fifteen Minutes Past Two of the Clock. Mr. President was in the Chair.

THE DELHI UNIVERSITY BILL.

Mr. H. Sharp (Education Secretary) : Sir, I beg to move :

'That the Report of the Joint Committee on the Bill to establish and incorporate a unitary teaching and residential University at Delhi be taken into consideration.'

The Report, Sir, is full, and, I think, clearly sets forth the reasons for the amendments which have been made. I do not think it is necessary for me to say anything by way of introduction, but certain questions will be discussed with reference to the amendments of which I see notice has been given to-day.

The motion was adopted.

Mr. Mahmood Schamnad Sahib Bahadur (West Coast and Nilgiris : Muhammadan) : Sir, in the original Bill provision is made for some representation of Muhammadans in the Court and the Executive Council, but the Select Committee, predominated by non-Muhammadan majority, has done away even with that.

This University is intended for Delhi area. All the other provinces have got their own Universities, some of them have three or four. As more than half the population of Delhi are Muhammadans, I think it is quite necessary that Muhammadan interests should be sufficiently represented in all the governing bodies of the University.

The Select Committee says, they were prompted to recommend the elimination of the provisions for Muhammadan representation purely by their reluctance to recognise the principle of communal representation. Yes, they were reluctant, with the exception of the only Muhammadan member in the Select Committee. He was not reluctant. He records a minute of dissent and recommends that one third of the members elected by the different electorates should be Muhammadans.

The very Reforms which we are trying to work successfully were framed and inaugurated, fully recognising the principle of communal representation. Does the Select Committee mean to say that no provision is necessary for the safeguarding of any interest? Why, then, should there be any provision for the representation of Government? Then, it follows that every interest requires proper representation.

Sir, it is not yet time to do away with communal representation. That will be the last thing to be done before giving Swarajya. Unity between the different communities cannot be forced, it must proceed out of love and regard for each other's interests. If you think that communal representation is not necessary, then, it follows that we are so far advanced that we no longer require British guidance and advisership. Doing away with communal representation can only precede the removal of British advisership.

This learned Assembly, the other day, during the debate on Martial law in Malabar, demonstrated, if any demonstration was required, how much the non-Muhammadan majority loved their Muhammadan brethren and how far they could be entrusted with the interests of the Muhammadans. If the fitness of India for Swarajya is to be judged by the attitude the Members of this Assembly took the other day, then the case is hopeless. Look at the hostility, hatred and prejudice that is prevailing in Malabar at the present moment.

Therefore, the clauses which provide for the representation of Muhammadans in the Court and Executive Council of the Assembly must be retained.

I also submit that the Bill must be re-circulated for the purpose of eliciting further opinions thereon. It is very undesirable that the Bill should be rushed through like this. It is not even three months since the Bill was first published. Moreover, the Muhammadan element in the Select Committee was very very small, only one out of 12 members. I therefore propose that the provisions providing for the representation of Muhammadans should be retained in the Bill.

Clause 1 was added to the Bill.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban) : The amendment that stands in my name

Mr. H. Sharp : May I rise to a point of order, Sir ?

Mr. President : Mr. Sharp has risen to a point of order.

Mr. H. Sharp : I rise to point out that I have received, since I took my place in the Assembly this morning, three sets of amendments which have been handed in either just at the commencement of to-day's sitting or after the commencement of the sitting. I observe that one of these, by Dr. Sarvadhikary, contains a number of consequential amendments on this very amendment which he is now about to move. Another, by Rai Bahadur Jawaharlal Bhargava, suggests that the Pro-Chancellor should be made a member of the Corporate Body, but, as a matter of fact, he is already a member. The third consists of 8 amendments put forward by Mr. Agnihotri. I looked through them and I find that 6 out of the 8 are covered—I might say one is almost covered and the rest wholly covered, I think,—by amendments which will come forward to-day. Two are not covered, but the principle underlying one will be discussed to-day in another connection. The other and the last, I admit, is quite new. Well, Sir, I beg under Standing Order 46 to make an objection to these amendments coming up at the last moment. This objection really affects one or, at the most, two of the amendments, and, therefore, I think that Honourable Members need not complain of the objection that I lay.

As regards the one important amendment, I must say that it is an amendment which would have to be very seriously considered by Government. There is also the objection that amendments of this kind, put up at the very last moment, do not permit of the consideration of drafting and consequential amendments. I, therefore, Sir, make that objection.

There is one other remark that I must make. It is probable that I may have to move myself to-day one amendment with some consequential amendments of which due notice has not been given. But, in order that none of the Honourable Members may get up and say that people who live in glass houses should not throw stones, I may say at once that this amendment with its consequential amendments falls under an entirely different category to those which have now been put forward, because it is simply an attempt to meet half way an amendment of which notice has been given by an Honourable Member here. That is how I intend to put it up—a not uncommon practice, I think, in this House.

Mr. J. P. Cotelingam (Nominated Indian Christian) : Will Mr. Sharp kindly read that amendment which he said will have to be considered—I refer to that amendment which he said was of a serious nature.

Mr. President : We will come to that. In principle the Education Secretary is justified in raising the objection which is hereby upheld.

Sir Deva Prasad Sarvadhikary : Sir, the first amendment* standing in my name is for the omission of sub-clause (h) of clause 2, namely, the distinction between teachers as defined in sub-clause (g) of clause 2 and sub-clause (h) which I seek to have omitted. I desire to say, at the outset, Sir, that misapprehensions that have been roused in certain quarters by this amendment are entirely unfounded. It is aimed at raising the status and ensuring the rights and privileges of teachers in the University whether they are 'recognised' or not. The Bill is proceeding on the basis of there being 3 existing colleges fit for University work, which will be the component parts of the

* That clause 2 (h) be omitted'.

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University as a unitary University, and teachers who are engaged in those colleges who have been doing good work for a series of years are now, by this two-fold definition, sought to be differentiated in a manner that I deprecate. So long as sub-clause (h) was confined to appointments of teachers, as in the case of the Lucknow Act, the only Act which attempts a slight differentiation of this kind, there would and could be no objection, as I say in my note of dissent. The University, in having to make its appointments, would have to be guided by certain principles and procedure, which would have to be clearly laid down. But the definition goes further and says:

‘Teachers of the University’ means persons appointed or recognised by the University under the provisions of this Act for the purpose of imparting instruction in the University or any College.’

Both ‘teachers’ and ‘teachers of the University’ will be doing ‘work exactly of the same kind, namely, imparting instruction in the University or in any College or hall. Now where does the practical difficulty of the situation come in? For this purpose we have to go to the Schedule in sub-clause (3) of clause 2 of which, we have for the first time a practical indication of what the teachers will or will not be permitted to do. The sub-clause says:

‘The number of teachers to be elected as members of the Court by the teachers other than Professors and Readers shall be ten’.

Later on, when you come to clause 5 of the Schedule, sub-clause what I suppose will be (vi) — there is a blank now — says:

‘The Academic Council as constituted under sub-clause (1) shall co-opt as members teachers of the University not exceeding one-tenth of its numbers as so constituted.’

Therefore, to begin with, we have this differentiation, namely, teachers who are not teachers of the University or recognised by the University will not be entitled to be co-opted as members of the Academic Council. Then we have clause 6 under which teachers will be assigned to the Faculties, and in clause 7 we have:

‘such teachers of subjects assigned to the Faculty as may be appointed to the Faculty by the Academic Council.’

We have here a state of things under which it would be possible to exclude certain teachers from important rights and privileges that the Bill seeks to confer upon their colleagues who are known as teachers recognised by the University. There may be good reasons for this differentiation in Delhi. I am not aware of any myself. I take it for granted, Sir, that you are starting with three existing colleges that have for years been doing good work. Upon the teaching body of these colleges are engaged gentlemen the quality of whose work has not been questioned so far and I am unable to perceive why this differentiation should be introduced at this somewhat late stage. It may be that some for their own reasons have assented to this differentiation. Some people do assent to things in ignorance of their rights, or in ignorance of what may proceed from the position that they accept. The whole question is— is there any reason for this differentiation? Is there any reason to believe that these gentlemen— by being permitted to be co-opted to the extent of one-tenth of the whole of the Academic Council— would prove themselves unworthy; supposing a great disaster were to follow, only one or two non-recognised teachers would find admission in the Academic Council, is the whole of the

future of the University likely to be jeopardised? I think not. If they were unworthy of that recognition, what are they not unworthy of? They will probably not be assigned to the Faculties. They will not be given important teaching posts. They will not probably be appointed Examiners. All this prohibition is not provided for in the Statutes that have been framed or in the Regulations. The first differentiation, however, gives them a bad start, a start for which I have not been able to find reasons. Then one may ask oneself as to why this differentiation has been brought in apart from the reason that where some of the Delhi teachers may be so untrustworthy as to arouse apprehension in the minds of the authorities. I have been looking into all the recent Educational Acts, Lucknow, Allahabad, Benares and Aligarh, and nowhere does this differentiation appear. The only place in which in the definition something like this occurs is in the Lucknow Act where you don't hear of teachers 'recognised' by the University but the definition speaks of them being appointed. All that you have there is 'teachers' and 'teachers of the University', 'teachers' being according to the definition Professors, Readers, Lecturers and other persons imparting instruction in the University or any of its colleges or halls, and 'teachers of the University' being persons appointed and paid wholly or partly by the University for imparting instruction in the University. As I began by saying, I can understand that, and that is exactly how the definition was first framed. It cannot be said that there was no necessity for this recognition procedure in Lucknow, because the University there is absolutely and downright unitary. That is not so, because the definition of teachers gives the go-by to that idea. A teacher would be a teacher imparting instruction in any University or in any of its colleges, or halls. We have exactly the same state of things here, three colleges, we have more than one college at Lucknow, more than one college in Patna and Dacca, and, in none of these Acts, the differentiation has not been many. Aligarh and Benares stand on an absolutely different footing. Therefore, on the second ground also, I find no justification for this differentiation.

Well, Sir, to go back a little further into the history of things, how did this recognition question come? It finds a place in the Calcutta scheme as propounded by the Sadler Commission and for very good reasons. Even if Calcutta was to be a teaching University by itself, it would be what was called a multi-collegiate University, unitary if you like to call it in the bigger sense, but multi-collegiate to deal with, there would be a tremendous body of people and unless you know something about them you could not allow them to go on doing their teaching work. Recognition was for no other purpose. That is very clearly brought out in Chapter 24, Volume IV, at page 223.

'It would mean that the college would know when appointing a teacher thus qualified that recognition would follow practically as a matter of course. Until a teacher was recognised instruction given by him would not count towards the minimum required in paragraph 66 above, nor would he be entitled to serve as a member of the academic bodies of the University.'

and I add as an examiner and in various other capacities. Having said that, they went on to say further that a college had more than a certain percentage of what would be called unrecognised teachers. The college could not continue to enjoy affiliation or recognition, call it what you please. By introduction of difference somewhat of this kind what do you do? You are really putting an end to the unitary character of the University of which you think so much and asking the University partly teaching and partly affiliating, because those

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of the college teachers who will be recognised will be doing what is called University teaching and not the other work. You do not bar others, you do not forbid others doing teaching work which will be recognised by the University. No such thing. If you are saying that, your position would be intelligible. You are allowing them to go on doing teaching work and I have the right to conclude that no exception can be taken to them. In so far as that is concerned, you are really affiliating the classes which they will be teaching. That is a very undesirable state of things.

Then we come to clear exposition of the matter by Dr. Gregory who brought out the real reason why a long and elaborate process of providing for recognition of teachers had to be resorted to, how unsatisfactory it was and how in the peculiar circumstances of Calcutta it became necessary for the time being. He began by saying :

'The Commission are unanimous that the Calcutta University must be organised as a multi-collegiate University with the Calcutta colleges at least at present divided into two groups, one forming a teaching division of the University and the other forming an affiliating group. The success of a multi-collegiate University in Calcutta would depend on the establishment of such relations between the University and the colleges as will secure the whole-hearted co-operation of the colleges and continued support of agencies to which they owe their existence.'

Then the Report remarks, that is the parent Report, that the distinction, and here I ask the Assembly to mark the words,

'The invidious distinction between Indian and Provincial Educational Services makes friendly co-operation between the colleagues of the two services often very difficult, but in a college, of all places, friendly co-operation is indispensable.'

And what friendly relations would be possible on the teaching body of a college where a number of teachers are recognised by the University and the balances fail to be recognised. This differentiation on the teaching body of a private college would be still more awkward and embarrassing.

The Report proposes four kinds of teachers,—I need not go into the details of that,—readers, lecturers, assistant lecturers, professors and all that. The recommendations are now beside the mark, but the four classes of teachers would include some of these unrecognised teachers and Dr. Gregory goes on to say :

'It may be still more invidious and harassing and detrimental to the harmony of college staff, and the risk of difference between the University and college in regard to their staff would be greatly reduced if the University were not required to recognise teachers individually.'

The elaborate procedure of recognition laid down in section 17 of the Schedule; what is that? Teachers requiring recognition will have, in the first place, to submit to the nomination of a committee. They have to go before the committee of selection enumerated there. Then if there is a difference of opinion between that Committee of selection and the executive council there is an appeal to the Chancellor. All this was originally provided for in the case of appointments and the word 'recognition' has been introduced into this clause, and appointments in the University as well as recognition of teachers in the colleges have been placed on the same basis. Now, supposing all this ordeal is gone through and the teacher is not fortunate enough to be recognised. I should like to ask what this position would be in the

college, what his position would be in the University, how would he face his colleagues, how would he face his students and how would he face the world at large? There would be a hallmark, as it were, of inferiority for which I say there has been no cause as far as I know. Then to resume the thread of narrative giving the origin of the whole of this idea, we find statements to the effect :

' We should anticipate that normally the whole body of teachers of a well conducted college would be recognised, but it may sometimes happen that the college may wish to appoint men on personal knowledge whose formal qualifications may well-nigh seem insufficient or who possess no regular academic qualifications, but whose enthusiasm may make up for deficiencies.'

Well, after the Committee went into the matter and suggested its compromise it did not find a place in the Dacca scheme anywhere nor in the Dacca Act. The Jagannath College was there, the Teaching College was there and the Dacca College was there, certainly three colleges. They did not think it necessary to introduce this distinction. I do not for a moment desire to urge that all teachers because they are teachers would be entitled to be professors or readers or lecturers. All that would depend upon the personal qualifications of the man. Personal equation always comes in and the Academic Council or whatever body would have the assignment of the duties of teachers, the assignment of teachers to the faculties, the appointment of various high teaching officers, could and would take the personal qualifications of every man into consideration. The mere fact that the man was appointed by the University would not necessarily make him a reader or a professor and there would be no stigma attaching, by a man being passed over if there was a better man either on the staff of the University or of the college.

On this part of the question the Sadler Commission says that there ought to be a sort of hierarchy of teachers. Quite right. There will be four classes of teachers and they would be graded in regard to pay and status and rights each according to his personal qualifications. But I deny altogether that even the Sadler Commission with regard to the elaborate Calcutta scheme proposed that there should be an oligarchy of teachers. There is and will always be difference between a hierarchy and an oligarchy. Here will be an Academic Council on which the 'unrecognised' teachers will have no place and they will deal with questions affecting most vital interests of non-recognised teachers as well as the college and the classes which they will be permitted to teach. If the scheme was in any way necessary, having regard to existing state of circumstances, one would have thought that among the many transitory provisions some machinery would be devised by which in time it will be possible to superannuate those who were not desirable as members of the teaching body, but to allow them to continue as teachers and to allow them to do teaching work which would clearly have to be and be recognised by the University, and, at the same time, to subject them to the process detailed in section 17 of the Schedule and thus to place them on, what I conceive to be a clearly invidious position is a proposition which I submit has not been borne out by facts and reasoning. In view of all these considerations and having regard also to the fact that in other places where more than one college exist and have to be dealt with on the basis of unitary University, this last founded University ought not to have this scheme of practically degrading the capable and devoted body of teachers whose cause I am really pleading here, though there might be an apprehension to the contrary in uninformed circles. I have been trying to find out

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from the Lucknow Act as to whether by reason of the differentiation to which I have referred teachers are subjected to any of the disabilities of the kind I have referred to. There is none to be perceived and I submit that there is no reason or occasion for introducing this distinction here.

The Honourable Mian Sir Muhammad Shafi (Education Member) : Sir, it was hardly necessary for my Honourable and Learned friend to launch upon a dissertation on general principles in connection with the amendment which he has moved. Nor is the analogy of Dacca, Lucknow, Aligarh and Benares Acts applicable to the present case. In Benares, Aligarh, Dacca and Lucknow, the appointing authority and the recognising authority is one and the same. In fact, there is no distinction there in appointment and recognition at all. The distinction which has been introduced in the Select Committee is necessitated by the exigencies of the local situation in Delhi and, as a matter of fact, has been introduced at the request of the managers of the institutions which will form component parts of the University. It is a case, if I may venture to say so, of the Urdu proverb which says : '*Muddaie sust, gara chust*' on the part of my Honourable friend, Sir Deva Prasad Sarvadhikary, to come forward in this House and to pose as the champion of what he was pleased to call the class of unrecognised teachers. I shall presently show that the expression 'unrecognised teachers' is a misnomer so far as the teachers of the local colleges are concerned. Now, Sir, as there are three existing institutions here in Delhi, which will form, when the University comes into being, component parts of this new University, the result is that in the first place, the University itself will appoint a certain number of professors. These, of course, will *ipso facto* be teachers of the University. But, in addition to these teachers or professors appointed by the University, there will be the teaching staffs of the three existing colleges. In these circumstances it became necessary at the request of the managers of the existing institutions to recognise members of their staff as teachers of the University in order that they may possess the same rights and privileges as will be possessed by the professors directly appointed by the University itself. But then it must be obvious to every Member of this House that it would, in these conditions, be impossible for the new University to automatically recognise all members of the staff, whoever they may be and whatever their qualifications, academic and otherwise, as teachers of the University. Therefore, it is obvious that teachers other than those who will actually be recognised as teachers of the University will continue to perform the functions of teachers in the local colleges and as such will enjoy certain privileges and rights which the Act will confer upon them. Nevertheless the position of those Members of the existing staff, who are recognised under the Act as teachers of the University, will be somewhat higher, and very naturally so, than the privileges and rights enjoyed by teachers who will not be recognised as teachers of the University. Nevertheless they will be there. They will be recognised as teachers. You cannot say that they are unrecognised teachers, in the sense in which my Honourable friend has made use of that expression. Not only will they be teachers of the various colleges, but in the organisation of this University and of its various bodies these teachers will also possess a certain quantum of rights and privileges. The expression 'unrecognised teachers' is therefore an absolute misnomer. Only they will occupy a status a little lower than that of the teachers of the University. The recognition of these

teachers, therefore, is their recognition as teachers of the University apart from their position as teachers in a hostel or in a hall or in one of the existing colleges. The distinction which has been introduced in the Bill, therefore, is a distinction which is the necessary consequence of the existing position in Delhi and has been introduced at the request of the managers of these very institutions, and in consequence the criticism put forward by my Honourable friend does not apply in this case.

Mr. President : The question is :

‘ That clause 2(h) be omitted.’

The motion was negatived.

Clauses 2, 3, 4, 5, 6 and 7 were added to the Bill.

Mr. H. Sharp : Sir, could the consideration of this clause—clause 8—be reserved? Could it be taken out of turn? Otherwise, the small amendment I have to move will not easily be understood.

Mr. President : The question is :

‘ That the consideration of clause 8 be postponed.’

The motion was adopted.

Sir Deva Prasad Sarvadhikary : Sir, I beg to move :

‘ That in clause 9, sub-clauses (2), (3), (4), (5) and (6) be omitted.’

They deal with certain powers to be conferred upon the Chancellor as apart from the University as a whole. The first sub-clause is as follows :

‘ The Chancellor shall be the Governor General. He shall by virtue of his office be the head of the University and the President of the Court, and shall, when present, preside at meetings of the Court and at any convocation of the University’.

In the clauses to which my amendments relate we have a provision that the Chancellor shall have individual right to cause an inspection to be made, to address the Vice-Chancellor with reference to the results of such inspection or inquiry, and then we have the provision about the Executive Council having to report to the Vice-Chancellor, for communication to the Chancellor, such action as may have been taken. Then the clause gives the Chancellor authority to pass orders through the Executive Council for having them carried out. As far as I can make out, Sir,—I must not presume to go into a dissertation as I may be again offending the Honourable the Education Member—as far as one can make out, these powers were taken and considered necessary where the Viceroy is a visitor and not an integral part of the University. Fortunately, for Delhi, the Viceroy is to be its Chancellor. I regret, and with me many regret, that he has ceased to be the Chancellor of the Calcutta University that had done more than its part of enormous educational work for Northern and Eastern India, Burma, Ceylon and Nagpur in the past. We, in Calcutta, have not yet gained by the change and it will be long indeed before we gain. In the meanwhile the Viceroy had ceased to be Chancellor of any University. The Viceroy is once more to be the head of an University and as an integral part, therefore, the powers that were necessary in the case where he was a visitor and therefore more or less detached from the University, need hardly find a place in the

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Delhi Act, where he will be the Head of the University. University duties are defined and they can be carried out at the instance of the University by the various Faculties and Councils and other bodies. But the Chancellor, having done his work as a part of the University, should hardly stand out, as it were, of the machinery, take up a detached position and, in more or less an individual capacity, give orders that may or may not be reconcileable with what the University as a whole may have arrived at. That is not a sort of position that one would like to see tolerated as a part of the marching events of the time. You are going to have a carefully-organized Court, with all the safeguards that you can think of; you are going to have the Viceroy as the Head of that University, and all that is necessary to be done can be done at the instance of the Viceroy as Chancellor and through the machinery of the University itself; and it is undesirable to give him powers, extraneous powers of the kind that may have been found necessary in the case of a visitor. These are the reasons, Sir, which underlie the amendment which I have now the honour of proposing.

Mr. H. Sharp: Sir, this particular clause, on which Sir Deva Prasad

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Sarvadhikary has moved an amendment, is one that has at times given searchings of heart to some people; but it is necessary. These powers, which are ordinarily called emergency powers, were first introduced into an Act with reference to a new type of University, and they sprang also out of the later report of the Calcutta University Commission which laid great emphasis upon the fact that the Governor General ought to be the Visitor of Universities and ought to be able to bring some kind of pressure, financial or otherwise, upon Universities. Well, the financial arrangements which were suggested by the Commission are difficult, and so we have had to seek to do these things and to carry out the wishes of the Commission in a somewhat different way. Sir Deva Prasad Sarvadhikary's objection, as I understand it, is that here you have an officer of the University, a person who forms a member of the body of the University placing himself, so to speak, outside the University, and saying: 'Now you have got to do this'. Well, as a matter of fact, although the Acts that have already been passed differ in various ways as regards the authority in which these powers are vested, nevertheless there are two Universities, constituted not long ago, in which the Chancellor does possess the powers which are provided for in sub-clause (5) of this clause. At the same time Government do recognize that there is some weight in the objections put forward by Sir Deva Prasad Sarvadhikary. The Governor General, as Chancellor of this University, will be able to bring pressure upon the University in various ways; he has nominations to the different bodies and so on; and, therefore, it is suggested that Government accept this much of his amendment, namely to excise sub-clause (5). In fact, this amounts to the acceptance of Mr K. C. Neogy's amendment which he would have moved next. I hope Sir Deva Prasad Sarvadhikary will recognize that this is a considerable concession to the views that he has put forward. I must however say that the excision of this clause in this particular Bill cannot be taken as a precedent for similar action in other cases. For here the position is peculiar, we have the Governor General himself as the Chancellor of the University, whereas in the case of other Universities he will stand in the position of a Visitor, and it may be necessary for him, standing outside and viewing the conditions of various Universities, to issue orders upon one or other of them.

As regards clauses 2, 3 and 4, it would seem to be a wise precaution to allow the Chancellor to exercise this power of inspection. There can really be no objection to it and it is a wholesome thing for a University occasionally to undergo inspection. Why therefore should not the Chancellor order an inspection at times by an outside body? It seems inadvisable to accept that part of the amendment.

Mr. President: The question is :

'That sub-clauses (2), (3) and (4) of clause 9 be omitted'

The motion was negatived.

Mr. President: The question is :

'That sub-clause (5) of clause 9 be omitted.'

The motion was adopted.

Mr. President: The question is :

'That sub-clause (6) of clause 9 be omitted.'

The motion was negatived.

Clause 9, as amended, and clause 10 were added to the Bill.

Bai G. C. Nag Bahadur (Surma Valley *cum* Shillong : Non-Muhammadan) : Sir, the amendment, standing in my name, runs as follows :

'For clause 11 (1) substitute the following :

'The Vice-Chairman shall be an *Honorary officer* appointed by the Chancellor, and shall hold office for three years.'

My object in moving this amendment is simply this. When we are providing for the constitution of a new University in Delhi we should take into consideration the system that prevails in the other Universities of India. The older Universities of Calcutta, Bombay, Madras and the Punjab are all managed by Honorary Vice-Chancellors. The Hindu University of Benares also has an honorary and un-official Vice-Chancellor; but the Dacca University, which came into existence only seven months ago, has got a paid Vice-Chancellor. I know it is the fashion to quote Dacca as a model of what a University should be. I am connected with that University and I shall tell the House how the system is working there. The Nathan Committee proposed a recurring expenditure of 13 lakhs on the Dacca University and this provided for a paid Vice-Chancellor and the Government of India appointed the present Vice-Chancellor on a salary of Rs. 5,000 including allowances. But the Bengal Government is faced with serious pecuniary difficulties and has given the University only five lakhs, or less than half the proposed grant for recurring expenditure, and with this the University has to maintain the present Vice-Chancellor also. The result is that the University is unable even to entertain an adequate staff of teachers, equip its laboratory or furnish its library. It is unable to find money to attract an efficient staff of Professors in English literature, and students have to suffer on that account. Dacca should therefore be, not an example, but a warning to Delhi and we should avoid committing a similar mistake here. The Dacca University with its present enrolment of 500 students—which will surely go up to 1,000 this year—had an income of nearly Rs. 60,000 from fees. Delhi with its 200 students cannot expect more than one-fourth or one-fifth

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of that income, which will hardly cover the pay of the Vice-Chancellor, if one is appointed. Now, can Delhi with this income—supplemented although it may be by Government grants—entertain a paid Vice-Chancellor on Rs. 5,000 or even Rs. 3,000 a month? There is not a superfluity of funds even in the Central Government, and the best course would therefore be to provide for the appointment of an honorary Vice-Chancellor for the new University. The clause, as it stands, does not preclude the appointment of an unpaid Vice-Chancellor, but I think the intention of the framers of the Bill is quite clear from its wording. It says :

‘The Vice-Chancellor shall be appointed after consideration of the recommendations of the Executive Council, and shall hold office subject to such conditions as may be prescribed by Statutes.’

Now this leaves no doubt in my mind that the Vice-Chancellor is intended to be a paid officer. We know too well that the tendency everywhere in India is to multiply highly paid posts. We should set our face against this tendency by providing beforehand in clear and unambiguous language in this Bill that we want not a paid, but an honorary Vice-Chancellor.

Now, it will be asked, can we be sure of getting suitable men in Delhi to serve as Honorary Vice-Chancellors? Sir, I think there will be no difficulties on this score. The new University will take at least three or four years to be a *fait accompli*, by which time the Government of India with all its offices is likely to be located permanently at Delhi. There will be plenty of high officials then. We have the Member for Education, the Educational Secretary to the Government of India and the Educational Commissioner with the Government of India, for instance, who will be available for the purpose. The Delhi University will add to its dignity by having any one of these officials presiding over its affairs. But it will do more. It will kill not two, but three birds with one stone, if it can succeed in securing an official like the Educational Commissioner with the Government of India to be its Vice-Chancellor—firstly, it will give him plenty of educational work which he must be badly needing since the transfer of the subject of education to the Provinces; secondly, it will reduce the official element in the composition of its Court, for the Educational Commissioner and the Vice-Chancellor are, according to the Statute, to be *ex-officio* Members of the Court and, if they are merged, the official element is reduced by one member; thirdly, it will ensure smooth sailing with the Government of India who are to finance it. The public will, in that event, be spared the spectacle of the friction, or rather unseemly quarrel, which they saw going on only a year ago between the Government of India and the University of Calcutta. Then, again, Delhi is bound to have a Supreme Court of Appeal at no distant date, which will draw to it not only eminent Judges, but also learned lawyers like my friend, Dr. Gour, and there will then be a still wider field to choose a Vice-Chancellor from.

For all these reasons, Sir, I move that the amendment be accepted.

Mr. H. Sharp: Sir, I should like to take first the last few words of Mr. Girish Chandra Nag's amendment, *viz.*, that the Vice-Chancellor should hold office for three years. The Bill, as it stands, leaves that period to be determined by the Statutes; and I would appeal to him that it is much better to leave the period to the Statutes and to leave a certain amount of fluidity and not bind the University or the Chancellor down to a fixed period in

every case and for ever, as this amendment would do unless indeed this measure came back to the Assembly for further amendment.

As regards the first and far more important part of his amendment, here also I would ask him to consider whether it is wise to bind down for ever the Chancellor to the appointment of an Honorary Vice-Chancellor. This is going to be an expanding, developing University, and it is very possible that there may be periods in its growth during which the presence in the University of a whole-time salaried man will be absolutely essential. Moreover, I would ask the Honourable Member to consider this sort of case. Suppose there was some gentleman of high academic attainments and very much interested in University affairs. Let us suppose that possibly he is a Member of this Assembly. Suppose that the Chancellor desires to appoint him as Vice-Chancellor. But unfortunately the man may not be a resident of Delhi and he may not be a man of sufficient wealth to allow him to desert his work and come here. Is the Chancellor to be thereby prevented from giving him the salary to come here? I am, of course, supposing that our finances are improved and that it is possible to pay him an adequate and substantial salary. But surely in such cases there should be nothing in this measure to prevent the Chancellor from so acting. Moreover, as regards the wishes of the Assembly in this matter—and I know that there is much sympathy with Mr. Nag's amendment—I put it to the Assembly that this House will always be able by one way or another to bring considerable influence to bear upon this University partly by resolutions and partly by financial arrangements.

At the same time I will meet Mr. Nag half way if he will accept my proposal. Sub-clause (1) of clause 11 does not, as I think he appeared to say, bind the Chancellor down in any way to the appointment of a whole-time salaried Vice-Chancellor. But there is this much in his objection, that it would be rather difficult in a University of this sort to avoid, unless we take certain steps, having a whole-time man. The Calcutta University Commission strongly recommended a whole-time salaried Vice-Chancellor for the University of Dacca and likewise for Calcutta, although Calcutta University is of a different type and would have been of quite a different type even under their proposals. The fact of the matter is that a University of this character cannot be run without somebody on the spot to look after matters, especially the academic matters. It is absolutely essential that there should be some one on the spot. Now, if you have an Honorary Vice-Chancellor, you cannot prevent him from going, say, to Calcutta to look after his business. You cannot prevent his going away possibly for a long time, and it might be possible that if he is not a resident of Delhi, as I suggested, he would only be able to come down occasionally. Therefore in order to meet the Honourable Member and in order to show that the omission of the words 'whole-time salaried' from sub-clause (1) of clause 11 of the Bill is not mere camouflage on the part of Government, but that our intentions are really to appoint one or the other as occasion may require, I suggest that I should presently move an amendment which would come in the form of a new clause after clause 12 and would provide for the appointment of an officer whom we might call the Rector, who will have handed over to him certain of the functions of the Vice-Chancellor. It would perhaps not be necessary for such an officer always to be appointed even if there were an Honorary Vice-Chancellor. But I made it clear that difficulties are likely to arise in the case of an Honorary Vice-Chancellor; and therefore in order to meet the idea underlying this amendment we suggest that

[Mr. H. Sharp.]

there should be an officer called the Rector who will be able to be on the spot and do the work which possibly the Vice-Chancellor at that moment ought to be performing and which he is unable to perform. Circumstances do sometimes arise when urgent action has to be taken and when the absence of the Vice-Chancellor would be awkward. I am quite ready to give the wording of the amendment if the Honourable Member so desires, or I will move it immediately after clause 12. But I would appeal to him to withdraw this amendment which he suggests in view of the promise which I give to move this amendment presently.

Rai G. C. Nag Bahadur : Could we not be sure that the chief official of any of the colleges here will be able to act as a Pro-Vice-Chancellor or Rector as you may call him to do the ordinary routine work or to preside over the meetings when the Vice-Chancellor is absent from Delhi? But as I have already said, I do not anticipate any such difficulty at all. If any one of the high officials located here permanently will be the Vice-Chancellor of the University, I do not think there will be any difficulty whatever for him to come and preside over the meetings. Busy Judges of the High Court of Calcutta have been found willing and even glad to come and preside over the affairs of the Calcutta University. Could there be any difficulty in Delhi where the headquarters of the Government of India are located?

Mr. H. Sharp : There would be no objection to the suggestion put forward by Mr. Nag that possibly somebody connected with one of the colleges might be selected as this very officer. As regards the high official of Government, that also I suppose will be quite possible, although I must confess that the work which falls upon the high officials of Government at this time would, I am afraid, make it very difficult for them to take over any work such as this office would entail. But my whole point is this, that whoever may be selected as Rector, it will be necessary to give him some statutory powers; that is absolutely essential; otherwise he will be nowhere: he would not be able to do anything. All that I am seeking to do is to have an enabling clause put in after clause 12 which will enable such an officer to be appointed and give him certain statutory powers which should be of an elastic nature; and if Mr. Nag will accept that and withdraw his amendment, I think it will be the best arrangement possible.

Rai G. C. Nag Bahadur : Sir, I should like to know the terms of the amendment which Mr. Sharp proposes to embody in the Bill.

Mr. H. Sharp : I understand that Mr. Nag would like to hear the amendment.

Rai G. C. Nag Bahadur : Yes.

Mr. H. Sharp : The amendment that I propose is that after clause 12, there should be inserted clause 13 as follows:

'The Chancellor may appoint a Rector who shall hold office for such term and subject to such conditions and shall exercise such powers and perform such duties of the Vice-Chancellor as the Chancellor after consultation with the Vice-Chancellor may direct.'

Now the points about that amendment are

Mr. President: I may point out that if the Honourable Member discusses the amendment now, he will not be allowed to discuss it when he moves it. (To Rai G. C. Nag Bahadur) Does the Honourable Member accept it?

Rai G. C. Nag Bahadur: Yes, Sir, in the circumstances, I am satisfied that the amendment will serve my purpose. I therefore beg to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clauses 11 and 12 were added to the Bill.

Mr. H. Sharp: Sir, I beg to move:

'That after clause 12 the following clause be inserted, namely 13: '13. The Chancellor may appoint a Rector who shall hold office for such term and subject to such conditions and shall exercise such powers and perform such duties of the Vice-Chancellor as the Chancellor after consultation with the Vice-Chancellor may direct', and that the subsequent clauses be re-numbered accordingly.'

Sir, when you called me to order just now and pointed out that I shall not then discuss my amendment, I was about to point out to Mr. Nag the virtues of this particular amendment, which I move in order to meet his contention. However, he has already agreed to withdraw his own amendment. The clause that I put forward in this amendment is purely an enabling one. It is capable of being used or not used as the Chancellor may find it necessary. Further it is a very elastic clause. It is the only way, I think, in which this arrangement could possibly be made. It does not even say that the Rector shall be a salaried whole-time officer, although of course it would be essential that he should be on the spot. Nor does it say what his duties shall be save that they will be fixed according to the orders of the Chancellor after consultation with the Vice-Chancellor. This amendment will enable an Honorary Vice-Chancellor to be appointed without the difficulties and dangers that arise of leaving the University in times possibly of difficulty or strain without any statutory powers on the spot to look after it and give the necessary orders and look after the work of the various governing bodies. I trust, Sir, that this amendment will commend itself to the Assembly at large.

Munshi Iswar Saran (Cities of the United Provinces: Non-Muhammadan Urban): Sir, I wish to support the amendment which has just now been moved by my Honourable friend, Mr. Sharp. I do so in the belief that this amendment has been moved in order that the appointment of Honorary Vice-Chancellors may be facilitated. I understand that the real reason why Mr. Sharp could not accept the amendment of Mr. Nag was that it was not advisable to lay down hard and fast rules about the appointment of Honorary Vice-Chancellors, but speaking on behalf of Government he gave us the assurance that as far as possible Honorary Vice-Chancellors would be appointed, and in order to remove any difficulties, should they arise in the future, he has suggested the appointment of a Rector. In this view of the amendment I give him my support.

New clause 13, old clause 13, and clause 14 were added to the Bill.

Mr. H. Sharp: I beg to move:

'That in clause 15, after the word 'Vice-Chancellor' the word 'Rector' be inserted.'

The motion was adopted.

Clause 15, as amended, and clause 16 were added to the Bill.

Mr. H. Sharp: Sir, the consequential amendment will be :

'That in clause 17, sub-clause (i) under class I, Ex-officio Members, after sub-clause (iii) the following clause be inserted, namely, 'The Rector', and the remaining sub-clauses be re-numbered.'

The motion was adopted.

Clause 17, as amended, clauses 18, 19 and 20 were added to the Bill.

Mr. H. Sharp: I beg to move :

'That in sub-clause (e) of clause 21, after the word 'Vice-Chancellor' the words 'the Rector' be inserted.'

The motion was adopted.

Clause 21, as amended, was added to the Bill.

Clauses 22, 23, 24, 25, 26 and 27 were added to the Bill.

Mr. H. Sharp: There is one little matter we have to go back to. I beg to move :

'That in clause 8 of the Bill, the following be inserted as sub-clause (4), namely, ' (4) the Rector' and that sub-clauses (4), (5), (6) and (7) be re-numbered accordingly.'

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, I beg to move :

'That for the words 'Governor General in Council', wherever they occur in clauses 28, 30 and 31, the word 'Chancellor' be substituted.'

It will be seen that clause 28 relates to the making of Statutes, clause 30 relates to Ordinances and clause 31 relates to Regulations. My object in bringing forward this amendment is that no control in these matters should be vested in an outside body howsoever exalted it may be. I think the ideal which the Sadler Committee set before them in the matter of the Universities of the future, was that of an autonomous University free from outside control as much as possible, and I think Government should stick to that ideal in regard to this measure. I am aware that the Sadler Committee stated so far as the Statutes of the Dacca University were concerned, they should be amended, rather they should be liable to be amended subject to the approval of the Governor of Bengal in Council. That was with regard to the Statutes.

Then with regard to the Ordinances, I find that they proposed to give the power of veto to the Chancellor and not to the Governor of Bengal in Council. That was the distinction the Commission made. Here we do not find any such distinction. At the same time, I am entitled to know as to why in the face of the recommendation made by the Sadler Committee, the Government of India, while enacting the Dacca University Act, vested this power in regard to the Statutes, not in the Governor of Bengal in Council, but in the Chancellor. Was it because they were unwilling to give any control to the Minister in charge of Education, because the Governor of Bengal in Council, in regard to the University, would mean the Governor acting in consultation with or on the advice of the Minister? Then, Sir, I find that subsequent to the Dacca University Act, two of the Provincial Legislatures have passed Acts in regard to their own Universities, and I do not find that in any of these Acts these powers are sought to be given to the Local Government. Everywhere it is

the Chancellor that is vested with this authority. In regard to the Allahabad University Act, which, I think, is the most recent one, it is noteworthy that that Bill was introduced by the popular Minister in charge of Education, and neither he nor the United Provinces Legislature thought of vesting this authority in the Local Government. If there was any merit in vesting this authority in the Government, certainly the Local Legislature and the Minister of Education, who was in charge of that Bill, would have taken care to provide for that power for the Local Government and not for the Chancellor. It may be said that in so far as you will leave this control with the Governor General in Council, this Legislature will also have some control in regard to the exercise of this power. Well, Sir, this may be a very tempting bait to us, but the bait was certainly there in the case of the Allahabad University Act as well; and there, Education being in charge of a Minister, the local Council should have been the first to take advantage of such a provision if they thought there was any merit in it. Then, Sir, I think that the Chancellor, in so far as he will be associated intimately with the Court, the Executive Council, and the Academic Council of the University, will be more amenable to their influence than the Governor General in Council. Furthermore, it will be observed, that the authorities grudge certain powers to the Court. In fact, the scheme of the present Act is to make the Executive Council practically superior to the Court. At least in certain matters it is so. Well, Sir, if we deny to the Court some of these powers which are enjoyed by the Senates of the older Universities, I for myself would not be party to any scheme which may have the merit of giving us some more powers in regard to the internal administration of the University. If anybody deserves more power, it is the Court first and foremost of all, and not this Legislature, nor certainly the Government of India. With these words, Sir, I beg to move my amendment.

The Honourable Mian Sir Muhammad Shafi: Sir, I think a little reflection will convince my Honourable friend, Mr. Neogy, that the amendment which he proposes is sure to land the University in difficulties. If Honourable Members will turn to clause 9, sub-clause (1), they will find that under that sub-clause :

‘The Chancellor shall be the Governor General. He shall by virtue of his office be the head of the University and the President of the Court’.

Now, if Honourable Members turn to clause 28, which is the first clause in which my Honourable friend would substitute the word ‘Chancellor’ for the words ‘Governor General in Council’, they will at once see the impossibility of the position which will arise if my Honourable friend, Mr. Neogy’s amendment is accepted. It is sub-clause (4) with which we have mainly to deal. Sub-clause (4) runs as follows :

‘Where any Statute or part of a Statute has been returned to the Executive Council for reconsideration and there is disagreement between the Court and the Executive Council in relation thereto, the matter shall be referred for decision to the Governor General in Council, whose decision shall be final’.

Now, if we were to substitute the word ‘Chancellor’ in the place of the expression ‘Governor General in Council’, the result would be this. In the case of disagreement between the Court of which the Chancellor is the President and the Executive Council, the decision of the Chancellor, that is to say, the President of the Court, shall be final. That is the obvious result. According to the clause, the Governor General in Council comes in only in the

[Mian Sir Muhammad Shafi.]

case of disagreement between these two bodies of the University, namely, the Court of which the Chancellor is the President and the Executive Council. It is obvious that if there is disagreement between these two bodies, the deciding authority should be an outside authority, and as the Governor General in Council is in this case obviously the best outside authority which should settle the difference between these two bodies, it seems to me that the clause as it stands ought to be accepted. As Honourable Members are aware, the major portion of the expenditure connected with the University will be incurred by the Government of India, and in the case of disagreement therefore between the two principal bodies of the University, the final decision should rest with the Government of India, meaning the Governor General in Council. Let us turn to clause 30, which is the next clause mentioned by my Honourable friend. Here, the expression 'Governor General in Council' occurs in sub-clause (3):

'All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Governor General in Council and the Court and shall be considered by the Court at its next meeting'.

Now, as I have already pointed out, the Chancellor is the President of the Court and he will have cognizance of these Ordinances in his capacity as the head of the University. The Governor General in Council will have cognizance of Ordinances as soon as they are framed in the manner laid down in this sub-clause, and therefore it is necessary that these be referred to the Governor General in Council. In accordance with sub-clause (4), the Governor General in Council may, at any time after any Ordinance has been considered by the Court, signify to the Executive Council his disallowance of such Ordinance, and from the date of receipt by the Executive Council of intimation of such disallowance, such Ordinance shall become void. This is in accordance with the recommendations of the Calcutta University Commission and there is absolutely no objection in principle to it. It was noticeable that the Honourable Mr. Neogy in his opening address did not deal with the various provisions of the Bill in order to show what *a priori* are the grounds of the objection to the provisions as embodied in the Bill. His main argument was that the word 'Chancellor' should be substituted wherever the words 'Governor General in Council' occur in order that this University may be autonomous in its character and no outside authority should have any power of interference in this matter, and in consequence I, too, am called upon to deal only with that general argument. But even if we were to examine each one of these clauses separately, Honourable Members will find that the provisions as embodied in the Bill are based upon reason and upon sound considerations and also are in accordance with the Calcutta University Commission Report, and therefore I would ask the House to accept the provisions in the Bill as they stand.

Mr. K. C. Neogy: Will the Honourable Member kindly point out from the different University Acts, where all these powers are given to the Local Governments or the Governor General in Council? I have got some of the Acts before me, but I do not find anywhere that anything of the kind has been done. It is only the Chancellor who is vested with that authority in the Acts that I have seen.

Mr. President: Amendment moved :

'That in clause 28, for the words 'Governor General in Council' wherever they occur, the word 'Chancellor' be substituted.'

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—9.

Abdul Rahim Khan, Mr.
Agnihotri, Mr. K. B. L.
Bagde, Mr. K. G.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.

Nag, Mr. G. C.
Nayar, Mr. K. M.
Neogy, Mr. K. C.
Reddi, Mr. M. K.

NOES—48.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Agarwala, Lala G. L.
Akram Hussain, Prince A. M. M.
Amjad Ali, Maulvi.
Asjad-ullah, Maulvi Miyan.
Barua, Mr. D. C.
Bishambhar Nath, Mr.
Bradley-Birt, Mr. F. B.
Bridge, Mr. G.
Bryant, Mr. J. F.
Carter, Sir Frank.
Chatterjee, Mr. A. C.
Cotelingam, Mr. J. P.
Dalal, Sardar B. A.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Gajjan Singh, Sardar Bahadur.
Ghose, Mr. S. C.
Gour, Dr. H. S.
Habibullah, Mr. Muhammad.
Hullah, Mr. J.
Ikramullah Khan, Raja M. M.

Jejeebhoy, Sir Jamsetjee.
Kabraji, Mr. J. K. N.
Kamat, Mr. B. S.
Keith, Mr. W. J.
McCarthy, Mr. F.
Mutter, Mr. K. N.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Nabi Hadi, Mr. S. M.
Percival, Mr. P. E.
Pyari Lal, Mr.
Ramayya Pantulu, Mr. J.
Rao, Mr. C. Krishnaswami
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Schannad, Mr. Mahmood.
Shahab-ud-Din, Chaudhri.
Sharp, Mr. H.
Sim, Mr. G. G.
Sinha, Babu Ambika Prasad.
Subrahmanavam, Mr. C. S.
Subzposh, Mr. S. M. Z. A.
Way, Mr. T. A. H.
Zahir-ud-din Ahmed, Mr.

The motion was negatived.

Sir Deva Prasad Sarvadhikary: Sir, I beg to move :

'That the following words be added to clause 28, sub-clause (3) :

'and on receipt of the Report of the Executive Council may pass the Statute in such manner as it may think fit'.

Then the whole thing will read like this :

'or may return the Statute to the Executive Council for reconsideration, either in whole or in part, together with any amendments which the Court may suggest, and on receipt of the Report of the Executive Council may pass the Statute in such manner as it may think fit'.

That is to say, after there has been a difference of opinion between the Executive Council and the Court and after the Executive Council has been further consulted in the matter and reported on it, the Court should be the final disposing authority. My next amendment, to which I may refer with your permission, would explain what the situation would be. The next sub-clause, sub-clause (4), gives this power to the Governor General in Council, the final disposing authority being set up here as the Governor General in Council. Now the question is—is the Court to be a real sovereign body in the University or even in matters like this is outside influence to be exercised to the extent

[Sir Deva Prasad Sarvadhikary.]

that sub-clause (4) contemplates. I am thankful to the Honourable the Education Member and the Education Secretary for partially conceding that. Where the Viceroy is the head of the University, where there is a carefully constituted Court safeguarding necessary interests, if you cannot trust your University and make it really autonomous, why then we have not gone very far on the road to progress. Well, I am aware how in the olden times, I deliberately call them olden times, extraordinary power was reserved for the Government by the Sadler Commission 'for the re-assurance of the timid' as the Commission deliberately puts it. That was, however, not their ideal. They consented to it more or less as a compromise. It was a very interesting evolution in the case of the Dacca University. At the one end we had the Report of the Nathan Commission or Committee. At the other we had the recommendations of the Sadler Commission. The first was for direct Government control frankly. That the Sadler Commission deprecated and said that :

'There are many drawbacks in the system of direct, detailed State control'.

Further on they say :

'There are grave disadvantages in the existing dissociation between detailed knowledge of academic matters and responsibility for their administration, though it must be conceded that with regard to the larger questions of policy of the Universities there should be a certain extent of State control, but the attempt of the State to manage a University in detail leads to confusion. It weakens the sense of responsibility of the University in advising Government. Responsibility of Government becomes unreal because the department is unacquainted with details, yet legally entitled to make the final decision.'

That is exactly the position that is taken up here on behalf of the Government

4 P.M.

Let us see what happens. The matter is thoroughly sifted between expert bodies like the Court and the Executive Council and the Academic Council, with the assistance of other experts that they may call in and at the head of affairs of the University the Viceroy himself who no doubt is receiving from time to time all the advice and suggestions that may be necessary for him to guide the University. When all is said and done, and everything is finished, the Governor General in Council has to say what shall be the Statutes. They are, I submit, details in the sense that the Sadler Commission spoke and are in no sense a large question of policy which the Sadler Commission thinks ought to be reserved for the Government. I am not unaware that as a matter of compromise in Calcutta and elsewhere the Sadler Commission recommended that the Government should have the controlling voice, but there has been a considerable march in events since then. Autonomy is in the air and even with regard to amendments in the Small Cause Court Act and the Code of Civil Procedure we hear questions of Swaraj brought in. After the new chapter has been opened and after all the care and anxiety that we have bestowed on the formation of the new University, with all possible safeguards that official and unofficial care could bestow regarding the settling of disputed points, we have the Governor General in Council, by no means an expert body, saying what shall be the Statutes in their final shape. Well, Sir, I do admit and the way in which I voted in connection with the last amendment shows that if any outside body was to have this or any other powers that it ought not to have I should certainly prefer the Governor General in Council because it would be a body open to the light of the day. It would be more objectionable that in the privacy of his Chamber the Chancellor should have the power to upset what the University had done ; it is better, therefore, that if any outside

body is to come in, that the Governor General should bestow further consideration with the assistance of his Council for, if necessary, matters might also be discussed in the Assembly which could not be done if the Chancellor was doing it. Mr. Neogy's self-denying ordinance does him credit. He wants the Court to be supreme. So do I. But he does not want this Assembly to have more loaves and fishes, which would come in the wake of power.

I agree with him so far, and I say that the Court should be supreme, and if the Court cannot be supreme in Delhi, with the Viceroy at its head, it can be nowhere.

Mr. H. Sharp : Sir, I think it must be rather distressing to those of us here who were members of the Joint Committee that we should have this very large number of amendments upon a clause to which we gave long and painstaking care ; for I may say that the amendments which we made in this clause took a long time to make and were most carefully considered. Sir Deva Prasad Sarvadhikary is now moving an amendment on sub-clause (3) and he has quite rightly mentioned his subsequent amendment on sub-clause (4), because the two hang together. Some of the remarks which I have to make—I am making them now to save time—similarly refer to Mr. Neogy's suggestion regarding sub-clause (3) and also his proposal for the omission of sub-clause (4) and Sir Deva Prasad's further amendment on sub-clause (7). The general remarks which I have to make about these are that, looking back to Sir Deva Prasad Sarvadhikary's minute of dissent, I see—and he has more or less repeated in different words the same here to-day—that he has fallen into some error regarding the constitution of this and kindred Universities. He says that the Court is the sovereign body in the University, with the Viceroy as Chancellor, and that it occupies the position of the Senate, and both the Executive Council and the Academic Council are subordinate and answerable to it. There is some confusion of ideas, if I may say so, between the constitution of the University in which Sir Deva Prasad has himself played so conspicuous and brilliant a part and the other Universities, that existed in 1904 when the Indian Universities Act was passed, and on the other hand this entirely new constitution, formed on a quite different basis, which has been suggested by the Calcutta University Commission. I say a new kind of constitution, but it did not begin with the Calcutta University Commission. Sir Deva Prasad Sarvadhikary is, I believe, a Doctor of two Universities,—I think Aberdeen and St. Andrews. Those two Universities have a constitution approximately the same as that recommended by the Calcutta University Commission—similar to that which has been adopted for the most modern English Universities and which we are now trying to express in this Bill here. It is quite true that the nomenclature of the bodies in Scotland is very different ; what we are calling here the Court, they call the General Council, and what they call the 'Court' is our Executive Council ; but, on the whole, the constitution is the same ; and with reference to the powers of the Court, I have just brought in a book—it is the St. Andrew's University Calendar, and I think it might interest the Assembly to hear what are the powers given to the Council, that is, the General Council, which is our Court here. In addition to certain elections :

'The business of the Council is to take into consideration all questions affecting the welfare and prosperity of the University and to make representations from time to time on such questions to the University Court, who shall consider the same and return them to the Council with their opinions thereon.'

[Mr. H. Sharp.]

Well, all I can say is that we are giving to the Court very much greater and more substantial powers in this particular Bill than are enjoyed by those two Universities of which Sir Deva Prasad Sarvadhikary is an LL. D.

(At this stage Mr. Deputy President took the Chair.)

Sir Deva Prasad Sarvadhikary: What is the Governor General there?

Mr. H. Sharp: I must have notice of that question.

Well, now to turn for a moment to this particular, definite amendment of sub-clause (3). It is a little bit vague, and I suggest that it and also Mr. Neogy's proposed amendment, combined with the excision of sub-clause (4), would have really a very detrimental effect upon the whole of this clause 28 to which the Joint Committee gave such careful consideration. I really do not quite know what would happen if Statutes were passed or dealt with as the Court thought fit. I do not understand it. We have, as well as giving two solid concessions to the Court and investing it with fresh powers, we have in the Joint Committee inserted a sub-clause (4) which provides, so to speak, a way of mediation and an amicable settlement before the case goes to the final tribunal. In a matter of this kind where you have various bodies which may decline to agree and may come into a slight collision with one another in their ideas regarding the Statutes, you must have some body which is going to settle up the differences, and what we have tried to do here is to get the University to settle up its own difficulties and differences of opinion, the various bodies consulting together and passing amendments back from one to another and coming to a compromise; that is the intention of the manner in which we have amended this clause; and, therefore, Government cannot accept this amendment and hopes that it will not be accepted by the Assembly at large.

Mr. Deputy President: The question is :

'That in clause 28, sub-clause (3), add the words 'and on receipt of the Report of the Executive Council may pass the Statute in such manner as it may think fit'.'

The motion was negatived.

Mr. Deputy President: The next amendment that stands on the paper is Mr. Neogy's, and I do not know whether he wishes to move it.

Mr. K. C. Neogy: In view of the decision just come to by the House on this question, I do not think it will serve any useful purpose to move this amendment.

Mr. Deputy President: I think the same thing applies to the next amendment of Sir Deva Prasad Sarvadhikary.

Sir Deva Prasad Sarvadhikary: Yes, Sir, it falls to the ground because of the rejection of the other. Sir, I move :

'That the words 'which may either reject the proposal or' in clause 28 (7) be omitted.'

The short effect of the rejection would be that the Executive Council would have to take the draft into consideration and submit it to the Court. It should not be entitled or able to reject it altogether if it chose. Well, Sir, in accepting the great honour that St. Andrews and Aberdeen did me I was not a party to their regulations. If there be need and if given the chance, I can give Mr. Sharp the assurance that I shall attack the powers of any oligarchy as lustily as I am doing here now and my loyalty to what I am proud to call my University will not stand in the way. Mr. Sharp very generously tells us that he has given the Court some concessions. Well, you would want what the great classicist would call a 'hextra million horsepower microscope' to detect those larger powers that he so effectively parades as concessions. A member of the Court may propose a draft; the Court refers it to the Executive Council, and then the oligarchy may be amiable enough to submit the draft to the Court or to reject it. History has shown that such exercise of power has never been for the good of the body politic. It must be the larger body—the parent body—that ought to have final power in these matters; and if amendments or proposals put forward by members of the Court cannot meet with the courtesy of even being considered and submitted to the Court by the Council and thereafter to go through the procedure that is provided for the creation of Statutes, why then it speaks very little indeed for the real powers of the Court. It would almost be as well for the unfortunate member of the Court to go about canvassing members of the Council and get the proposal taken up by the Council if possible. I have pleaded and again plead that the Court ought to have some real powers. Even if the powers that I pleaded for in the previous amendment are to be denied, what harm would there be if these offending words in question were to be left out? A member of the Court may propose to the Court the draft of a Statute; the Court may refer the draft and the Executive Council shall submit the draft to the Court in such form as the Executive Council may approve. I have not attacked the power of the Council to modify the draft if need be. What I am objecting to is the summary rejection of the proposal made by a member of the Court. Supposing it goes to the Court, the procedure which you have just enacted will be a very effective guillotine. If the proposal be unworthy of support, if there is a real dispute between the Court and the Executive Council, the Governor General will decide the matter. Where is the harm in the proposal going forward at all events and receiving the full measure of consideration that the other drafts put forward by the Executive Council would receive? For these reasons, Sir, although the previous amendment has been lost, I put this forward with greater vigour than ever.

Mr. H. Sharp: Sir, after what Sir Deva Prasad Sarvadhikary has said, I confess that I shudder for the academical halls in Aberdeen and St. Andrews. I observe also that he has appeared, with reference to this Bill, to be very suspicious of the powers of the Executive Council and, at times also, of the Governor General in Council. Those bodies have in this particular section to appear very often, but as a matter of fact that, as I think the other members of the Joint Committee will bear me out, is, as I stated before, to get over difficulties and to avoid the necessity, if possible, of an appeal to an outside body. Now this sub-clause (7) is a new one. It was put in by the Joint Committee and it is a concession to the Court. It permits a member of the Court to initiate legislation in the University. Now, in the first place, I should like to say that I do not think that this Assembly could possibly accept Sir

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Deva Prasad Sarvadhikary's amendment, because, as I understand it, the sub-clause as amended would run like this :

'Any member of the Court may propose to the Court the draft of any Statute and the Court may refer such draft for consideration to the Executive Council, submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply, etc.'

To begin with, I am not quite sure whether that makes very clear sense, and, secondly, it has the impossible result of permitting the Court to submit something to itself. That is perfectly clear from the wording of the amended sub-clause—that is to say, if this amendment were carried.

I think I have really already dealt with the general principle underlying Sir Deva Prasad Sarvadhikary's amendment in my reply to the previous amendment. This amendment falls under the same axe and I ask this Assembly not to accept it.

Mr. Deputy President : The question is :

'That the words 'which may either reject the proposal or' in clause 28 (7) be omitted.'

The motion was negatived.

Clauses 28 and 29 were added to the Bill.

Sir Deva Prasad Sarvadhikary : After the very deft exercise of the axe upon my previous amendments I do not think it is necessary to submit to further operations of the kind. I therefore withdraw all my amendments to clause 30.

Clause 30 was added to the Bill.

Sir Deva Prasad Sarvadhikary : There is an amendment, Sir, standing in my name and I move it formally and as a matter of principle, *viz.*,

'That the proviso to clause 31 be omitted.'

There is no reason why the Governor General should intervene either here.

The Honourable Mian Sir Muhammad Shafi : The reply to this amendment is the same as was given in regard to the previous amendment. The Governor General in Council is the outside authority in case of conflict between these two bodies.

Mr. Deputy President : Amendment moved :

'That the proviso to clause 31 be omitted.'

The question is that that amendment be made.

The motion was negatived.

Clauses 31, 32, 33 and 34 were added to the Bill.

Sir Deva Prasad Sarvadhikary : Sir, I move for the omission of clause 35 (4). That clause is as follows :

'The University shall not, save with the previous sanction of the Governor General in Council, recognize (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University, or, as equivalent to the Intermediate or Matriculation Examination of an Indian University, any examination conducted by any other authority.'

The words 'or Matriculation' have been introduced here by the Select Committee. Sir, this model, up-to-date, well organized University that we

are going to set up in the Imperial City of Delhi cannot be trusted to come to its own conclusions as to the degrees of the Indian Universities which it shall recognise. When it comes to the question of Indian Universities, you have got to go to the Governor General in Council and ask as to students from which Universities they are to admit. There may be good reasons for it. I am myself not very familiar with them, but I do know that the question gave us trouble in the troublesome days of the past in East Bengal. But even then the Government did not propose to take drastic powers like these. It was left to the University itself to decide as to what certificates it would accept for the purpose of admitting students—foreign students as some call them—from other Universities for admission to a course of study. Years have rolled by since then. We know what serious troubles came in the wake of attempts of interference like that by which we were not able to stem the tide, and I do not promise myself that such interference will in future be very effective. Well, there is no use pleading for larger powers for the University, or Executive Council for the matter of that, if for these petty things we have got to go up to the Government of India and ask ‘what degrees shall we recognise, pray?’ Any University in the British Isles, South Africa or Australia may be good enough. That we need not trouble about. But when it comes to the various Universities here, we have to ask the Government of India. I very strongly oppose this and plead for the purging of this offending section.

Mr. H. Sharp: May I, Sir, first of all remove two misunderstandings which appear in Sir Deva Prasad Sarvadhikary's mind? This is not a case of mistrust at all. It is a case of assistance. The intention here is to assist Universities by supplying them with the necessary information regarding the standards of examinations about which it would be very difficult for a University to obtain correct information. In the next place, I am not quite sure how Sir Deva Prasad got hold of the idea of distinction between the British and other Universities. I do not so read the sub-clause.

Now, as regards the merits of the sub-clause itself, the whole point is this, that India is an enormous country consisting of many different provinces with many different institutions and it is very difficult for a University to know intimately the different standards of various examinations and tests. No University can have all the information on these matters which it ought to have. But this sub-clause, which we have put in other Acts as well, is at the present time all the more necessary, because we are in a fluid state, so to speak. New Universities are springing into being. We have got the old affiliating Universities. We have got new unitary Universities running side by side with them. We have got another which is more or less half and half, like Patna. Again, owing to the recommendations of the Calcutta University Commission various examinations which may be taken as admission examinations to Universities are springing up. Some Universities are admitting students in the Matriculation stage; others are admitting them in the Intermediate stage. More especially we want to distinguish Universities which are incorporated by law from bogus Universities. There are some rather curious Universities springing up, which are certainly not incorporated by law. It would be rather interesting in some cases to find out how they conduct the instruction of their youths. Now, Sir Deva Prasad has good reasons himself to know how the Government of India goes about in using this power with reference to other Universities. He knows quite well that this power is not used in an arbitrary manner. It is used in order to give assistance to Universities to protect them from

[Mr. H. Sharp.]

degenerate standards which may be set up or from any bogus institutions. I am, therefore, very much surprised to see that Sir Deva Prasad Sarvadhikary should put forward this amendment, and I think it would be advisable for him to withdraw the amendment, and if he does not, I must ask the Assembly not to accept it.

Sir Deva Prasad Sarvadhikary : I do not withdraw the amendment, but I do withdraw that portion of the remarks about British Universities which were made under a misapprehension.

Munshi Iswar Saran : Sir, every lawyer has the experience of finding a distinguished and learned lawyer making a very poor show when he has got a bad case to argue. It does not reflect the least discredit on the lawyer, but it is due to the weakness of the case which he has got to put before the Court. Mr. Sharp will forgive me if I say that his arguments have been hopelessly unconvincing. What he said was this. We want to assist you, the Government of India are very anxious to assist this University. Yes, is this University to be made up of such little children that they cannot decide for themselves what degree to recognise and what degree not to recognise? Then he says that India is a vast country and you cannot get information. One would have imagined that there are as many Universities in India as there are villages in this country. But, Sir, every body knows everything about these well established and recognised Universities. He says there are bogus Universities coming into existence. Is that the reason why this clause has been inserted into this Act? I say, you must trust the Universities to recognise the degrees of only *bond fide* Universities which are recognised by Government. I submit, Sir, that this clause must be taken out because it betrays a lack of trust in the Delhi University which is coming into existence. I do not pretend to know much about the Universities of Oxford and Cambridge. Mr. Sharp is a University man. He belongs to one of these Universities. Will he kindly tell me whether the Universities of Oxford and Cambridge have to refer to the British Cabinet before they recognise the degrees of the Universities either in the United Kingdom or outside it? If this argument of assisting the University, of placing all the information before the University, were as valid and as sound as Mr. Sharp makes them out to be, I submit that the first thing that the Government of India ought to do is to suggest to the Universities of Oxford and Cambridge that before they recognise the degrees of these various Universities scattered not only over the United Kingdom and Ireland but over the entire civilised world that they should refer the matter to the executive Government in England, seek their assistance, in the sense of this clause, and only then recognise the degrees. Sir, I submit that this shows that the Government of India is not prepared to grant this University the right of recognising those degrees which are conferred by other Indian or British Universities. I say, trust it, give this University a chance. You have taken a great deal of power for the Governor General in Council. This particular power, I think, has not been given to the Governor General in Council or to the Governor in Council in other Universities. I say, why add one more power to those already taken and give one more proof that you are not prepared to allow this University to become an independent and autonomous body.

The Honourable Mian Sir Muhammad Shafi: Sir, it is easy enough for a lawyer, and particularly for a lawyer of experience like my Honourable friend, Mr. Iswar Saran, to say that the arguments put forward by his opponent are very weak, but a general statement of that kind, I am sure, will not carry conviction in a House like this unless my Honourable friend examines the arguments which have been put forward one by one and demolishes them. Well, let us see if my friend, Mr. Iswar Saran, has succeeded in accomplishing that end. In the first place, it must have been noticed by Honourable Members that he did not reply to all the arguments that the Honourable Mr. Sharp put forward. He dealt only with two of them, and I venture to point out that the reply given by Mr. Iswar Saran to those two arguments will not bear examination. In the first place, my learned friend pointed out that the number of Universities in India was very small and in consequence the fears entertained by Mr. Sharp have no foundation whatever. But I ask him to remember that the clause does not say Indian Universities. The clause refers to Universities all over the world. I would invite his attention to the clause as it runs. It says :

'The University shall not, save with the previous sanction of the Governor General in Council, recognise (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University

May be a University in America, may be a University in Australia, may be a University in Japan. A student having passed an examination at any of those Universities in any of those countries might come to Delhi and claim admission to the B. A. or M. A. degree here. The Delhi University would not be in a position to judge in a case like this whether to recognise the examination which the applicant for admission has passed in Japan or in America or in a remote corner of Europe without the assistance which Government are able to render in cases of this kind. Therefore, it is, I respectfully submit, not right to say that this provision is indicative of any mistrust on the part of Government. On the contrary, the real object is, as Mr. Sharp has pointed out, to assist the University authorities in coming to a right decision in cases of this kind. Even in India, if I may venture to remind my Honourable friend, until some 2½ years ago we had seven Universities. Four more have been added during this period, and there are two Universities, one in Hyderabad and one in Mysore, raising the number to 13 even in India, and, therefore, in a matter like this, the University authorities ought to welcome the assistance of Government in determining what examination ought to be considered as equivalent to its own examinations.

Then my friend in reply to the arguments put forward stated that the Oxford and Cambridge Universities recognise the examinations of the Indian Universities and other Universities as equivalent for certain purposes and they do not go to the executive Government in England; the executive Government have no voice in the matter in England. But my Honourable friend forgets that at any rate up to this time the executive Government in England have not borne any portion of the expenditure in connection with the maintenance of Oxford and Cambridge Universities.

Munshi Iswar Saran: Now?

The Honourable Mian Sir Muhammad Shafi: Up to this time they have not. I am concerned only up to the present time. What is to happen in the future, I am not concerned with. Whether if the executive

[Mian Sir Muhammad Shafi.]

Government in the future will make a contribution or decide upon making a contribution towards the expenditure incurred by those Universities and when they have done so whether they will not claim a right or voice in the management of the affairs of those Universities we are not concerned with. No one can anticipate events.

Up to this time the executive Government in England have not contributed towards the maintenance of those Universities, and therefore the executive Government has no *locus standi* whatever upon any hypothesis in the internal management of the Universities there. Here the case will be entirely different. The Delhi University will in the main be maintained by the Central Government funds, and, in consequence, in the matter of recognition of equivalent examinations at least, the Governor General in Council ought logically to have a voice. This provision, as Mr. Sharp has pointed out, is a provision to be found in the other Acts which have already been placed on the Statute Book, is based on sound principles, and ought to be accepted by the Assembly.

Bhai Man Singh (East Punjab : Sikh) : Sir, I rise to support the amendment of my esteemed and Honourable friend, Sir Deva Prasad Sarvadhikary, and I am astonished to hear the true reason—I am not sure whether that is the only reason, there might be other reasons as well, the one main reason given by my Honourable friend, the Education Member. I would take his last argument first of all. He says that the English Universities do not draw any pecuniary help from the Government, and, therefore, the British Cabinet has got no control over the Universities. Is this the reason for putting in this clause ?

The Honourable Mian Sir Muhammad Shafi : Did my Honourable friend say English Universities ? I only referred to Cambridge and Oxford.

Bhai Man Singh : I stand corrected to that extent, Sir. You said Cambridge and Oxford. I have not been to England. If I make that mistake of using the general terms English Universities instead of the Oxford and the Cambridge Universities, I think it is excusable. It makes no difference so far as my argument is concerned. Coming to my point, is this the reason why the Government of India wants to keep this University under its thumb even up to that extent ? Is not the Government of India prepared to give the University the freedom of making the choice of the other Universities whose degrees this University is or is not to recognise ? If that is the reason, surely I would say that this cannot appeal to me and would not appeal to most of the Honourable Members in this House. The other question is of help. But say it plainly whether you want to keep this provision by way of assistance to the University or by way of control for the money the Government of India pays to the University. If the question is of supplying funds, the Government of India has got very large control already under the Bill, and nobody can say that the Government of India has supplied the funds and has washed its hands altogether and has nothing to do with the University. That is not the case. There are already in the Bill checks and counter-checks, powers of appeals and counter-appeals, to the Governor General in Council, and, therefore, this part of the argument cannot stand. With regard to the other question of help, I

should like to make a little distinction. There is a difference between giving help or assistance and keeping under control and taking away power in our own hands. There is a very clear distinction and I need not say anything further than that. So far as the help about information, etc., is concerned, surely the University can, in many other ways, get information from the Government of India. But I am really astonished to hear that the Government of India should suppose itself to be in a much better position than the University itself in this matter. So far as the selection of the Universities, whose degrees and examinations are to be recognised, is concerned, who is in a better position? Have the authorities of the University better chances to study their special subjects, to study the curriculums of different Universities, to know their standards of education, etc., or is it the Governor General in Council whose Members and Secretaries are daily complaining of their being over-busy? The University has got its Chancellor, the Vice-Chancellor, the Pro-Chancellor, the Rector and a large staff of educational specialists at its disposal, while mostly it will have to be with the degrees of the Indian Universities. So far as the foreign Universities are concerned, it can much depend on rules employed by some of the English Universities. The Government of India could surely give information in many other ways than by saying that the University shall not admit the degree of any University without our sanction. That is not assistance. The information could be given, but the deciding power could reside with the University. It has been alleged again and again that it shows no want of confidence in the University. I for one am really astonished to hear that you do not allow them to chalk out their own path. The University is not to decide even this matter, *viz*, whether such-and-such a University is fit enough to have its graduates admitted to this University, and still it is said that it is not want of confidence? They have got their staff, they have got their men to advise them, they can see whether such-and-such a graduate should be admitted. If a graduate comes from Japan, the University can make its own inquiries from Japan or from the Government of India. It is quite a different thing from saying that you shall not admit that man without our sanction. They can have their own choice. If they are satisfied that the students whom they are taking come from the Universities whose degrees they can recognise as fit for that purpose, they will do that. I might point out one little thing more. It has been said that there is nothing special about Indian Universities. No doubt, so far as the degrees are concerned, the clause refers to all these Universities or to all the Universities anywhere, but so far as equivalent to the Intermediate or Matriculation examination of an Indian University, any examination conducted by any other University are concerned, this definitely refers to certain Universities. If a foreign University has got Matriculation or Intermediate examination, that would go out of this clause. I do not think there is any reason for this.

The Honourable Mian Sir Muhammad Shafi: May I point out, Sir, that my Honourable friend is misreading the clause?

The words are perfectly clear :

'or as equivalent to the Intermediate or Matriculation examination of an Indian University, any examination conducted by any other authority'.

The word 'Indian' does not refer to the examinations which are to be recognised. Those examinations may be of any University, whether in Japan, America, etc.

Bhai Man Singh: I withdraw that remark. All the same, so far as the principle of the clause is concerned, I stand where I was, and I would request the Honourable Members of the House to accept the amendment.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): I entirely oppose this amendment and I shall give my reason for it. Honourable Members of this House will know that I am neither an upholder nor the champion of the Governor General in Council, but I am bound to support their power when I find that it would be in the interests of the proposed University of Delhi, and I shall convince the Honourable Members of this House how this reserved power in the Governor General in Council will be conducive to the best interests of the proposed University. We considered this question in very great detail and the fact that you do not find a single Member of the Select Committee endorsing the remarks of my Honourable friend, the Mover of this amendment, shows that there is a great deal more in the opposition to his amendment than meets the eye.

Now, if you examine the clause you will find that the curtailment of power of the Delhi University is confined to all examinations of other Universities, whether Indian or foreign. Now, I first take the Indian Universities, and then shall address my remarks to non-Indian Universities. So far as the incorporated Universities of India are concerned, the 11 Universities to which the Honourable Member for Education has referred, there cannot be any doubt that the Governor General in Council and the University of Delhi would be in entire agreement. But Honourable Members are aware that a very large number of national schools and colleges are growing up in the country with a mushroom rapidity and they are giving out diplomas and certificates and degrees, the standard and value of which is at least questionable. Now, Honourable Members must remember that if the Court or the Executive Council is at any time dominated by feelings more patriotic than educational, it is conceivable that these schools may come up and say, we are the national schools and you are bound to support them. We are the national Universities and you are bound to recognise our degrees. What would then be the position? A little adroit canvassing will secure their entry into the establishment of the University and the University of Delhi, much against its best interests, would be forced to recognise their diplomas and degrees as equivalent to its own. Do Honourable Members contemplate this position? Do they desire that the University degrees in Delhi should be depreciated in the manner suggested? I think not. Now, take for instance the foreign Universities. Honourable Members know that a very large number of Universities exist in America which are not incorporated by any Act of Parliament but which are more or less of a very questionable character. Diplomas and degrees are given by these Universities. Let us assume that they apply for *adeundem* degrees and the Executive Council is persuaded that these people coming with beautifully embellished diplomas endorsed on parchment paper are worthy of equivalent degrees. Now, you have no information. The University of Delhi has got no information and the only corrective that this University can receive is from the Governor General in Council. Honourable Members must further remember that when the Mover of this amendment seems to suggest that the Governor General in Council is an autocratic body, they must not also forget that the Governor General in Council are liable to be called to account on the floor of this House and ultimately, therefore, the Members of this House can exercise a certain degree of control and power over

the decisions of the Governor General in Council. Finally, therefore, I submit that this power which vests in the Governor General in Council is a salutary power intended to guard the University against those disruptive tendencies which may get into it on account of the preachings of patriotic gentlemen who may induce the University to confer degrees which the better mind of the Indian nation may not approve of. I therefore ask the House to negative this amendment moved by Sir Deva Prasad Sarvadhikary.

Mr. H. Sharp: I propose that the question be now put.

The motion was adopted.

Mr. Deputy President: The question is :

'That in clause 35, sub-clause (4) be omitted.'

The motion was negatived.

Clauses 35 to 47 were added to the Bill.

Mr. K. C. Neogy: I beg to move the amendment which stands in my name :

'That item (iii) of sub-clause (1) of Statute 2 of the Schedule be omitted.'

This amendment of mine may seem to be a puzzle to many Members of this House, because the effect of it would be to exclude from membership of the Court the Educational Commissioner with the Government of India. I can assure this House that my intentions are not so drastic as that. I wanted to use this opportunity merely for drawing the attention of the House to the fact that this office has been rendered quite redundant by the introduction of the Reforms. If reference is made to the despatches that led to the creation of

Mr. Deputy President: Order, order. The question is :

'That Statute 1 of the Schedule stand part of the Bill.'

The motion was adopted.

Statute 1 of the Schedule was added to the Bill.

Mr. K. C. Neogy: Sir, I was referring to the despatches relating to the creation of this appointment, and I find

Mr. H. Sharp: I rise to a point of order. From the preamble of the Honourable Member's speech I gather that he is going to be extremely disorderly. I cannot imagine that his speech can at all be in order. It might come up as a Resolution of a general nature, or it might possibly come up in the course of the Budget discussion, but I do not think that it has any place in reference to this Bill.

Mr. K. C. Neogy: My intention is this, that if we pass this item, it should not be said afterward: 'You have committed yourself to this office, and the Educational Commissioner has proved himself indispensable in connection with the University of Delhi' and all that. I have no objection to his being on the Court, but it should be on the express understanding that we consent to his being there without prejudice to our right to question the utility of his office.

[Mr. K. C. Neogy.]

I was referring to the despatches relating to the creation of this appointment, because I wanted to show that the object with which this appointment was created does no longer exist.

The Honourable Mian Sir Muhammad Shafi: If it will satisfy my Honourable friend, Mr. Neogy's conscience, the Government have no hesitation in saying that the Educational Commissioner with the Government of India will continue to be a Member of the Court of this University so long as that office is in existence, and it does not prejudice him in any way at all.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : As I read that clause, that applies to the officers therein mentioned. It says :

'The following persons shall be ex-officio members of the Court, namely'.

Supposing the persons disappear, they as ex-officio members disappear also.

Mr. K. C. Neogy: As I have already made it clear, I have no intention of pressing this amendment, and I beg to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Sir Deva Prasad Sarvadhikary: By way of some slight assistance to hard-worked officials, on whose behalf we are constantly hearing mournful pleas, I ask for leave to withdraw my amendments* to Statute 2 (1) of the Schedule and Statute 2(6) of the Schedule to the Bill.

The amendments were, by leave of the Assembly, withdrawn.

Statute 2 of the Schedule was added to the Bill.

Mr. K. C. Neogy: I beg to move :

'That the word 'eight' be substituted for the word 'five' in sub-clause (1) (iv) of Statute 3 of the Schedule.'

I shall be very brief in making my submission. It will be seen that the proportion of members of the Court, to be elected members of the Executive Council will be about 25 per cent. of the strength of the Executive Council. My amendment seeks to raise this proportion to 33 per cent. approximately. It has been observed that the present constitution of the recent Universities as recommended by the Calcutta University Commission is somewhat different from the constitution of the older Universities, in so far as the Court does not occupy a position analogous to the position occupied by the Senate. Therefore, I thought that it was only doing the Court bare justice to propose that the Court should have effective representation on the Executive Council. I know that this inadequacy of representation of the Court on the Executive Council is about to lead to some friction in the Dacca University. I was reading the proceedings of the latest meeting of the Court there, and I found distinct premonitory signs of a serious conflict between the Executive Council and the Court. We should try to prevent it in Delhi. I therefore suggest that this number should be increased by 3. I hope that there will be no objection to this amendment of mine.

* (1) That to Statute 2 (1) of the Schedule to the Bill the following be added :

'(xiii) members of the Executive Council of the Governor General in charge of the Departments of Education and of Commerce and Industry, and
(xiv) the Principal of the Lady Hardinge Medical College.'

(2) That the word 'twelve' be substituted for the word 'fifteen' in Statute 2 (6) of the Schedule to the Bill.

Mr. H. Sharp: The number of members of the Court elected by the Court to be members of the Executive Council has as a matter of fact been already increased by the Joint Committee.

Mr. K. C. Neogy: Only by one.

Mr. H. Sharp: By one, as Mr. Neogy remarks. The increase of one in the case of a small body, which must necessarily have a limited composition if it is at all going to do its work satisfactorily, is not such a small thing. After all the Executive Council (I think somebody has already described it as an oligarchy, but I do not go so far as that) is not supposed to be a large body with a great deal of popular representation or anything of that sort on it. The Calcutta University Commission described its duties in the *locus classicus* on the subject:

'A University needs statesmanlike guidance in the accommodation of means to ends and also in the provision of means; and not less in mediation between the possible misconceptions of the public and the possibly too restricted outlook of the scholar,' and so on.

What we want is a small body, which must be, I think, largely of an *ex-officio* nature, of men who are fully acquainted with the history and the needs and so on of the University. If we raise this number again from 5 (which was originally 4) to 8, we shall make it an unwieldy body. But I do not think it is really necessary to increase the number. After all we have five members of the Court and we have two members of the Academic Council, also elected and the Deans of the Faculties will also be persons elected by the Faculties themselves from among certain professors. I therefore suggest that this amendment be not accepted.

Mr. Deputy President: The question is:

'That the word 'eight' be substituted for the word 'five' in sub-clause (1) (iv) of Statute 3 of the Schedule.'

The motion was negatived.

Mr. H. Sharp: I have a little consequential amendment to make as follows:

'That in Statute 3, sub-clause (1) of the Schedule after the word 'Vice-Chancellor' the words 'the Rector' be inserted.'

The motion was adopted.

Statute 3, as amended, and Statute 4 of the Schedule were added to the Bill.

Mr. H. Sharp: I have another slight consequential amendment to Statute 5 of the Schedule, namely:

'That in Statute 5, sub-clause (1), after the word 'Vice-Chancellor' the words 'and the Rector' be inserted.'

The motion was adopted.

Statute 5, as amended, and Statutes 6, 7 and 8 were added to the Bill.

Mr. H. Sharp: I beg to move:

'That in Statute 9, after the word 'thereof' the words 'the Rector' be inserted.'

The motion was adopted.

Statute 9, as amended, and Statutes 10, 11, 12, 13, 14, 15 and 16 were added to the Bill.

Mr. H. Sharp: Sir, I beg to move :

'That in Statute 17 (1), after sub-clause (1), the following be inserted, namely :

'2. The Rector' and the subsequent sub-clauses be re-numbered.'

That is again part of the proposal that I have made.

The motion was adopted.

Statute 17, as amended, was added to the Bill.

The Preamble and the Title were added to the Bill.

Mr. H. Sharp: Sir, I beg to move :

'That the Bill, as amended, be passed.'

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 23rd February, 1922.

LEGISLATIVE ASSEMBLY DEBATES

THURSDAY, 23rd FEBRUARY, 1922

Vol. II—No. 35

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Thursday, 23rd February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

RECOMMENDATIONS OF THE TELEGRAPH COMMITTEE, 1921.

214. * **Mr. N. M. Samarth**: Will the Government be pleased to state:

- (a) Whether effect has been given to the recommendations made by the Telegraph Committee over which Rao Bahadur T. Rangachariar presided? If not, why not?
- (b) Whether that Committee recommended grant of local allowance to Simla-Delhi signal room clerks of the Telegraph Department? If so, when is that allowance going to be sanctioned?
- (c) Why Delhi and Simla are classed among mofussils in spite of the fact that they are respectively the winter and summer capitals of the Government of India?
- (d) Why are the signal room clerks of the Simla Telegraph Department, especially those who move between Simla and Delhi, not given house-rent?

Colonel Sir S. D'A. Crookshank: (a) Orders have been passed by Government on almost all the recommendations of the Telegraph Committee, 1921. There are a few outstanding items which are still under the consideration of Government.

(b) The Telegraph Committee, 1921, recommended the grant of a local allowance to clerks moving with the signal office between Simla and Delhi. This recommendation is still under consideration but it is expected that orders on it will shortly be passed. The question of locality allowances at Simla is not easy of solution owing to the diversity of the existing local allowances there. In any event, it will be necessary for the Legislative Assembly to grant funds before a local allowance can be given. Under existing rules whole-time clerks in the Simla Telegraph Office are in receipt of a local allowance of Rs. 10 a month.

(c) Presumably, this question refers to the revised scales of pay which were sanctioned for signal room clerks in (a) Calcutta, Bombay, Madras, Rangoon and Karachi, and (b) the mofussil. This distinction was unanimously recommended by the Members of the Telegraph Committee, 1920, on which the staff also was represented, and was accepted by Government.

(d) Signal room clerks are nowhere granted house rent allowance, and, if the clerks at Simla were specially treated in this matter, there would be

difficulty in resisting the claims of signal room clerks at other places and also similar claims by Local Service and Station Service telegraphists who are at present ineligible for house rent allowance.

TREATMENT OF POLITICAL PRISONERS.

215. ***Mr. Harchandrai Vishindas**: (1) Will Government be pleased to state if it is true that prisoners convicted of political offences are asked by the Jail Authorities to exclaim with outstretched hands and palms open and upraised 'Sarkar-ek-hai' or 'Sarkar Salaam', and on the prisoners refusing to comply, they are punished with harsher treatment than before?

(2) Is it intended merely to humiliate the prisoners or extort expressions of loyalty from unwilling people?

The Honourable Sir William Vincent: Inquiry has been made from the Bombay Government. An answer will be given in due course when a reply has been received.

REDUCTION OF STRENGTH OF MADRAS EXECUTIVE COUNCIL.

216. ***Mr. Sambanda Mudaliar**: (a) Will Government be pleased to state whether proposals were submitted by the Government of Madras to the Secretary of State for India for reduction of Executive Councillors from 4 to 2?

(b) If the answer is in the affirmative, in what stage the matter is and whether this Government has supported the proposals in view of the financial stringency of the Government of Madras?

The Honourable Sir William Vincent: (a) and (b). No. The Government of Madras have forwarded, for transmission to the Secretary of State, a copy of a Resolution passed in the Madras Legislative Council recommending that the strength of the local Executive Council be reduced from four to three Members. A copy of the debate on the subject was also received.

COST OF MARTIAL LAW ADMINISTRATION IN MALABAR.

217. ***Mr. Sambanda Mudaliar**: Will Government be pleased to state the total expenditure incurred up to date for Martial Law Administration in Malabar and for the establishment of special tribunals and other incidental expenses?

Sir Godfrey Fell: I am not sure what exactly the Honourable Member means by the phrase 'Martial Law Administration'. His attention, however, is invited to the reply given on the 16th January last to his starred Question No. 76 (e), in which it was stated that the cost of the military operations in Malabar to the end of December, 1921, was, approximately, Rs. 15 lakhs. If the Honourable Member will indicate what classes of expenditure he means to include in expenditure on 'Martial Law Administration', I will endeavour to have the figures collected, and also the figures of the cost of special tribunals.

Mr. Sambanda Mudaliar: I want information in regard to the expenditure incurred by Government for the constitution of the special tribunals instituted for inquiring into these cases.

Sir Godfrey Fell: I understand that all that the Honourable Member wants is information about the cost of special tribunals. I will endeavour to get the information for him.

HOME AND GOVERNMENT OF INDIA ESTIMATES AND ACTUALS OF EXPENDITURE ON MILITARY OPERATIONS BETWEEN 1914 AND 1920.

218. ***Rai G. C. Nag Bahadur:** (1) Will the Government furnish a statement showing the Home Estimate and Home Actuals of expenditure incurred in India during the years 1914-15 to 1919-20, year by year?

(2) Will the Government also furnish a statement showing the estimates and actuals of expenditure incurred by the Government of India for the North-West Frontier, Waziristan Force and Wana Force, separately year by year, during the same period?

The Honourable Sir William Vincent: (1) I have been instructed by the Honourable the Finance Member to say that he is not able to understand exactly what information the Honourable Member desires to obtain, but he will endeavour to furnish it later when he has more exact information as to what is required.

(2) I place on the table a Statement showing the estimated and actual expenditure on account of the North-West Frontier operations for the period in question. No separate accounts were maintained for the Waziristan and Wana Forces during that period.

Rai G. C. Nag Bahadur: The information wanted by me with regard to question (1) is the Home Estimates and the Home Actuals of expenditure for war purposes incurred here in India.

The Honourable Sir William Vincent: I have explained to the Honourable Member that, if he will approach the Finance Member and explain to him in more detail what he wants, the Finance Member is prepared to furnish the information that he requires. I myself am not an expert in financial matters, and I am afraid I cannot give him further information.

Statement showing the estimates and actual expenditure on account of the North-West Frontier operations during the years 1914-15 to 1919-20.

(Thousands of rupees.)

Years.	Budget Estimate.	Revised Estimate.	Actual Expenditure.	REMARKS.
1914-15 . . . . .	...	4,00	6,86	
1915-16	2,00	40,17	44,11	
1916-17	50,00	1,03,70	72,11	
1917-18	1,03,70	1,46,80	1,70,07	
1918-19	69,00	1,74,00	1,56,78	
1919-20	20,00	23,32,60	24,06,19	Includes cost of 3rd Afghan War.

POLICEMEN KILLED IN EXECUTION OF DUTY AND PENSIONS TO THEIR FAMILIES.

219. * **Mr. R. A. Spence:** (1) Will the Government be pleased to state the number of policemen killed in the execution of their duty since the 1st August, 1920?

(2) In view of the analogy declared and promised in Article 734, Civil Service Regulations, between those regulations and those affecting soldiers killed in action, will the Government be pleased to state whether pensions have in all cases been granted to the widows and orphans of these men as provided in paragraph 1073, Army Regulations?

(3) Are not the conditions laid down in Article 737, Civil Service Regulations, subversive of the analogy promised in Article 734? If so, is the Government prepared to remedy the defect?

The Honourable Sir William Vincent: The information is being obtained from Local Governments and Administrations, and will be supplied to the Honourable Member when it has been collected.

GOVERNMENT POLICY IN REGARD TO NON-CO-OPERATION MOVEMENT.

Sir Jamsetjee Jejeebhoy (Bombay City : Non-Muhammadian Urban): With your permission, Sir, I should like to put to the Honourable the Home Member the question of which I have already given him private notice.

(a) Has the attention of the Government been drawn to the Resolutions passed by the Working Committee of the Congress at Bardoli?

(b) In view of these Resolutions, will the Government be pleased to state what their policy is in regard to the non-co-operation movement?

The Honourable Sir William Vincent (Home Member): The Government have seen and considered the Resolutions referred to. They can discover in them no indication of any fundamental change in the attitude and policy of the non-co-operation party. Whilst civil disobedience is to be postponed for the present, there is no suggestion that it should be definitely abandoned as in item in their programme. On the contrary, the clear intention of the Resolutions is that this step should be merely suspended till the ground has been adequately prepared for its inauguration on a large scale. Though volunteer processions are temporarily to cease, the enrolment of volunteers is to continue and to be speeded up; the seditious propaganda, which has been carried on throughout the country since the inception of the movement, is in no way to be abated; and the continuance of attempts to seduce Government servants from their allegiance is specifically provided for. The Resolutions thus point merely to a temporary change in the tactics of the party, and not to any reversal of radical alteration of its aims, which are directed, as before, to the subversion and paralysis of the lawfully constituted Government of the country. The Government of India desire to make it clear that, unless and until there is a complete cessation of the illegal activities of the non-co-operation movement, there will be no change in their own

attitude towards it. I am to add that these activities have already produced a serious situation, which may at any moment eventuate in bloodshed and disorder.

GOVERNOR GENERAL'S ASSENT TO BILLS.

Mr. President : I have to acquaint this House that His Excellency the Governor General has been pleased to give his assent to the following Bills :

The Special Laws Repeal Act, 1922, and

The Indian Criminal Law Amendment Repealing Act, 1922.

STATEMENT OF LEGISLATIVE BUSINESS.

The Honourable Sir William Vincent (Home Member) : May I make a statement of the legislative business for the next meeting? On Monday, the 27th of February, the Government propose to bring up the Bill to provide a penalty for spreading disaffection among the police and kindred offences for further consideration. We have received several amendments, some suggesting that the Bill should be referred to a Select Committee, and, if the opinion of the House is in favour of that course, the Government will in no sense oppose it.

In the second place, a motion will be made for leave to introduce a Bill to regulate the employment of child labour in ports in British India.

RESOLUTION *RE* TECHNICAL TRAINING OF INDIAN AND ANGLO-INDIAN YOUTHS.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I beg to move the following Resolution :

'This Assembly recommends to the Governor General in Council that not less than six lakhs of rupees be set apart every year from the Central Revenues to provide for the education and training abroad of Indian and Anglo-Indian youths in the following subjects :

Ship-building and ship-engineering; Oceanography; Wireless telegraphy; Gunnery and other modern weapons of warfare; Industrial chemistry in all its branches, theoretical and practical; Mining and metallurgy; Geological Surveying; Electrics, with special reference to Hydro-electric engineering and the application of electricity to agriculture; making and canning fruit preserves, condensed milk; milk-products and concentrated foods; Cottage industries; Organisation and working of Distributive Co-operative Stores and Producer's Co-operative Unions;

and such other subjects as this Assembly may, from time to time, deem essential for the needs of India.'

Sir, the object of my Resolution will be apparent to any one who reads it. Hitherto we have had education and facilities for education of a literary kind. When, years ago, Macaulay fought the battle of Western education, he

[Mr. N. M. Samarth.]

predicted, as against those who did not want Western education, that a time would come when, on account of the civilisation which the people would imbibe from English literature, they would ask for representative government, for every institution in England which has made that country free and noble and great. That prediction has been fulfilled. In those days it was necessary that the educational syllabus should be so framed as to give us this higher literary teaching. But, in any country at any time, the educational problem is but the national problem, and the national problem in India to-day is to have what I may call 'bread-and-butter' education which will enable those who receive it to start life and earn a living and add to the nation-building process of the country. In other words, I am now asking the Government to do what Japan started doing 57 years ago. In those days Japan had not made those strides in civilisation and progress, as these things are understood in modern times, which it has since done. The statesmen of Japan of those days saw that, in order that their nation may be built up, it was necessary to send young men abroad so that they might acquire knowledge which was essential for modern growth, for national growth. They started on a small scale. Within about 5 years the movement grew and 200 to 300 students were sent every year to different countries—to Holland, Switzerland, Denmark, Germany, the United States of America and England—wherever, in short, they could get that training, with the result that within a few years, there was such a national growth and upheaval in Japan that Japan became the cynosure of Asiatic and European countries, and ultimately distinguished itself in the Russo-Japanese War and has now a place of eminence in the comity of nations.

I wish my country to rise to those heights. I do not now wish to look back upon the errors of the past or the sins of omission of Government in the past. I am not one of those who whine over the past, but I look ahead and I want the country to look ahead and forge ahead. With that view, I have brought forward this Resolution, and I want Indians—and I include in that term Anglo-Indians, for I want that Anglo-Indian youths should also get their chance in life along with Indian youths—to be sent abroad in order to undergo training in all the various subjects I have mentioned. I want Government now to put their shoulder to the wheel and work the machine as though it was worked by a national Government. I want Government to send these young men, suitable young men, to all the different countries and bring them back here in order that the national wealth of the country may be increased. The economic situation is well known to everyone of us. A great Judge of the High Court of Bombay, the late Mr. Justice Ranade, said that political domination is indeed an evil but it has been attracting greater attention perhaps than another insidious evil economic domination; the dependence of our country upon foreign countries for nearly everything they need in the way of manufactures is an evil the effects of which are not so perceptible to the ordinary man as to those who have devoted attention to the economic growth of other countries; and he insisted upon this country copying Japan and sending abroad Indian youths for training in all the western sciences and arts. That is my justification for bringing forward this Resolution.

But another justification is this. I want by this Resolution to reply to those who think that the regeneration of India is to be brought about by scorning western methods and sciences and going back to a life of simplicity

in which all people will take to simple ways of life and have nothing to do with the industries, arts and sciences which have made western countries great. (*An Honourable Member*: 'Practise *ahimsa*.) Whether it is *ahimsa* or the negation of those things which make a country great and to which I want this country to devote itself, this is my reply to those who have been preaching that gospel.

Well, as I said, I want this country to do what Japan started doing 57 years ago. At the same time, I wish to draw attention to one important condition which the Japanese Government imposed—I am going to read from a book called 'The Educational system of Japan' which was a report made by the late Mr. Sharp, who was Director of Public Instruction in Bombay and who was deputed by Government to Japan in order to study the educational system of that country. He wrote:

'When a new school of importance is to be established, the Japanese with their usual forethought select their staff in advance and send some of them abroad for a final training while the school is being built and organised. Then as the classes become available the men are gradually brought back; for it is an essential part of the system that the men should teach on their return and that for twice the period of their studentship; in this way it is made necessary for them to attend to their work during their absence, the country makes sure of getting some return for the expenditure, and the men themselves are secure of a living immediately on their return, and for a period during which they can look about for a permanent berth, if they so please. During their absence they are under the orders of the nearest Japanese legation.'

I wish this Government would pursue the same method—let young Indians be sent abroad and let it be a condition that after they come back to this country they will have to spend twice the number of years they spend abroad, in the service of the State: after that they may do what they like. Some of our men who have hitherto gone to England or to other countries for training, when they come back, find themselves practically stranded here. Their educational equipment is not valued by capitalists who fight shy of any new enterprise. (*An Honourable Member*: 'No, no.') Well, I know an instance of an Indian gentleman who went to learn pottery as a Government scholar, who learnt pottery after great difficulty and came back; he could find no employment and is now employed in an Indian State. Well, in order that this difficulty may not be experienced by Indian youths, I wish Government to lay down these conditions—the same conditions as prevail in Japan.

Now, Sir, as to the subjects, I attach great importance to those that I have mentioned. It is no use having a Resolution which is merely couched in general terms, namely, to give us technical training or technical education. I wish to specify the subjects upon which efforts should be directed at once in order that the country may progress in what I call the nation-building process, ship-building and ship-engineering. I need not dilate upon this, because it was the subject matter of discussion the other day, in which Government said they were going to make arrangements for the training of Indian youths in this subject. Oceanography—I need not dilate upon this either, as Sir Deva Prasad Sarvadhikary in the course of that debate, said that he had striven to ask the India Office to make arrangements for it and he was hopeful that some arrangements would be made. Wireless Telegraphy—of which we had a demonstration yesterday. It may be that it would be possible to teach something of this subject here; but I do not want men to be trained here merely as *mistries*; we often find artisans here fitting up electric installations, but

[Mr. N. M. Samarth.]

they do not know much about electricity. I do not want men to be trained merely for the purpose of doing mechanical work; I want men to be sent abroad in order that they might learn the whole science of it and then come back here and start schools, if necessary, with the assistance of those who made the demonstration yesterday, to train Indian youths. Gunnery and other modern weapons of warfare—I attach the greatest importance to this. The Military Department have been saying that you cannot get here men for the Ordnance Department, because there is no training to be had here and no men who have got the training. If the requisite training could be obtained here, well and good; but whether it is so or not, send some youths to other countries which have made progress in that direction to learn the subject and let them come back and train youths here and give the advantage of their training to the country. Industrial chemistry in all its branches—theoretical and practical—is a subject to which also I attach great importance. In November, 1920, I went to Alsace. I had read about the Strassbourg University which the Germans had founded and equipped in a conquered country, namely, Alsace. I went and saw it there; and what I read was nothing as compared with what I saw with my own eyes there. The University building there would cost lakhs and lakhs of rupees; the equipment would cost more. I saw syllabuses of every type there and facilities for training in industrial chemistry and physics such as I saw nowhere in England. There were models—I saw only a few—but before the war I was told there were models on a small scale of every industry and factory in Germany attached to the University and students, after a course of study there, could start life with a small capital. If we had the money I would certainly have such a University here, so that there would be no need for our students to go out for study. But the whole difficulty is in getting so much money. And as we have not got the money and as Japan did not have that money at the start, Japan sent her youths abroad and imported foreign talent also with the condition attached to their service obligations that they should teach the apprentices there and in that way within 30 years or so Japan made a rapid advance. I wish Government to send men, properly equipped no doubt, science graduates who have had some training, to Strassbourg—many of them now take French as their second language and so there would be no difficulty in getting them—to Germany, or anywhere else and let them get the best training in industrial chemistry in all its branches. Then we have mining and metallurgy. I need not also dilate upon this. I was reading many months ago a book called the *Artha Shastra* of *Kautilya*; if anybody wants to know what was the state of advanced civilisation in the time of Chandragupta, he will find it there. We find that at that time there were Mining Superintendents; there were different kinds of metals extracted from the mines, about twenty kinds of silver alone are mentioned therein, shades of silver distinguished and so on—the whole of the description is given, how they worked the mines, how they had even ships, how they organised the shipping department into different branches, such as pearl fisheries, coast traffic, high seas navigation and all that. It would be a pleasure and a revelation to any one in his leisure hours, instead of spending his time uselessly, say, just after lawn-tennis, if possible, to go and read that book. If that talent was available then, I decline to believe that that talent is not available now. It has only to be worked up and made use of for the benefit of the country. Then we come to Geological Survey. That also is connected

with mines. We have British geological surveyors, but I want my own men. I want Indians and Anglo-Indians to go abroad and learn geological survey. This is a vast country with vast resources, the extent and location of which have probably not been fathomed even yet, resources which have not been tapped yet. Let us do everything possible to develop the mineral resources of the country so that that might be one way in which the resources of the Government could be developed and the deficits to which we have become accustomed will become things of the past. Then I come to hydro-electric engineering and the application of electricity to agriculture. There are schemes in the Bombay Presidency; one has begun to work, the Tata hydro-electric works; but the application of electricity to agriculture has not, so far as I know, been attempted. Why not try? So much energy is being wasted there; in those tracts of the country where you have got hydro-electric works, you can utilise it for the purpose of improving the outturn of crops by means of electricity. I have not personally seen it, but I have read a lot of how, in Germany, they apply electricity to agriculture and improve the output; besides, I have seen pictures, in their journals, giving a full description of those electrical appliances used in fields. I have had no personal experience as to how it could be done, but it is worth while trying. Let students be sent abroad and let them learn and see with their own eyes how electricity is applied to agriculture. Then I come to the making and canning of fruit preserves, condensed milk, milk products and concentrated foods. Lakhs and lakhs of rupees worth of goods of that kind are imported every year into this country. There is plenty of milk and there is plenty of fruit available here, yet we get Californian fruit coming from abroad. Why not start such industries here? Let people go and learn and then come here and start these industries, making fruit preserves and milk products like Glaxo, Mellins Food and things of that kind, and save the country from the drain which it at present undergoes on account of these things having to be imported into a land where all these things, milk and fruit, are so plentiful. Then I come to cottage industries. As a matter of fact, the economic aspect of the problem is this, that the agricultural population for a certain number of months is idle, has nothing to do after the crops have been gathered; much of their time is spent without any useful work. Now cottage industries is a subject which has to be carefully studied and introduced into this country. Sir Horace Plunkett in Ireland has done something in the way of cottage industries and distributive co-operative societies and producers' co-operative societies, and they are also found in Denmark perhaps in a state of perfection. Let students go and learn and come here and start them on the same basis. Credit co-operation has been progressing, has been tried and found successful. But distributive co-operation and producers' co-operative unions have not been sufficiently tried here although they might have been tried by a zealous officer in some parts of the country wherever he happened to be, as soon as that officer goes away the impetus of the movement dies and nothing is done. Of course some bureaucratic officers might fancy that the people are not fit for it, that the people have not got the self-reliance and all those virtues which are necessary for the successful working of these Co-operative Unions. Well, I am not a pessimist of that kind, nor a bureaucrat; I am a man of the people, having faith in the people, and a robust optimist, who thinks that difficulties exist in order that they may be overcome, and not in order that you may be daunted by them. (Hear, hear.) Well, if an earnest attempt

[Mr. N. M. Samarth.]

is therefore made by the State for the purpose of starting Distributive Co-operative Stores and Producer's Co-operative Unions, it will be found that the prices realized by producers for their produce will be greater than they realize at present, acting individually. Demands come, for instance, at certain seasons for the payment of the land-revenue assessment. At that time, every tenant or occupant has to sell his grain ; he has to sell it because it has to be converted into money and he is at a disadvantage, and the price realized is not as much as he would realize if all the people had combined and pooled together their produce and stood up for their prices. So it is that Producer's Co-operative Unions always result in giving to the producers higher prices than if each individual person deals in his own individual capacity. Then as regards Distributive Co-operative Stores there are already Panchayets started or being started. Let us avail ourselves of these Panchayets, work them up and start them on the right model, and let these be made use of for the purpose of starting Distributive Co-operative Stores as well as Producer's Co-operative Unions. Take a village, for instance. The needs of a village are well-known ; it requires so much cloth, so much oil, so much kerosene, and so on. Let it buy these at wholesale prices, which will be cheaper ; the prices will be reduced so far as the villagers are concerned, and let them distribute them on the plan on which they are distributed in Distributive Co-operative Stores, say, in Denmark. In other words, let a strenuous and sustained effort be made in the direction of making two blades of grass grow where only one grows now in the direction of adding to the national resources and wealth of the country. That is the principal object of bringing forward this Resolution. Sir, I move my Resolution. (Cheers.)

Mr. A. C. Chatterjee (Industries Secretary) : Sir, it was with some degree of surprise that I first perused the notice of the Resolution that has just been so eloquently moved by my Honourable friend opposite, for we all know in this House that the Honourable Mr. Samarth is one of the stoutest champions of constitutional law and practice, and I could not imagine that my Honourable friend had overlooked the distinction between Provincial and Central subjects which is one of the main features of the constitutional Reforms.

Mr. N. M. Samarth : I have not overlooked it.

Mr. A. C. Chatterjee : The subject that we are now discussing can be brought under either of two headings,—' Education ' or ' The Development of Industries ', and both these are, as the Honourable Mr. Samarth knows, Provincial transferred subjects. Also, in accordance with the present constitution, we cannot spend any portion of central revenues on subjects that are not administered as Central subjects. In pursuance of the Devolution Rules which follow the Government of India Act, the technical scholarships for student's training abroad, which have been given for the last 20 years, and are still being given by Provincial Governments,—and to which the Honourable Mr. Samarth has devoted so little attention in his speech—all these scholarships have now been Provincialized, and the Central Government has really no authority to spend any money on these subjects. At the same time, Sir, the Government are keenly interested in the development of industries in the country and in the promotion of all measures that will secure such development. It was, therefore, thought advisable to give full opportunity for the

present discussion. Personally, Sir, I am very glad that Mr. Samarth has raised this question, because it gives us an opportunity of explaining to the House that neither the Central Government nor the Provincial Governments have been at all remiss in this matter. As I have said, Sir, the system of technical scholarships for Indian students training abroad has been in vogue for the last 20 years. Not only the Government, but one or two private societies, — one organised mainly by a brother of a Member of this Assembly — have devoted a considerable amount of attention and energy to this subject. Only last May a Conference of the Ministers in charge of industries in the different provinces was held in Simla. This Conference was attended by all the Ministers from every province who dealt with industries and agriculture, save one. A reference to the proceedings of that Conference will convince all Members of this House—and I am sure Mr. Samarth has read the proceedings because a copy was sent to him from my Department, a perusal of the proceedings will convince every Member of this House that the subject has been engaging the earnest attention of the Ministers in the provinces as well as of the Central Government. That Conference had the advantage of the presence of Mr. Richey, who was then Educational Commissioner with the Government of India. Mr. Richey provided the Conference with an admirable note giving the facts regarding the scholarships that had already been awarded and also a resume of the points that had to be discussed. It was clear at that Conference that the Ministers as well as the Directors of Industries in the provinces were extremely keen and anxious not only for the continuance of the scholarships but also for their extension wherever possible. Then, again, Sir, as the House is aware, there is at present a Committee for the consideration of all questions connected with the training of Indian students abroad. My Honourable friend opposite is a distinguished member of that Committee. I had the advantage, two or three months ago, of meeting the members of the Committee who were then in England and I found that this particular subject of the technical training in industries and in factories and workshops of Indian students was engaging the earnest attention of that Committee. They have been studying it from all the different aspects, and I am sure that when the report of that Committee is published, we shall find extremely useful recommendations and observations on this subject. I submit, Sir, that it will be wise for this House to wait for the report of that Committee before expressing any definite views on this question.

Now, Sir, I may be permitted to make a few brief observations on the merits of the detailed proposals, or at least of some of the detailed proposals that are embodied in the Resolution which has been moved by my Honourable friend. I am not aware on what principle my Honourable friend has put together the subjects for which he wishes scholarships to be provided. Some of them strike me as subjects in which the Central Government should in no circumstances interfere. I refer to subjects like the 'making and canning of fruit preserves, condensed milk, milk products, concentrated foods, cottage industries, co-operative stores and producers unions.' These are subjects which, I am sure, the House will agree with me, the Provincial Governments are most eminently fitted to deal with. The Central Government can claim no detailed knowledge of these subjects or of the different requirements of the different provinces, and any action taken by the Central Government will only embarrass the Local Governments or merely duplicate their efforts without any co-ordinated purpose. On the merits also, Sir, it

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seems to me unnecessary to provide scholarships for some of these subjects. I can venture to claim some acquaintance with the cottage industries of my own province. As far back as 15 years ago it was my duty to make a complete survey of the industries in the United Provinces. It is quite true that the State can help cottage industries in many ways. With regard to the art industries, improvements can be effected in designs and also in the methods of manufacture. But these problems with regard to the art industries are already being tackled; schools have been established; museums have been set up; exhibitions are being held. We have to reach the actual artisan, who, in most cases, is illiterate. This is already being done. Similarly with regard to what I may call the utility industries such as handloom weaving, many improvements can be effected. All Members of this House must be acquainted with the problems of handloom weaving; but, as Members are aware, such improvements as the introduction of the fly-shuttle and improvements in the preliminary processes of weaving, as also in the completing processes, are already being introduced in the different provinces, and strenuous efforts are being made by Provincial Departments of Industries in this direction. Only a couple of months ago, the Bihar and Orissa Government held an all-India exhibition for this very purpose. Improvements can also be effected in the provision of raw materials and in marketing of the products. But, Sir, I am not aware of any cottage industry in which it is necessary to send our youths for training abroad. (*A Voice*: 'Toys.') I do not know that even in toys it is necessary to send our youth abroad, because the toys that we shall manufacture will be quite different from the toys that are manufactured in Holland or in Germany. The problems are the problems of marketing; the problems are not the problems of manufacture. In the very nature of things our cottage industries are different from the cottage industries of other countries. Their respective problems are entirely different, and in my humble judgment there will be no advantage whatever in instituting scholarships for the training of our youth in cottage industries abroad.

Then, Sir, the Honourable gentleman has referred to co-operative distributive stores and to co-operative producers' unions. Here, again, I can claim that my own personal interest is no less than his. For five years I was Registrar of Co-operative Societies in the United Provinces and during long periods of leave I have studied co-operative methods in the United Kingdom and abroad. I yield to none in this House in my belief in the potentialities of the co-operative movement. But, Sir, the problems which have to be faced in this matter also are entirely different from those that have to be met in foreign countries. I would tire the House if I were to enumerate here all the difficulties that we have to meet in this country in organising distributive stores and producers' unions. It will be enough for me to say that the matter is being intensively studied in every province. I think it is only right that the House should know that not only the official co-operators in the different provinces—the Registrars and their assistants—but also a very large band of non-officials, who are giving their services to this great cause, have devoted a considerable amount of time and attention to the development of distributive co-operative stores in the provinces. Many experiments have been made; some have been successful; others have been unsuccessful. Probably the unsuccessful ones have taught us as much, or perhaps more, than the successful experiments. But, Sir, I do not think

there is any room—and I am certain that every active co-operator will agree with me—there is no necessity whatever for sending our youth abroad for training in the management of co-operative stores or producers' unions.

Now, Sir, I come to some of the other subjects which are included in the Resolution moved by my Honourable friend. He wishes scholarships to be given for the study of subjects like industrial chemistry, mining, geology, electricity, etc. I really do not think that he has studied this subject with the great care that is customary with him. I have here a list of the scholarships that have been awarded during the last 20 years, and I find a very large number of scholarships have already been awarded in these subjects. The Honourable gentleman has stated that these men do not find employment when they come back. I will soon come to that point; but what I contend, Sir, is that the Provincial Governments are pursuing this policy of giving technical scholarships for their youth for training in foreign countries. They know best what subjects are the most necessary for their provinces. They are discharging their obligations. I do not see why the Central Government should step in when the Provincial Governments are discharging their duties in these respects.

This takes me, Sir, to an examination of the general policy of technical scholarships for training in foreign countries. The policy which the Government of India have set before themselves—I think it is the policy which is being pursued by Local Governments, and I am sure that it is a policy which will be endorsed by this Assembly—is that it is the duty of the State in India to provide adequate facilities in India itself for the training of our youth in all the different industries that are at present established in the country or that are likely to be established in the very near future. Sir, this is the policy that every civilized and progressive country has adopted. The sending of our youth to foreign countries for training can, at the best, be only a makeshift. No established industry in any country can prosper, if it has to depend either for its supervisory or higher labour, or for the masses of the artisans which it employs, on men imported from abroad or on men trained abroad. It is, therefore, the aim of the Government of India and of the Provincial Governments to develop institutions in India itself for all the industries that are now being established here. Every Provincial Government has a full programme in this respect. The Government of India, until the Reforms came in, gave liberal financial aid. Such aid is no longer possible, but I should like to give only a very few instances to the House to show that the Provincial Governments are not remiss in this matter.

In Bengal, a project for a technical institution in Calcutta on a large and comprehensive scale has been worked out by a Committee under the presidency of our distinguished countryman, Sir Rajendra Nath Mookerjee. The Bengal Government are making arrangements for establishing the institution at an early date. I believe they have already acquired a site and that they will start building as soon as funds permit. The Government of Bihar and Orissa are giving liberal aid to the Tata Iron and Steel Works for the starting of an institution at Jamsaedpur, which will train men for the higher branches of work, for which employment will be available in Jamshedpur. The United Provinces Government have already many technical institutions and others are being projected. The Punjab Government are starting a high grade mechanical and engineering college in close co-operation with the North-Western Railway, who have a large workshop in the vicinity of Lahore. The

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Government of India have also more than one project in hand. Honourable Members are aware that it is the intention of the Government to start a high-grade institution at Dhanbad for training in mining and geology. It is also in contemplation to start an institution for training in tanning and leather manufacture. It will, therefore, be seen that the subject of technical instruction has not been neglected. Our only difficulty is that caused by the financial stringency. Concurrently with the establishment of technical institutions, attention has also been given to the question of providing facilities for the training of apprentices in mills and factories in this country. Honourable Members are aware from the answers that have been given from time to time by my Honourable friend, Colonel Waghorn, of the efforts that are being made to organise systems of apprenticeship in the Railway Workshops, both State and Company-managed. Similar arrangements are in progress in the Ordnance factories belonging to Government. Both the Central and Local Governments are exercising all influence at their command to persuade private employers of labour also to open their factories for the training of apprentices, and it is the settled policy of the Government not to grant any concessions to any industrial companies unless provision is made for facilities for the training of apprentices in the works that may be established.

Now, Sir, I wish to sound a note of warning. I am sure the House will agree that it is no use whatever sending scholars abroad unless there are prospects, and definite prospects, of employing such scholars after such training. My Honourable friend mentioned the case of a scholar who had obtained training in pottery and could not find employment. Perhaps that is an individual case; but there is, of course, the danger. So far as the Government of India scholars are concerned, I may state that the very great majority of them have obtained suitable employment in the country. Sir, the Honourable gentleman has placed oceanography as one of the subjects in which he wishes scholarships to be established. I have here, Sir, the 11th edition of *Encyclopædia Britannica*, and I shall read out to him the definition of oceanography as given in it.

'Oceanography is the science which deals with the ocean and, since the ocean forms a large part of the earth's surface, oceanography is a large department of geography.'

Sir, I do not know what employment a scholar trained in oceanography will find in India on return. It is quite possible that the subject is well worth studying in a country which has already a large mercantile fleet. Similarly, Sir, with regard to the subject of ship-building. Only the other day, this House discussed the question of encouraging the industry of ship-building and the establishment of a mercantile fleet. As was then indicated, Government are in full sympathy with these objects and the House decided that a Committee should be appointed to go into all the aspects of this question. Now, I contend that it is useless sending a scholar for training in ship-building until we know on what lines the ship-building industry is going to be organised in this country or until we know that there are definite possibilities of his employment when he comes back. Otherwise, Sir, if we merely go on sending students abroad for training in all kinds of learned and rare industries, there will be a great waste of effort and there will be a great waste of money. I personally know of a case where an Indian student specialised in naval architecture. He found absolutely no possibilities, no openings, for him in this country, but he had to get employment in the Public

Works Department as a Civil Engineer, mending roads and buildings. That was a case of great waste of effort. There is another point, Sir, to which also I should like to make a brief reference. It is very little use sending scholars abroad unless they have had already a sort of general training in this country in the industry for which they are being sent out to a foreign country. This is a point, Sir, to which I know a great deal of attention has already been given by the Committee presided over by Lord Lytton. Honourable Members are aware that in the advanced countries in Europe and in America industries have been specialized to a very high degree. Even if a student finds admittance to works of any kind for training, he will get training only in a very small branch of that particular industry. It will be utterly impossible for him to find employment in that particular branch when he comes back to India. It is, therefore, necessary and desirable that he should get as much training as he possibly can in that particular industry in this country where the industry has not yet been specialised to the same extent. Sir, the Honourable gentleman has quoted the case of Japan. I should also like to quote the case of Japan. It is true that the Japanese Government sent a large number of young students for training abroad in technical industries, but, Sir, before they did so, the Japanese Government established a large number of pioneer factories and schools in Japan itself.

Mr. N. M. Samarth : No. I question that statement.

Mr. A. C. Chatterjee : Well, my authority also is here. I am speaking on the authority of the late Educational Commissioner with the Government of India. He says that :

'Our policy may be compared with that followed by Japan. The Japanese Government certainly has sent a very large number of students abroad for technical study during the last 40 years, but only in connection with their general scheme for State aid to industries. The Government of Japan started by setting up model factories and technical colleges and schools in which a considerable number of foreign managers and teachers were employed. After these institutions were in working order, Japanese students were sent abroad very largely in order that they might replace on their return the foreign instructors and supply teachers for new technical schools. The Japanese technical scholars have to sign an agreement that they will serve Government on their return for twice the length of time for which they have remained abroad.'

This note, Sir, was compiled only last year. I submit, Sir, that it will be a great mistake for us in India to follow a definite policy.

I have attempted, Sir, to show that the object of the Government of India, the policy of the Government of India in this matter is as patriotic as that of the Honourable Member. We are all anxious that facilities should be provided for our youths for instruction, which will enable them to occupy responsible positions in our industries.

We all want existing industries to develop, and we want to establish new industries. I have shown, Sir, that the policy of giving technical scholarships for training abroad has been followed by the Government of India for the last twenty years. It is a policy which is still being pursued by the Provincial Governments. It will, therefore, be superfluous on the part of this House to intervene in a matter which is manifestly the business of the Ministers in the Provinces. It will also be unconstitutional on the part of the Government of India to spend any money on these subjects from Central Revenues.

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Finally, Sir, Honourable Members are aware of the financial position. I hope, Sir, that my Honourable friend will be satisfied with a discussion of his proposal and with an affirmation of policy, and I trust he will not press his Resolution.

Mr. President: In view of the speech that has just been made, the House is put in a peculiar position. I can quite understand that the Government would not like to move His Excellency to disallow; but, if it is unconstitutional to spend the money, it is waste of time to discuss the Resolution.

Mr. B. S. Kamat (Bombay Central Division: Non-Muhammadan Rural) : It is not unconstitutional for the Central Government to spend any money on technical scholarships abroad. The Central Government does not come in the way of Provincial Governments spending their own money. There is nothing in the Act to prevent the Central Government from spending such money. The Government of Madras, for instance, may establish scholarships, but those will be for students confined to the Province. The country as a whole would not benefit by them. It is for the purpose of having these men available to the Government of India for All-India Services that this Resolution is moved. There is nothing in the Government of India Act to prevent the Government of India from spending money for the education abroad of these men.

The Honourable Mr. C. A. Innes (Commerce and Industries Member) : May I explain that the Auditor General has already ruled that expenditure on technical scholarships is a Provincial subject. As I read the Devolution Rules, that objection can only be got round under item 20 of Schedule I, which reads :

'Development of industries, in cases where such development by a central authority is declared by order of the Governor General in Council, made after consultation with the Local Government or Local Governments concerned, expedient in the public interest.'

I daresay if we declared certain subjects to be central subjects, we could get round the difficulty and give technical scholarships. But as regards technical scholarships generally, the Auditor and Comptroller-General, who is not amenable to the Government of India or to this Assembly, has ruled that the expenditure is Provincial and not Imperial.

Mr. President: Will those scholarships be for students in India or outside?

The Honourable Mr. C. A. Innes: The scholarships are for sending Indians to foreign countries for technical training.

Mr. B. S. Kamat: I wish to point out that there is a way out of this difficulty if we adopt for discussion my amendment that provision be made for the establishment in India of an All-India 'Imperial Technological Institute'. If we centre the whole discussion on this subject, we shall not violate the principle referred to by Mr. Innes.

Lieut.-Col. H. A. J. Gidney (Nominated Anglo-Indian) : Sir, I am not speaking on the Resolution but on the point referred to by the Honourable Member in Charge of Industries. I understand that the Government of India does at the present moment spend money on education. If I

am wrong, I would like to be corrected. If the Government of India are able to spend money from Central Revenues for education, I see no reason why objection should be raised for the scholarships claimed in the Resolution.

Mr. B. S. Kamat : May I ask for a ruling on the subject ?

Mr. N. M. Samarth : May I ask if ship-building and ship-engineering is a Provincial subject (Hear, hear); whether Oceanography is a Provincial subject (Laughter), whether wireless telegraphy, gunnery and other modern weapons of warfare are Provincial subjects? (Hear, hear.) In regard to industrial chemistry, any province may go in for it, but surely industrial chemistry in all its branches may come in as an All-India subject? Mining and Metallurgy, is that Provincial, as well as Geological Surveying? (Hear, hear.) Electricies, with special reference to the application of electricity to agriculture; making and canning fruit preserves; what is the objection to sending youths abroad for the purpose of learning this? (*A Voice*: 'It depends on the fruits grown in the province!') What is the objection to sending youths to learn these industries for All-India purposes? I have not got a copy of the Devolution Rules by me, but I would like to know whether there is anything in the Government of India Act or in the Rules under the Act to prohibit the Central Government from spending money for this purpose; and, as I have pointed out, many of these subjects are not by any means Provincial.

The Honourable Mr. C. A. Innes : Under item 33 of Schedule I of the Devolution Rules, 'Central agencies and institutions for research (including observatories), and for professional or technical training or promotion of special studies' is a Central subject, and that is the reason why we have under contemplation now the provision of a school of mines, mining and geology being a Central subject. That is why we have a central institution for technical research and a wireless telegraphy school; but technical scholarships generally for sending Indians to foreign countries for training has been ruled by the Auditor General to be a Provincial subject. May I explain that that was one of the difficulties we had in deciding whether to object or not to this Resolution.

Mr. N. M. Samarth : May I inquire if this rule was introduced in view of this particular Resolution? Has this particular Resolution been brought to the notice of the Auditor General?

Mr. B. S. Kamat : Sir, If the Resolution does not come within the scope of a Central subject, I contend that my amendment, which deals with an All-India 'Imperial Technological Institute' should bring the subject within the scope of a Central subject.

The Honourable Mr. C. A. Innes : My objection to Mr. Kamat's amendment is that it extends beyond the scope of the Resolution.

Mr. President : The Honourable Member's amendment is too wide and I am afraid I must rule him out: but I am ready to hear him on the subject.

Mr. B. S. Kamat : I shall read the amendment for the information of the Members. It runs as follows :

'At the end of the Resolution add the following :

'(2) The foregoing provision shall have effect for a period of four years from 1922-23; thereafter, this Assembly recommends that provision may be made for the establishment in

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India of an All-India 'Imperial Technological Institute' of an advanced character, adequately equipped and staffed with specialists of high reputation, both for teaching and research work in subjects like those enumerated above, excepting the naval and military ones.

I attempt in this amendment to have an All-India Institute, an institute which the Provincial Governments may possibly not be in a position financially to establish in their respective provinces, in fact an institute which will be beyond the means, as Mr. Chatterjee has explained, of the smaller provinces at any rate. This ought to bring the discussion within the scope of Central subjects.

Then, again, I point out that this will be an institute for advanced study for advanced students. Here, again, it will not be possible for the Provinces for some years to come to make provision for such advanced students. It is only possible for the Central Government to make a provision like this. Of course, smaller technical schools in the different provinces may teach up to a certain standard, but still it will be, I believe, the duty of the Central Government to provide a much larger institute, something like the Polytechnic Institute in Regent Street, London, which will attract advanced students, for whom it will be absolutely impossible for the Provincial Governments, at any rate, to make any provision.

I think, Sir, that this amendment clearly deals with a matter which is within the scope of the Central Government, both financially and educationally, as well as from the point of view of the training which I contemplate my amendment to provide; on this ground, and in view also of the Devolution Rule which my friend, the Honourable Mr. Innes, read out to us, I believe this amendment, as it deals with an All-India subject, ought to be allowed for discussion.

Mr. N. M. Samarth : I have now got a copy of the Devolution Rules and I refer to Schedule I which deals with Central subjects and enumerates them.

Clause 19 reads thus :

'Control of production, supply, and distribution of any articles in respect of which control by a Central authority is declared by rule made by the Governor General in Council or by or under legislation by the Indian Legislature to be essential in the public interest.'

Now, take the next clause 20 :

'Development of industries in cases where such development by a Central authority is declared by order of the Governor General in Council, made after consultation with the Local Government or Local Governments concerned expedient in the public interest.'

I say all these are expedients in the public interest and, as a matter of fact, I have shown that shipping and other things are unquestionably Central. Then comes No. 24 'Geological Survey' which is a Central subject. Then comes No. 25 :

'Control of mineral development, in so far as such control is reserved to the Governor General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.'

This is a Central subject. Then comes No. 33, which was alone read out by the Honourable Mr. Innes. No. 33 reads thus :

'Central agencies and institutions for research (including observatories), and for professional and technical training or promotion of special studies.'

Surely, all these which I have read are conclusive on the subject, and there is absolutely no substance in the constitutional objection taken (I say so with great respect) by Mr. Chatterjee.

The Honourable Mr. C. A. Innes: Sir, I am prepared to admit that some of the subjects mentioned in this Resolution might be properly declared by the Governor General in Council to be Central subjects, such as Ship-building, Oceanography, Wireless telegraphy, Gunnery and other modern weapons of warfare. Industrial chemistry is, of course, partly Provincial and partly Central. We could have a Central institute in India for study and research into fundamental chemical problems. That is our idea; but as for the ordinary branches of industrial chemistry, that is undoubtedly a Provincial subject. Mining and Metallurgy, Geological Survey and Electrics are Central subjects, but Hydro-electricity has already been declared to be a Provincial subject. The remaining subjects mentioned, namely, the making and canning of fruit preserves, milk products and all these other things are essentially Provincial, for the reason that the Governor General in Council has not declared them to be Central subjects, and I say quite definitely that the Governor General in Council has no intention of declaring them to be Central subjects. That is the position. Some of these subjects are undoubtedly Central subjects, most of them are equally certainly Provincial and transferred subjects. Further, the general subject, that of technical scholarships abroad has, as I have already explained, been decided by the Auditor General to be a Provincial subject. As I have also explained, we could probably get round that objection if, in any special case, we desire to send men home for study in connection with such subjects as I have mentioned here as being Central. But that is the position. As we stand at present, these scholarships have been decided by the Auditor General to be Provincial.

Mr. N. M. Samarth: I make this suggestion with reference to this Resolution. Let the Government take out of this list of subjects such as are ruled by the Governor General in Council or by the Auditor General to be outside their purview. I have shown the different items under which all these subjects come, but, if by the authority of the Auditor General or of the Governor General in Council, it is ruled that some of these subjects are outside the jurisdiction of the Central Government, then they go out. Let them give effect to the Resolution *pro tanto*. But surely I am entitled to say at present that, *prima facie*, all these are covered by the items that I have read out.

The Honourable Mr. C. A. Innes: Not all, some.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): I submit that it was entirely open to the Government to raise an objection (under clause 108 of the Manual, page 37), within one month of the date of the Resolution of which notice was given by the Honourable the Mover. That clause lays down:

'The Governor General may within the period of notice disallow any Resolution or any part of a Resolution on the ground that it relates to a matter which is not primarily the concern of the Governor General in Council and, if he does so, the Resolution or part of the Resolution shall not be placed on the list of business'.

I submit, it was the duty of the department concerned to object to the admissibility of the Resolution on the ground that it was not primarily the

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concern of the Governor General in Council and, if they had taken the objection in time, I have no doubt, Sir, that you would have given effect to the objection, if sound, and disallowed the Resolution or a part of the Resolution, and it would not have come up for discussion. Having raised no objection then, and the Resolution having been put down for discussion to-day, I submit, it is not open to the Government to raise that objection *nunc pro tunc*, and I therefore submit that the whole of this discussion is irrelevant.

Mr. P. L. Misra: (Central Provinces Hindi Divisions: Non-Muhamadan): May I just read out a passage from the Report of the Industrial Commission, 1916-1918? On page 241, the main heading is Imperial Department of Industries. I will read out from paragraph 31 which runs as follows:

‘ Various subjects and departments which the Government of

The Honourable Mr. C. A. Innes: May I point out, Sir, that the report was written five years ago before the reform scheme came into force?

Mr. P. L. Misra: I am going to read out the list of departments that come under Industries, Central Government

Mr. President: Order, order. The report of a Commission has no legislative or administrative effect until Government chooses to pass legislation giving effect to it, and, as the Honourable Member for Commerce has just pointed out, whatever may have been said in the report has practically passed out of sight owing to the enactment of the new constitution.

I may say for the information of the House that when the Resolution originally came before me, I had some difficulty over this very question and I am glad to say it does not rest with me constitutionally to decide it, but as the Government has decided not to move the Governor-General to disallow, the admissibility of the Resolution is not in question.

The Honourable Member has himself laid his finger on the difficulty which is that there are subjects so interlocked with other subjects that sometimes each individual subject may be divisible into ‘ Central ’ and ‘ Provincial ’; and in the case of certain other subjects, as mentioned by the Honourable the Commerce Member, these might be declared—I don’t know how far they have been declared—to be provincial subjects. But many of them have not been declared in this way and therefore the subjects are determined by their place in the Schedule to the Devolution Rules.

There is very little difference between the position taken up by the Government and the position taken up by the Honourable Member.

Mr. N. M. Samarth: I put the Resolution before the House. Let the House pass it and let Government decide which of the subjects can be given effect to. Admittedly certain subjects are not Provincial but Central; if at all, there is a question only about one or two of them.

The Honourable Mr. C. A. Innes: The Government have no objection at all to this Resolution being discussed. In fact, we shall listen to the discussion with great interest. I should also like to explain that really what happened was that when the question was referred as to whether this

Resolution should be disallowed or not, owing to some delay in the Department, the Resolution had already been admitted by the President, and that being so, we decided to take no action but to let the discussion take place. At the same time I must point out that it is very doubtful whether we shall be able to take action upon the Resolution if it is carried, I have no objection at all to its being discussed.

Mr. President: I may point out that admission by the President does not commit the Government of India. The power of the Governor General are set out in Rule 22. The President has only to see that from certain technical points of view the Resolution is in order, but, from the point of view of public policy, the decision rests entirely with the Government.

Lieut.-Col. H. A. J. Gidney: Sir, I wish on behalf of my community, the Anglo-Indian and Domiciled European, to offer my deep gratitude and thanks to the Honourable the Mover for the inclusion of my community in his Resolution. Mr. Samarth and I have clasped hands in friendship before, but I have great pleasure in extending my hand to him again across this floor to thank him very sincerely on behalf of my community for the interest which he has shown on this occasion in the welfare of the Anglo-Indian community. This is indeed a happy augury for the future of the community I have the honour to represent in this Honourable House. Sir, this Resolution has my whole-hearted support. It is a move in the right direction. The Government of India, as the Honourable Member in charge of Commerce has pointed out, has, in the past, given a certain number of technical scholarships and enabled a number of our lads (Indians and Anglo-Indians) to go to England and further their studies in technical education. But, I submit, it has not given enough, moreover what it has given has, at times, not been given generously nor properly. The Resolution here asks for 6 lakhs every year which would provide training, at £300 a year per student, for about 133 students. Sir, I submit, that even this number is not enough for the needs of India. But let us be thankful for, as I said, it is a move in the right direction and for even small mercies I think the whole of India owes a deep debt of gratitude to the Honourable Mover of this Resolution, Mr. Samarth.

The Honourable Member in charge of this Department has stated as one of his serious objections to this Resolution that there is no use in India sending her young men to England for technical education if the country is not able to guarantee them employment when they return. He told us very assuringly that Government is contemplating the formation of certain technical institutions to supply this need in various scattered parts of India. Now we have heard of these contemplated moves for a great many years, but very little has been done: surely we are not going to be told *ad infinitum* that it is the Government's intention to erect these institutions and we must wait till they are erected before sending our lads abroad for technical training. This conjectural, contemplative waiting policy has been long exhausted and we are tired of hearing of it. If it is the Government's duty to erect them, let them do so at once, why wait any longer and so make us wait. We want to ensure that these men receive this skilled education and when they return, should be provided with employment. What are we doing to-day in India in this respect? Just taking the first leaf out of the book of Japan. I remember years ago when in the

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Boxer Rising Expedition in China, I saw hundreds of Japanese visiting our various Army Departments, men who knew little or nothing but who were thirsting for information and who had been sent out by their Government to learn our methods and ways.

Look at the difference to-day! Look at Japan, as far as industries are concerned, and then look at India. We are 200 to 300 years behind them, when we should be 200 to 300 years ahead of them.

Sir, I am glad and I am sure, this House is very glad indeed, you decided that this Resolution was admissible. Even though the Government Member so stoutly opposed it, called it unconstitutional and offered so many excuses for its acceptance by this Honourable House. This excuse of the provincialisation of certain transferred subjects has been put forward so frequently that I think it is time Government ceased doing so. Some of my own Resolutions have suffered lamentably at the hands of the Government on these very stereotyped excuses and I shall be very glad if, on this occasion, the House passes this Resolution and so put a full stop to this excuse being brought forward by Government again. The Government must be made to realise that it cannot, when it suits its purpose, oppose such matters with such convenient yet thread-bare excuses. It must be stopped.

Sir, as regards the various scientific departments which the Resolution covers, after the able way in which these have been put forward by the Honourable the Mover, no further reference from me is needed, except to state that I think every department mentioned in the Resolution is one that needs the whole-hearted support of this House. All of them are departments that offer openings and facilities for the lads of India and by including the Anglo-Indian in the scope of his Resolution, the Honourable Mover has placed my community under a deep debt of gratitude, for which I again thank him very sincerely. I give my whole-hearted and warm support to it and I ask this House to unanimously accept it.

Colonel Sir S. D'A. Crookshank (P. W. D.) Secretary : Sir, inasmuch as certain subjects, that is to say, Wireless Telegraphy and Hydro-electric Engineering, of the original Resolution appertain to the province of the Department which I represent, perhaps it would interest this Honourable House to know what the exact position is.

As regards wireless telegraphy, as I informed the House yesterday in reply to a question, we have started a school for wireless telegraphy at Karachi, and I think Honourable Members will perhaps realise that until the Indian students in that school have acquired a certain elementary knowledge of the subject in say two or perhaps three years time, it would be rather premature to send any of them to England or to America to study in those countries the more advanced parts of wireless telegraphy. It would perhaps therefore be soon enough in a couple of years time to consider this question of giving scholarships in that direction.

Then, as to hydro-electric engineering, which is a provincial subject, I called a Conference of the principals of our engineering colleges at Simla last July, when all subjects of engineering education were very carefully and very fully considered. These subjects included hydro-electric engineering, reinforced concrete engineering, architecture, drainage, harbour work and navigation

canal construction, sanitary engineering, and the like. In this respect I may add that we were very greatly assisted by a very valuable note which had been sent me from England by Sir Deva Prasad Sarvadhikary.

Well, the result of this Conference was that recommendations have been sent out to the provincial Governments to the effect that the Resolutions arrived at were towards the strengthening of the existing provincial engineering colleges, that is to say, the Roorkee, Sibpur, Madras and Poona colleges; the giving of scholarships in England by the provincial Governments for specialised subjects in those subjects which have been referred to; and to give greater facilities for technical touring in Europe and in America. Now this is a point on which we in the Public Works Department attach very great importance and we always try to the best of our ability with the funds available to send Home men who have shown ability in any particular line of engineering to visit the works in England or, if it is hydro-electric engineering in Norway, Sweden and America, to see exactly how things are done and get the very latest up-to-date information on the subject specialized in. We thereby obtain excellent results and get very good value. Lastly it had been suggested at the Conference that post-graduate courses and specialist training in these various special subjects would perhaps in the future be given at the Delhi University.

This will perhaps give Members an idea of how we propose to deal with and promote education in the branches referred to in the Resolution which I have indicated.

Sardar Gulab Singh (West Punjab : Sikh) : Sir, I heartily support the Resolution of my Honourable friend, Mr. Samarth, who got fortunately the first chance of moving it and I hope the whole House will accept it unanimously. But what my amendment seeks is to enlarge the scope of the Resolution rather than to diminish it.

My amendment reads :

'At the end of the Resolution add the following :

'and on their return duly qualified, their services should be availed of by Government wherever possible.'

In this Resolution there are numerous subjects mentioned and very judiciously selected in which students are to be trained abroad. I venture to submit that there is some ulterior and far-sighted motive and policy behind it, and I think it is nothing but to have a large number of trained and experienced body of Indians who at some future date will be able to do good to the whole of India by doing some sort of research work or other on those subjects. In this connection, if I may be permitted to say, then, with all emphasis I can command, I say that simply by getting a number of students trained abroad in wireless telegraphy, oceanography, ship-building, etc., for a few years, either theoretically or practically, will not help India much. What we want is that sufficient opportunities should be given by Government either by employing them under Government when that is possible. I submit, Sir, there are subjects which require a life-long study for a man before he can be of any practical use. I think it will not be out of place to quote an example, that is to say, an Indian student trained in wireless comes back after a few years of his studies abroad. But of what earthly benefit will he be to India? His knowledge gained abroad will be nothing but superficial if not elementary;

[Sardar Gulab Singh.]

with that knowledge he can never be expected either to start a wireless firm, neither can he take to any independent profession. So naturally with that knowledge and experience of his in that branch he may be employed under Government where he will get a vast field to get practical proficiency in that branch of science. Of course, in moving my amendment, I am not unaware of the difficulties of Government in employing all the students trained in all the branches of knowledge mentioned in the Resolution. I admit, Sir, that Government cannot employ a student returned from abroad trained in the subject of oceanography but, in my opinion, I think, it can help them to get some employment in some of the shipping companies who get concessions from the Government of India either in the form of a contract for carrying mails or in other ways.

In this way, I do not think it will be impossible to find employment for these students at least who will come back after being proficient in some of the branches of studies mentioned. Of course there are other subjects also mentioned in the Resolution such as fruit preserving, milk products, concentrated foods, cottage industries, etc., in which when the students after getting some proficiency return though Government cannot employ them either directly or indirectly, but it can certainly I believe help them by giving some sort of concessions in order that they may be able to start independent industry in India.

Lastly, Sir, my amendment seeks that in selecting candidates our aim should be to get the best students of India and in order to secure that end there should be at least in the first few years some sort of alluring prospects either of service or of trade concessions to them on their return duly qualified. To compare small things with great, though it will be out of place to mention here, I may quote an instance from my own province, *i.e.*, the Punjab. An agricultural college was opened at Lyallpur some years back with a brilliant staff and at an enormous cost by Government. But unfortunately for a year or two after it was opened, there were scarcely students forthcoming to the college; when the local Government announced its intention of providing some of these students with good employment, hoardes of good and meritorious students flocked to it. So in order to avoid such a contingency and to overcome such a disappointment, I would request my Honourable colleague and friend to accept my amendment, which, in my opinion, will be a good stimulus for procuring the best and talented young men of India for such a training.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadan Rural): Sir, I rise to support the Resolution so ably moved by my Honourable friend, Mr. Samarth, with the amendment moved by my friend who has just spoken and also the amendment which stands in the name of Dr. Nand Lal which, in his absence, I beg to move before the Honourable House. The amendment runs as follows: for the words 'six lakhs' substitute 'seven lakhs' and omit the words 'and Anglo-Indian'. This amendment.....

Mr. President: The Honourable Member cannot move these amendments at the same time. I thought he was speaking on the issue raised by the previous amendment. In any case if he wishes to move Dr. Nand Lal's

amendments now, he can only move one now; the issue between six and seven lakhs is different from the issue between Indian and Anglo-Indian.

Lala Girdharilal Agarwala: The amendment which has just been moved is a very sound one and it is necessary that students who go abroad for educational purposes of a technical nature should have some sort of hope or guarantee from Government that when they return they would find some employment. As a large amount of money is going to be spent—I think about 150 crores within the next five years on railway extension and so forth—I think this is just the opportunity when we should try to have technical scholarships for our students and equip our country with the necessary experts for development of these industries.

In fact what is wanted in India is industrial Swaraj and not merely political Swaraj. So for that reason I submit that it is necessary that we must have all the best sciences which the world possesses at present. At present India cannot manufacture even an ordinary electric bulb. It is necessary that the Government should be the pioneer in helping our young men to go to foreign countries and learn all these arts and give them a hope or a guarantee or whatever thing is proper that when they return after qualifying themselves, they will have some sort of employment in India.

Mr. G. R. Clarke (Director General Posts and Telegraphs): Sir, as far as I can see, the last speaker seems to consider that the development of industries in India depends on the sending of certain young men abroad to get technical knowledge. The development of industries in any country, Sir, depends on private enterprise; it has in all countries depended very largely on private enterprise, and it depends on the use of capital in forming these industries; and the fact that a number of men are sent abroad will have really very little influence at all in making India a great industrial country. Some of the subjects noted by Mr. Samarth, like ship-building, are enormous undertakings; and any student who went Home to study ship-building could only study a very very small portion of it; there are about 50 trades concerned in ship-building and he could only study a very insignificant portion of the business. If we sent 20 men or even 200 men to learn ship-building to England or to any other country, and they returned to India, what would they do? Nothing. They would have to depend on the existence of great ship-building industries in order to get employment—and it is the same with other technical studies. Mr. Chatterjee has very wisely sounded a note of warning, it is very dangerous to train up a number of men in technical and especially in higher technical subjects unless you are prepared to find employment for them upon their return to the country; and I cannot see how any Government could be expected to develop enormous industries at immense cost in order to provide employment for the men who were sent abroad to study. The particular subject with which I am concerned in the original Resolution is Wireless Telegraphy. As Sir Sydney Crookshank has already pointed out, we have started a Wireless Telegraph School in Karachi. It is only in its beginnings, but we hope that it will be developed, and our intention in that school is to train Indian students; and when they get a certain amount of training, we will pick out the students whom we find to be really suitable and who show a capacity for wireless telegraphy, and we will ask Government then to give a certain amount of money out of our own Budget to send these men to England for further training. But to send students, as such, without finding out whether they are peculiarly suitable or have any capacity for any

[Mr. G. R. Clarke.]

particular science, such as Wireless Telegraphy,—to send them Home on the chance of their turning out really capable men is a very doubtful experiment and a very dangerous one; and I think what we really want in Wireless Telegraphy taking that one subject—is sufficient money to develop our wireless school, to erect proper buildings and to have a proper research laboratory, to train Indian students and to pick out the best of those Indian students who will be suitable for higher employment, and to send them abroad for further study. But I entirely oppose a Resolution which simply demands a certain sum of money to be used for selecting men at random and sending them to learn subjects which may or may not be useful to them hereafter. When they would come back to this country and find that there is no certainty of getting any employment, that would simply break their hearts. These men with high technical training, are not as a rule useful for other employment. And when they come out and find that they have nothing to do, well, there is nothing, I think, which is more discouraging to anybody who has a technical training.

Mr. B. S. Kamat: Sir, I have some remarks to make on the Resolution moved by my friend, Mr. Samarth, so as to point out certain facts with reference to the subject matter of the discussion. I believe there are certain limitations to the proposal put forward by Mr. Samarth. There are also, I fear, certain defects, which we must recognize, in this system of giving State scholarships for technical education. In spite of these, namely, its limitations and the defects which I shall just point out, I believe the policy underlying Mr. Samarth's Resolution is a good one, and I think it ought to commend itself to the acceptance of the Government of India. After dealing with Mr. Samarth's proposition, I shall deal with some of the objections put forward by Mr. Chatterjee, and then I shall venture to suggest a real solution of the difficulty, although I fear I shall not be able to speak to my own amendment which, so far as I gather from what has fallen from the Chair, was so widely worded as not to come strictly within the scope of Mr. Samarth's Resolution.

Now, the limitations of Mr. Samarth's proposal are these. We do not know whether within the six lakhs of rupees which he wants to provide for this object, we shall be able to do justice to the problem in a satisfactory manner for the whole of India. He has not pointed out to us how many scholars the Government of India can select from the various provinces, and over how many years their training in England could be spread out. I believe that was a matter of detail from his point of view, but I do think we should be in a position to know that six lakhs is a sufficient provision, even supposing that the Government of India are pleased to accept the recommendation which we are making.

Secondly, there are certain defects in the very system of sending scholars abroad for industrial and scientific training. Mr. Chatterjee has alluded to some of them. I believe the Industrial Commission, appointed by Government a few years ago, and which was composed of eminent men both in business and science, considered this question and found out the defects of the system. First of all, as Mr. Chatterjee pointed out, it is very difficult to make a selection of the proper students. In many cases they have no preliminary training in India, so that they do not sufficiently profit by their education abroad.

Secondly, the Industrial Commission has pointed out that even when they go to England, there are certain firms who refuse to take them into their workshops or factories as they do not want to disclose their trade secrets. This is natural. If India had trade secrets, possibly India will also adopt the same policy. Everybody wants to have in his factories men of the same country in preference to foreigners. However, that is a great disadvantage for students sent abroad from here at the expense of the general tax-payer. Thirdly, on their return back to their country, they probably find that there are not sufficient industrialists who have confidence enough in these England-returned men so as to be able to give them proper careers or so as to give them sufficient opportunities to show their usefulness for the industrial development of the firm concerned. Although, therefore, these are the main defects of the system of sending out men from this country to England, I do accept the spirit of the proposal made by Mr. Samarth, and I think, we should be thankful for the small mercies of the Government of India for some years to come and support the scheme for what it is worth.

This brings me, however, to the real solution of this difficulty. I believe the Government of India have to grapple with the problem in a far more broad and statesmanlike spirit than the spirit of a policy of sending out only a few men, more or less haphazard, to get such training as they might acquire in foreign countries. The real solution—the permanent and adequate solution—of this problem of scientific training is to provide real facilities in this country for the sons of the soil, so as to give them every educational training, theoretical and practical, in a suitable centre, or, if possible, in various centres. India is a vast country and there is plenty of room for several technological institutes. The Honourable Mr. Chatterjee referred to a few facts regarding the policy of the Government of India in this connection. I wish to deal with some of the points he put forward. In the first place he pointed out that the business of promoting technical education was now transferred to the provinces. That is certainly so. As the Industrial Commission has pointed out, I believe the whole policy relative to industrial education in this country ought to be built up from below. However, it will not do to have only a few handful technical men trained in England and elsewhere. What we want to do is to provide training even the foremen, even for the ordinary labourers of the artisan class; in a word, to promote primary technical education for the ordinary man. I know, that is to some extent being done by the provinces. Most of the provinces have laid down a programme of technical training for the next five years. The Bombay Presidency has laid down a progressive policy of technical training to take effect during the next five or ten years. But although, as Mr. Chatterjee has pointed out, a technical institute may be projected here and there, say, in Calcutta, or another institute in Dehra Dun and a school of wireless telegraphy in Karachi, these two or three institutes will not cover the whole problem. I contend these activities are very small and scattered compared with the mass of technical subjects in which highly advanced training is required. I believe the real solution is to have an all-India bigger and more complete well-equipped institute in some central place which might be utilized by and help all the provinces. This is the real solution.

Mr. Chatterjee discussed some of the subjects enumerated in the Resolution of Mr. Samarth. Well, I believe the spirit in which the Resolution has to be accepted by Government is not one of cavilling at this or that particular

[Mr. B. S. Kamat.]

item. I do not think Mr. Samarth made an exhaustive list, or a list technically correct from the scientific point of view. He has indicated the main lines along which the Government has to concentrate. And if Mr. Chatterjee has been successful in showing that some of the problems have been solved, for instance, co-operative societies in certain provinces and cottage industries in others, it only means that Government has done a part of what they should have done. But there still remains some thing to be done to which they ought to devote their attention. Mr. Chatterjee alluded to the financial difficulty. We all know that we are now in a state of financial depression. But the great importance of this subject is the necessity for providing a big technological institute—it may be two or three or four later on, but certainly one in the near future. This is so important, both to the people and to the Government, that I believe the whole problem must be grappled with sooner or later. The Government must face this problem as other countries have faced it. It is no use saying that this is a subject which has been transferred to the provinces. The finances of the provinces are meagre in themselves. We all know how the various provinces are suffering from financial deficits. There is a deficit in Bengal; there is a deficit in Bombay, and there is a deficit in other provinces. I would ask, are the Government of India going to wait until these conditions improve? Now, if it is possible for Government to lay out a programme of crores of rupees on New Delhi for the next ten years, I believe it should be possible for them to grapple with this problem of laying out a programme for a large central technological institute in the next five years. I say this would be very important from the point of view of a good investment. It is no good saying that it is impossible because this year particularly we are suffering from a financial deficit. I do not want a commencement to be made this year. Government can take their own time. In the meantime they should send out scholars; but let them not rest content with sending out just only a few men—ten or twelve or even twenty—for higher education. We have to face the problem financially. As I have said, it would be a sound business proposition and a good investment. As we all know, the material prosperity of the country would be immensely improved if we trained up our men in industrial and scientific pursuits, and with the development of our industries the Government could realize a bigger revenue from taxes. Take, for instance, research work. Germany, by her research work, has enriched herself; German dyes for instance have brought millions into her coffers. Similarly if Indian boys are trained in research work, I believe, they will find out new sources of income and enrich themselves and the country. To my own countrymen, I would say that they ought to be concentrating their forces to grapple with this problem, and I believe that they would thus remove a great deal of the discontent which we see around us. Unfortunately I find that many are more intent on concentrating their energies on such things as the Punjab wrongs. If they had only devoted themselves with half the zeal to a problem like this we would have been some way on the road to a solution of contented India by now. To the Government I would say, they ought not to fight shy of solving this problem on grounds of financial stringency. They ought to take a broad view and not turn round and say that something like fruit canning and fruit preserving is being done already in a small way in some places. That is not a broad spirit. What we want is a large number

of higher technical or polytechnic institutes and one big institute at least to which students may come from all parts for the study of the different branches of technological knowledge under highly qualified professors brought from other countries. By the establishment of such an institute, I have no doubt we can bring unexampled prosperity to India. I will not take up the time of the House by reading a few extracts from the Industrial Commission's report. But they have foreshadowed the establishment of such a large technological institute. Sooner or later the Government of India will have to establish such an institute in one or more places, on a scale similar to the great Polytechnic Institute in London and the Institute at Harvard in America. We will then be able to provide all the necessary facilities in one central situation at the hands of eminent professors. I think therefore that that is the real solution, and that ought to be the policy of the Government. I hope the Government of India in replying to this motion will indicate their policy and give us an assurance that sooner or later, say at the end of three years, they will provide a high-grade technological institute, or more than one, which will be able to provide the facilities which I have described.

The Honourable Mr. C. A. Innes : Sir, when I came to the House this morning, I did not expect that it would be necessary for me to
 I P. M. speak on this Resolution. I thought that Mr. Chatterjee's speech would satisfy the House. I have listened to Mr. Kamat's speech with great interest, and I was glad to find that while Mr. Kamat supports Mr. Samarth's Resolution, he takes up exactly the same point of view as the Government of India. I regret, however, that the Government of India cannot accept Mr. Samarth's Resolution in the form in which it now stands. That Resolution definitely states that the Government of India must put aside six lakhs every year for the purpose of technical scholarships abroad. Now, in the first place, it would be very difficult to find this six lakhs for this purpose. In the second place, if we could find the Rs. 6 lakhs, I personally would like to devote it to other subjects rather than this. I hope I shall not be misunderstood. I do not for one moment deny that this policy of sending Indians abroad to be trained has been up to a point successful. But I do not think that that policy will ever take us very far. Mr. Samarth's speech would lead the House to believe that the industrial regeneration of India depended on our sending a sufficient number of Indians abroad to be trained in different industries. But Mr. Samarth omitted to tell the House that this is the policy which has been followed not only by the Government of India but by other people ever since the beginning of the present century. In the last 17 or 18 years the Government of India themselves sent abroad for technical training 118 Indians and in 1904 an association was established in Calcutta for the advancement of scientific and industrial education of Indians, the main object being to enable properly qualified students to visit America, Japan and other foreign countries to study arts and industries. By 1916, that is to say, in 12 years, that association had sent abroad 300 students; and therefore 428 students have been sent abroad either by Government or by private people; and in addition, as everybody knows, there is a constant flow of Indians from India to Japan, America and the United Kingdom for training in technical subjects, and though we have plenty of upheaval in the country at the present time, to use Mr. Samarth's own words, I am not aware that these men after coming back to India have succeeded in effecting what Mr. Samarth wants, *viz.*, the industrial regeneration of India. The whole question

[Mr. C. A. Innes.]

was examined by the Indian Industrial Commission and the Industrial Commission gave a very qualified support to this policy. In particular it laid down the principle that scholarships should not be awarded for industries not existing in the country. The same point has been taken up by my friend on the right who definitely asked us to lay down that when these students come out trained we should find them employment in this country. As Mr. Clarke said, that is not the way to develop industries. Mere technical training is not enough for the development of industries. You must have capital. You must be able to inspire confidence in your own country. You will not develop industries in India merely by the expedient of sending men abroad. My further objection to the policy is that I regard it as a sterile policy. We spend a great deal of money. Each of these students, I understand, costs us the best part of a thousand pounds or more. We spend a thousand pounds on training a man, in electrical engineering, tanning or whatever else it may be. He comes out. He gets a job either under Government or in a private firm. It may do some good, but it is a very expensive method of training and it does not lead anywhere. If there is going to be Rs. 6 lakhs a year available in the Central Government for technical education, I am perfectly sure that we could do far better by devoting these Rs. 6 lakhs a year not for providing scholarships to Indians to be sent abroad but by providing means of technical education in this country itself. (Hear, hear.) Instead of spending our money on training individual men and leaving it at that, our policy should be to put our money into an institution which creates in the country itself the machinery for turning out a succession of these technically trained men. I am perfectly convinced that this is the right policy. Let us leave the provision of scholarships for technical training abroad to the Local Governments. It is the Local Governments who can manage a system of that kind better than we can. They can form, as they are required to do by the rules, advisory committees composed of business men to select the particular boys to be sent home. It is the Local Governments who know what the needs of their provinces are and who can decide in what industries they will get men trained. We cannot do that, and that is one of my objections to Mr. Samarth's proposals. In the Central Government, let us confine ourselves to subjects of Central importance. I want money at the present moment for what will correspond to the Royal School of Mines in India, an institution which would enable us to supply our Geological Survey and our Mining Departments with a constant flow of properly trained recruits. As Mr. Samarth pointed out, we have another project that has not yet advanced very far, *viz.*, chemical research institute for the study of the fundamental problems of chemical research in India. We should like also to take up the study of the fundamental problems of tanning. That is the function of the Central Government in the matter of industries, to take up the fundamental problems, problems which are common and which have to be worked out for every province. More practical problems we leave under the present constitution to the provincial Governments and the provincial departments of Industries, and I say that it is proper for this House to leave that division of functions as it is at present. Let the Local Governments provide this money for sending these men abroad. Let the Government of India provide the money for fundamental research and for higher training. We have our agricultural college at Pusa. We have our Forest College at Dehra Dun. We have our geological school. Let us devote our money to them, and I am perfectly sure that we will

do far more good to India than by interfering with the Local Governments and selecting men of our own to send Home to be trained in these different industries, men, mind you, for whom, when they come out to India, we shall not be able to find employment. We shall have to depend on the Local Governments. I hope, Sir, that when this House has heard this explanation of mine, they will not agree to Mr. Samarth's Resolution. We cannot accept it in any case, for, I fear, there is no chance of our being able to provide the money. It has been said that this is an absurd line for the Government of India to take up, but it is a matter of ways and means. How are we to provide the money?

Mr. N. M. Samarth: Sir, I persist in asking that my Resolution should be put to the vote of the House. There is no dispute that many of these subjects at any rate are subjects for the Central Government. Only a few are matters which may be decided hereafter by the Governor in Council to be either Central or Provincial. I have referred to various clauses in Schedule I. I did not refer to ship-building and ship engineering, but it is conceded that it is all covered by clause 1 and clause 6 of that Schedule. Therefore, there is no question of the subjects being Central and not Provincial. But the objection is raised and the bait is held out 'look here, let Provincial Governments give scholarships for technical education and let us all devote Rs. 6 lakhs of the Central Revenue towards the building up of institutions referred to by Mr. Innes.' I have seen with my own eyes that the University buildings themselves at Strassburgh would cost something like a crore of rupees and the whole equipment about 5 to 6 crores. The German State spent all that money in a conquered country. If I had the money, I would be prepared to start an institution like that in India. Let not the House be misled into believing that Rs. 6 lakhs per year accumulated for even a number of years will suffice to give you even an apology for an institution like the one I saw at Strassburgh. Therefore, the best course is to send men abroad so that when they come back to India, equipped with the required training, the country may profit by their knowledge.

I do not prevent Government from starting institutes. I do not prevent Government from having schools for wireless telegraphy and other schools that they may intend to start. Let them start these; but I want Indians to take charge of the institutions and be on the staff and teach. That is the idea at the bottom of this Resolution. That is what Japan did. It has been said that this Government has been, from the last century, sending students to England and abroad for technical education. These students have been conspicuous by their absence. So far as the general public are concerned, they do not know where they are hidden. I know that a few are being sent. But here is Mr. Sharp, who has been to Japan to study the system of education there and compare it with the want of system that prevails in India, and he says:

'It must be confessed that in most of these respects some of the arrangements made in India for aiding students to go abroad are very defective. Even the suitable preliminary training is not always required, and I have heard of a man after a purely literary training volunteering to study *either* electrical engineering or agricultural chemistry, as fate might determine, and of another who was indifferent as to whether it was glassware, soap, tin toys, porcelain, scent or matches, that he studied. The students are under no supervision, nothing is expected of them on their return, and nothing is provided for them; they have no capital of their own, and no one seems in the least disposed to assist them in the manufacture of soap or matches, as the case may be. It is not surprising if, as is said, some of them devote more attention to keeping terms for the Bar than to the technical study for which they were nominally sent.'

[Mr. N. M. Samarth.]

This defect still remains. What I want Government to do is to pursue the same policy as that of the Japanese Government, namely, to send them out on condition that they must serve the State for twice the number of years that they have been absent. If the Government were to send them and they returned after receiving a training, any capitalist would start an industry, say for canning condensed milk or making glaxo, etc., and would make his fortune. There would be no difficulty so far as those industries are concerned. What I want is that these men should come back and be employed by the State, in the same way as Japan did.

Mr. Chatterjee said that, in regard to Japan, factories and schools were first started before the students were sent abroad. I have already read the passage from Mr. Sharp's book which proves the contrary. This is what is said at the beginning of that passage :

' When a new school of importance is to be established, the Japanese with their usual fore-thought select their staff in advance, and send some of them abroad for a final training while the school is being built and organised; then, as the classes become available, the men are gradually brought back.'

That is what I want this Government to do.

Now as to the industrial regeneration of the country, you may bring about industrial regeneration in two ways; either by importing foreign capital, foreign agency, foreign talent, so that no doubt there is development of national resources of the country. But there is a drain at the same time and a dwarfing of our intellect by giving no opportunities to native talent to develop. There is another way, which I submit is a better way, namely, developing the qualifications and character of the people and allowing the talent of the country to develop its industrial resources. This is what I want Government to do. It is said that Government are not going to give effect to this Resolution. Well, we shall see what reason the Governor General in Council gives for not giving effect to our Resolution, and the Assembly will know how to deal with the position thus created.

Mr. President : The amendment moved is that, at the end of the Resolution, add the following :

' and on their return duly qualified, their services should be availed of by Government wherever possible.'

The motion was adopted.

Dr. H. S. Gour : Sir, I beg to move the following amendment :

' This Assembly recommends to the Governor General in Council to take such early steps as may be possible to provide for the adequate education and training, if necessary, abroad, of Indian youths in technology, with a view to equip them for employment in the departments in which technical experts are at present imported, and generally to promote industries of this country.'

My friend, Mr. Samarth

Mr. N. M. Samarth : I object to this amendment, as I have had no notice of it.

Dr. H. S. Gour : I invite the House to accept this amendment, and I shall explain why it should be. The purpose which the Honourable Mover had

in view is served by this amendment which is the same as his, with the exception of the cut and dried programme which he has set out, namely, that not less than six lakhs of rupees should be spent in training students abroad, and in particular subjects like ship-building and ship engineering, Oceanography, wireless telegraphy and the rest, some of them being Central subjects and the rest being Provincial subjects'

Mr. N. M. Samarth : Not the rest.

Dr. H. S. Gour : Some of them being Central subjects and some of them being Provincial subjects. I submit, Sir, the real object of this Resolution is to draw the attention of the Central Government to the great necessity of developing the industrial resources of this country and of providing technical experts within their own shores, experts whom we import from abroad. I submit that the Government of India will be well advised to accept this amendment, which entirely supports the spirit of the Resolution of the Honourable Mover, and is, I believe, in consonance with the general wishes of this House.

Mr. President : The Honourable Mover of the original Resolution has drawn his Resolution in such a way as to restrict its scope narrowly. I upheld the objection raised by the Honourable Industries Member to the amendment moved by Mr. Kamat, and I cannot admit this amendment as it is much wider. The Honourable Member from Bombay has deliberately chosen to draw his Resolution in narrow terms, and beyond those the House cannot go.

Lala Girdharilal Agarwala : Sir, the first part of Dr. Nand Lal's amendment is that :

'For the words 'six lakhs' substitute 'seven lakhs'.'

The object of the amendment is that six lakhs of rupees would not be sufficient to send, say, 150 students abroad, because, at the rate of £300 a year, that would mean, for 150 students, £45,000, and taking the Pound to be equal to Rs. 15, it would mean six lakhs and fifteen thousand for their upkeep alone. Besides this, money would be required for passages and fees, etc., so that if seven lakhs are provided we can very well send 150 students every year abroad.

It is for this reason that I want to move an amendment for the purpose of increasing the amount by a lakh of rupees and allow at least seven lakhs of rupees a year.

The motion was negatived.

Lala Girdharilal Agarwala : Sir, the second part of my amendment that I beg to move is :

'That the word 'Anglo-Indian' be deleted.'

I do not, in any way, mean that Anglo-Indians (some interruption and noise)—I hope the Honourable Members will kindly hear what I say. I do not for a moment wish to suggest that the Anglo-Indians should in any way be debarred from the fruits of the present Resolution. What I mean to say is that it is not necessary that the population of India should be divided into several parts, *i.e.*, Indians, Anglo-Indians and Europeans. It is quite sufficient to divide them by the rule of dichotomy which I had read about 25 years back by saying Indians and non-Indians. I suppose Anglo-Indians are as much Indians as any other Indians. In fact, I do not want to stop there, but I say that those Europeans who reside in India are also Indians. Indians

[Lala Girdharilal Agarwala.]

mean those persons who reside in India and whose sentiments and feelings are all centred in the future of India. I submit that it would not be quite the proper use of the expression to say Indians, and Anglo-Indians. That by itself means Anglo-Indians are not Indians, and it is only for this reason that I wish to move this amendment.

Lieut.-Col. H. A. J. Gidney: Sir, I was very surprised to hear my Honourable friend, Mr. Agarwala, move this amendment. Before he moved it, I wrote and asked him to withdraw it. He said he would attack this subject in a friendly spirit, one which would give no offence to my community. At the same time I must state that the term 'Anglo-Indian' is used only when it suits the convenience of certain persons, as also the Government and it is to obviate this that I ask the House to include the word 'Anglo-Indian' in this Resolution. You must remember that we are, to-day, as a community called 'Anglo-Indian' and as such we are known in India. Why we should be called this I do not know, but it is so. I submit, Sir, that the Anglo-Indian is just as much of this soil as is the Indian. He holds out the hand of fellowship to the Indian and he wishes to join him wholeheartedly in the constitutional well organised aspirations of his country. It is his country too (Applause) and he is proud of it. It was only yesterday that I presided over an Anglo-Indian Conference which came to the conclusion that the community must, in the fitness of things, hold out the hand of fellowship to the Indian in the steady evolutionary (not revolutionary) aspirations to Swaraj in India, which we are all seeking to obtain stage by stage and so help the Government to make the Reforms Scheme a success. Sir, to exclude the Anglo-Indian in this Resolution would, I think, be wrong, for is it not one of the paramount duties of this Honourable House to protect and safeguard the interests of the minorities? The Anglo-Indian is most peculiarly situated and occupies an unenviable position in many ways. He is called an Anglo-Indian when there is little or nothing to give him, but when there is anything for him to do, e.g., defence purposes, he is called an European. If the term 'European' is going to be used as one of convenience, then I ask you to accept and include me as an Anglo-Indian pure and simple or an Indian citizen as a necessity so far as my future is concerned. I am of India and for India, and we want a share and demand, a proportionate share with the Indian in all the advantages that are given to them. I ask this, may I demand this not only as a right as a son of the soil but because I have hitherto been deprived of it? I oppose the amendment very strongly, and I hope the House will not accept it.

The motion was negatived.

Mr. President: The question is that the Resolution, as amended, be accepted :

'This Assembly recommends to the Governor General in Council that not less than six lakhs of rupees be set apart every year from the Central Revenues to provide for the education and training abroad of Indian and Anglo-Indian youths in the following subjects :

Ship-building and ship-engineering ; Oceanography ; Wireless telegraphy ; Gunnery and other modern weapons of warfare ; Industrial chemistry in all its branches ; theoretical and practical ; Mining and Metallurgy ; Geological Surveying ; Electrics, with special reference to Hydro-electric engineering and the application of electricity to agriculture ; making and canning fruit preserves, condensed milk ; milk-products and concentrated foods ; Cottage industries ; Organisation and working of distributive Co-operative Stores and Producers' Co-operative Unions ;

and such other subjects as this Assembly may, from time to time, deem essential for the needs of India, and on their return duly qualified, their services should be availed of by Government wherever possible.'

The motion was adopted.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock. Mr. President was in the Chair.

The Honourable Mr. P. P. Ginwala being absent, his Resolution* was declared withdrawn by Mr. President.

RESOLUTION RE F. AND P. SERVICE AND MILITARY OFFICERS IN JUDICIAL OR ADMINISTRATIVE POSTS.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhammadan Urban) : The Resolution which I beg to move runs as follows :

'This Assembly recommends to the Governor General in Council that members of the Foreign and Political Services as well as Military officers should not be appointed to judicial or administrative posts in British India.'

Sir, I think that I am peculiarly entitled to the sympathy and indulgence of this House in moving this Resolution. I shall have arrayed against me not only the Military Department but also the Foreign and Political Department. The valour of the one combined with the diplomacy of the other is more than enough to crush any critic—and much more so a critic happens to be so poor, feeble and humble as myself. But, Sir, I have faith in the justice of the principle that I am asking this House to accept, and I know that I can with confidence appeal to the sense of justice of this House.

With your permission, Sir, I wish to describe very briefly the constitution and strength of the cadre of the Foreign and Political Department. What we find is that there are 140 officers sanctioned in the cadre of the Foreign and Political Department. Out of these 140 officers, there are 34 Military officers under the Foreign and Political Department. Some Members, I think, might be curious to know as to what is the number of Indians in this cadre. I shall take the liberty of reminding this House that last year in Delhi on the 15th March during the Budget debate, the Honourable the Law Member, in speaking on this question, was pleased to observe :

'At the same time I am willing to confess—though unfortunately my Honourable friend did not put his case that way—that it is true that so far as other branches of the political service are concerned—for instance, the appointments of Residents and Assistant Residents, Agents and Assistant Agents—my Honourable friend may have a legitimate grievance. With regard to that I am authorised to state on behalf of Government that the principle of taking Indians into these higher appointments in the political and foreign service has been

* This Assembly recommends to the Governor General in Council that a Committee consisting of Members of the Indian Legislature be appointed to consider and report at an early date as to what steps should be taken by the Government of India to encourage the establishment of the necessary industries, so that as large an amount as possible of the Rs. 150 crores proposed to be set aside for the rehabilitation of the railways during the next five years be spent in India.'

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conceded by the Government, and that a scheme is being prepared which, when it is ready, will, I venture to think, afford every satisfaction to this House and to the outside public. I do not wish to go into the details of that scheme because we are not yet ready with a scheme, but the Assembly may take it from me that so far as the principle is concerned, it has been amply conceded, and my Honourable friend need have no apprehension in regard to that matter. I hope therefore that I have succeeded in showing that whatever might have been the position of Indians with regard to the Foreign and Political Department in the past, the position that is going to be assigned to them in the future will be commensurate with the reasonable aspirations and ambitions of my countrymen. I therefore do not wish to elaborate this point any further.

Then, in answer to a question put by my Honourable friend, Mr. Joshi, the Honourable the Home Member, speaking on behalf of Sir John Wood, said that a substantial proportion of Indians would be admitted into the Foreign and Political Department. And, we find that in a communiqué issued in Simla, dated the 2nd September, 1921, it was said that with the approval of His Majesty's Secretary of State for India it had been decided to introduce a substantial Indian element into the Foreign and Political Department of the Government of India. I hope the House will not think that I am drawing on my imagination when I say that in that very communiqué we find stated that as many as four Indians have been taken into the Foreign and Political Department in the year 1921. Believe me, that as many as four Indians have actually been taken. But be that as it may, I am not at present concerned with the claims of Indians for admission into the Foreign and Political Department. My only object in drawing the attention of the House to this particular aspect of the case is to show the constitution of the Foreign and Political Department.

Now when we come to the mode of recruitment we find that the normal figure of recruitment is approximately two members of the Indian Civil Service every year subject to a reduction of one in every fifth year, and four or five Military officers in alternate years. I hope, Sir, I shall not be accused of overstating my case when I say that the Foreign and Political Department is the monopoly of the Indian Civil Service and Military Department. The question that concerns us at this moment is, what is the function that this Department is required to discharge. One would have expected that the Foreign and Political Department would confine itself to its legitimate and proper work. Instead of that, what do we find? The figures that I am going to give are by no means complete or exhaustive. I am giving only a few figures in order to substantiate the principle which I am requesting this House to accept. Now what are the facts? A Resident of the 2nd class is the Revenue Commissioner of the North-West Frontier Province. Whether any diplomacy is needed in a Revenue Commissioner is more than I can tell. Then again there are certain posts called 'The superior posts' in the Foreign and Political Department, and among these you find the Commissioner of Ajmer-Merwara; the Secretary to the Chief Commissioner of the North-West Frontier Province; the Secretary of Rajputana; and—mark you—Deputy Commissioners of Hazara, Kohat, Bannu, Dera Ismail Khan, and Peshawar; Assistant Commissioner of Mardan; Additional Divisional Judge of Peshawar; District Judge of Peshawar; and Sessions Judge of Peshawar, and Derajat. I put it to this House in all seriousness why should a man who is either chosen for or decides to go into the Foreign and Political Department presumably for his aptitude for diplomacy—be entrusted with judicial and administrative work at all? I submit, Sir, it is not fair to the man himself.

A man qualifies himself for what might be called diplomatic work in order to be a Resident or an Assistant Resident or a Political Agent in the Indian States or for political work outside British India and having trained and qualified himself for that work you ask him to do judicial work; you ask that man to do administrative work and in such a case one might safely say that you cannot get the best out of him, because it is not his job, it is not in his line. I ask the House again to consider whether this system is at all calculated to lead to efficiency. I submit it is not. How can you expect particularly efficient work from a class of officers who have been selected for one particular kind of work, who have qualified themselves for it, and then you take them away from it and ask them to do things which are utterly different. It is no fault of theirs if the outturn of work done by these officers may not be very excellent or praiseworthy. Another objection is, that this system is very expensive. You can get qualified men, Indians and Europeans, to discharge judicial or administrative duties on far less salaries than are being given to the members of the Foreign and Political Department. An officer who has risen high in the service of the Foreign and Political Department, it does not appear why he with a high salary should be called upon to discharge the duties, say, of a Deputy Commissioner or of a District Judge or of a Sessions Judge, where he has got to do purely judicial work, which I maintain can be done satisfactorily by Indians as well as by Europeans on smaller salaries. So, I contend that in the interests of economy this system cannot be supported. Moreover, you have to keep more men in this Department than are actually necessary and I wish to make my meaning clear. As I understand it - and I speak subject to correction—the members of the Foreign and Political services are expected to become Residents and Assistant Residents and Political Officers in Indian States and to do similar kind of diplomatic work as well as outside India. If you want to make these men Judges, Deputy Commissioners and so on, it is necessary that you should have a staff of officers out of proportion to the actual necessity of this Department. It will become clear that I am not drawing upon my imagination and that I am not putting a purely conjectural case before the House when I say that there is an officer of the Political Department on special duty under the orders of the High Commissioner for Mesopotamia as what? As Revenue Secretary. I am very glad my Honourable friend, Mr. Bray, is surprised at it as indeed every body would be. Sir, I have given only one typical case. If you will refer to the Quarterly List of the Foreign and Political Department, you will find that there are officers of the Foreign and Political Department, who are employed outside this Department. Then, Sir, we find that the officers of the Foreign and Political Department are employed for Secretariat work. Again, Sir, I say, where is the necessity for employing trained, skilled, experienced officers in the Foreign and Political Department for Secretariat work. Secretariat work can be efficiently discharged by men who do not belong to this service at all. Now, we find that in the Secretariat of the Foreign and Political Department of the Government of India there are 29 officers. I therefore submit that if the House will be pleased to give due weight to these facts which I have placed before it, it will come to the conclusion that the officers of the Foreign and Political Department should be confined to their legitimate and proper work and should not be called upon to discharge duties which are not legitimately theirs. But, Sir, if my complaint—and I hope that the House will agree with me that it is a just complaint—against the Foreign and Political Department is serious, I contend that my complaint against the Military Department is far more serious. These military

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officers have a larger number of subjects to which they apply their military skill, their military training, and their military experience may go to the Railway Department. We find that Traffic Managers are military officers; very good too,—the Honourable Sir William Vincent says, Sir, I do not pretend to know anything about the military colleges in England. I wish to know if the management of the traffic department is one of the subjects in which young military officers receive training in England. The President of the Railway Board, with apologies to my Honourable and esteemed friend, is a military officer. Then the Agents of different railways are military officers; military officers are deputy agents, traffic managers, deputy traffic managers; eight military officers are occupying these high administrative posts in the railway department. I ask, is there any justification for it? Not only there, but in the Survey of India Department, the Surveyor-General of India is a military officer; five superintendents are military officers; twenty deputy superintendents are military officers; 25 assistant superintendents are military officers. Surely, Sir, if one looked at the Army List, one would have imagined that all these departments were purely military departments; but unfortunately this list shows that they are civil departments and I must here pay a tribute of admiration to the frankness and candour of the military department because in the Supplementary Quarterly Army List corrected up to January 1920 they distinctly show military officers in civil employment; and if you refer to it, you find their names tilling page after page. Take Engineering. There are four Chief Engineers, six Superintending Engineers, 29 Executive Engineers and seven Assistant Executive Engineers. I am told—and I again speak subject to correction—that about half a dozen military officers were taken last year for training as forest officers. But that is not all. Their military skill and training is required in the Police Department; there are a number of military officers in the Police Department. Even that is not all. Education was not to be deprived of the benefit and the experience of these military officers and you find military officers as teachers and members of the Indian Educational Service which is represented by my Honourable friend, Mr. Sharp, here. An assistant master—I am only giving one instance—is a Colonel and is in the Indian Educational Service.

What connection there is between military training and educational work I fail to see, unless modern development of thought of which I am utterly ignorant, makes education a part of military training. One should have thought that the list ended here. No, there are 57 Magistrates,—and I know I shall draw on my poor head the ire of some people when I say that their work can very well be discharged by Indians or Europeans. I repeat again,—I am not laying stress on the claim of Indians to fill these posts; I am only drawing the attention of the House to the principle underlying the existing arrangement. There are 57 officers in the Cantonment Magistrates Department. I shall come to the question of Cantonment Magistrates later on. Someone would have thought that there the matter ended. No, we have got Deputy Commissioners, who I presume are doing purely civil and administrative work. Take Burma itself. There are 14 Deputy Commissioners in Burma. The Deputy Commissioner of Jullundar, the Deputy Commissioner of Ferozepore, the Deputy Commissioner of Lahore, the Commissioner of the Multan Division, the District and Sessions Judges of Jullundar and Hoshiarpur

are shown as military officers in the Army List of 1921! I maintain, Sir, that these few facts are enough to illustrate the principle and to elucidate the point of view which I am asking this House to adopt. I say that this arrangement is unsound in principle. You train a soldier, and I venture to think that you try to develop in him all those capacities and qualities which are necessary in a successful soldier, and then you transplant him in a Civil Department. As I said in regard to the Foreign and Political Department, it is unfair to the officer himself and it is unfair to the public. If you take a soldier and make him do work which is not legitimately his, I submit,—and I hope the House will agree with me—that you do not take advantage of the special training that he has had. All the hard labour that he has undergone for years, is wasted, because that particular officer is not called upon to discharge the duties of the soldier; he is called upon to discharge the duties either of the railway man or of a lawyer or of an engineer, and so on and so forth. These are the days of specialization; and if there is a man who has specialized in any particular branch, it is only wise that you should let him remain in that branch, and not transplant him in a branch for which he has had no special training. I can speak with some knowledge of the Department of Law, and I may say—and I hope my friends who are members of the legal profession in this House will agree with me—that law is not a pure matter of intuition. A soldier goes to the Bench and calls upon the *Peshkar* or the reader or other official to put up cases before him. He knows the art of fighting; he knows the art of shooting; but does he know the intricacies of *res judicata* and of estoppel? Unfortunately he has got to tackle with these problems, and how can you expect a military officer—I am speaking not of every particular officer, but I am speaking of it as a matter of principle—how can you expect such a man to be able to discharge his duties as a judicial officer quite satisfactorily? Take a very eminent lawyer, and you make him a doctor—not the kind of doctor that Dr. Gour is—but make him a medical man. (Laughter.) Do you think that, because that man is a profound lawyer and jurist, he will be able to perform operations successfully? Everybody will throw up his hands in pious horror, and say, what is this,—a lawyer as a medical officer of a hospital? But when you go to the Army Department, and to the Foreign and Political Department, you have got to revise all your pre-conceived notions, which seem to be either antedeluvian or mistaken. I submit, Sir, that there may have been some justification for the appointment of these military officers as Cantonment Magistrates in times gone by, but now when education has made so much progress, and when you can find competent men, Indians and Europeans, to discharge this duty, I do not see any necessity why you should have military officers as Cantonment Magistrates. Then again there is the question of expense. Take a Lieutenant Colonel, take a Major, who is a Cantonment Magistrate. Certainly the amount of salary that he gets for doing the work of a Cantonment Magistrate would be enough to keep two men, if not three; and I say, then, why spend all this money, and act against a principle which ought to be recognized? Sir, we hear a great deal about the enormous increase in military expenditure. Now what I submit is this. Either you get more military officers than are actually needed for purely military work or you have to employ other officers in place of those who go to these Civil Departments. I contend that there are these two alternatives, and there can be no third, and they are these; either you get out more military officers than are

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actually needed for purely military work, or you send these officers, and then you have to get out other men to take their places, Sir, I must not conceal from the House that there is one additional reason which will appeal with peculiar force to very many Members present here at this moment. Now if these posts in civil employment are taken out of the possession of military officers or of officers of the Foreign and Political Department, Indians are bound to have a fair share of them. The Foreign and Political Department and the Military Department are practically closed against them.

My Honourable friend, Mr. Bray, says 'No'. I repeat that practically and substantially they are closed against us. In spite of the magnificent generosity of September 1921 when four posts in the Foreign and Political Department were thrown at us, I maintain that it is practically and substantially closed against us. Over and above that, you take away from the civil employ a number of posts which ought to have come to non-military and non-Foreign and Political Department men, be they Europeans or be they Indians. Let me say, Sir, clearly that my objection at this moment is based on principle. If all the military officers in India were Indians and if all the members of the Foreign and Political Departments were Indians, even then I would have contended that they ought to be confined to their own legitimate work and ought not to be called upon to do work for which they had no special training. Sir, we have heard a great deal of late about retrenchment and economy. I say, if Government really wishes to have retrenchment and economy, it will not be effected by cutting down one post here and one post there. What Government has got to do is to make up its mind once and for all to overhaul the entire machinery, and if it does overhaul the entire machinery, it will find itself driven to the position that members of the Foreign and Political Departments and military officers should be confined to their legitimate work and should not be allowed to travel beyond their legitimate and proper scope. Whether you take this question from the point of view of principle, whether you take it from the point of view of expediency or whether you take it from the point of view of expense and economy, there is everything, I contend, to support my view and I hope the House will accept the Resolution which I have the honour to move.

Mr. Denys Bray (Foreign Secretary): Sir, I rise to oppose this motion. When I first saw it on the paper, my spirit of opposition was aroused. The more I examined it, the more my spirit of opposition grew. I confess that as I listened to the moving terms in which the Honourable Mover put forward his motion, and ascended into the cloudland of his eloquence and the mists of his *a priori* arguments, I felt my spirit of opposition oozing forth. But when I tumble down from the clouds to the mother earth of the practical needs of the present and the practical experience of history, my spirit of opposition is reinforced and revived. For he asks us to accept the proposition that members of the Foreign and Political Services should not be appointed to administrative posts in British India. Now what are the needs of the present? Surely above all, this, that the best men should be chosen for our administrative posts, whatever his race and whatever his service. And what is the experience of history? Last night I ran through the roll of our Governors, Lieutenant-Governors and Chief Commissioners of the past; and it surprised even myself, who have a somewhat high opinion, of the administrative training

that one gets in the Political Department, to find a lengthy roll of men who have held the highest administrative appointments in India and who received some apprenticeship, be it long or be it short, in the Political Department. I found, for instance, the name of Sir Richard Temple, once Resident in Hyderabad, as Chief Commissioner of the Central Provinces, Lieutenant-Governor of Bengal and Governor of Bombay. When I turn to the Punjab, the roll was full of them—Henry Lawrence, Charles Aitchison, Dennis FitzPatrick, Macworth Young, and many others who received part of their apprenticeship in administration in the Political Department. When I turned to the United Provinces—or, as it then was, the North-West Provinces—I found the name of Alfred Lyall, one of our most distinguished Politicals and even the present Governor has not been altogether unconnected with the Political Department. I turned to far-away Burma, and I found there Sir Hugh Barnes, who passed through the Political Department, occupying, I suppose, every single grade in it and only leaving it to become Lieutenant-Governor of Burma. I could double and treble these examples without any difficulty whatsoever. Are all these examples an awful warning to us? Is there something so dreadful in the Foreign and Political Services that makes it impossible for a man, however otherwise fit he may be for administrative posts, to take up those posts and to fill them with honour and advantage to the State? I put the question to the Honourable Mover and to the House. Or turn to His Majesty's Government. Do they consider that there is something fatal in a Political Department training? Very far from it. During the war, they selected two members of the Political Department, and military members at that, to fill two posts of the highest importance—posts calling for the highest administrative qualifications. They took from the Department Colonel Sir Henry MacMahon to be High Commissioner in Egypt; they took Colonel Sir Percy Cox to be High Commissioner in Mesopotamia; and as the Honourable Mover reminded us they borrowed another member of the Political Department to be Revenue Commissioner in Mesopotamia; and they borrowed moreover another member of the Political Department, Colonel Knox, Bar-at-Law, to be Judicial Commissioner in Mesopotamia. But it is fashionable now-a-days to think that Government does not know its own business. It is fashionable to think that Governments can do no right, and only business firms can do no wrong. So let us turn to them. And what do we see? Do we find the great business concerns avoiding ex-members of the Political Department? Very far from it. Great business concerns like the Anglo-Persian Oil Company, the Anglo-Egyptian Oil Company, the Imperial Bank of Persia, seem glad enough to take our MacMahons and our Barnes and our Arnold Wilsons as soon as they can secure their services. And now, is the House really going to accept this proposition that members of the Political Department shall not be appointed to administrative posts in British India?

As far as I could make out, the Honourable Mover took it as his text that the cobbler should stick to his last. I am no great believer in proverbial philosophy myself. One might as well say, let the lawyer stick to the law (Hear, hear) and not come to the Assembly.

Munshi Iswar Saran: Legislative Assembly.

Mr. Denys Bray: Or to the high office of Viceroy or the high office of Prime Minister of England. He seems to think that whatever walk of

[Mr. Denys Bray.]

life a man starts in, there he should remain. Yet some of your best lawyers have done nothing of the sort. The great Austin started life as a naval man. The great Erskine was a soldier. Well, the Honourable Mover said a great deal about the political man sticking to his legitimate sphere. I wish he had defined it. As far as I can judge, he meant that he should confine himself simply to activities connected with our relations with foreign powers, with Indian States and I suppose with frontier tribes. Now, were this Resolution adopted in that sense, what present activities in the Political Department would be taken from it? The Honourable Mover mentioned Ajmer-Merwara. Well, I can assure the Honourable Member that the Political Department would be very glad to be relieved of that burden, if only it could. The trouble is to find a province willing to relieve the Political Department of that encumbrance. The difficulties are obviously great. Here is a little island of British territory surrounded by an ocean of Indian States. Now, we approached very humbly that Local Government which seemed to us best in a position to take this burden from us, the United Provinces. They flatly declined. But I do not suppose the matter will rest there, and I can assure the Honourable Mover that the first province that comes forward and makes an offer to take this encumbrance from us, that province shall have it—as far as the Political Department is concerned. Then the Honourable Member spoke at some length (though he dealt with the subject in a round about manner) about the North-West Frontier Province. Now, that is a subject on which I am tempted to outtalk my time. But this is my first speech in the Assembly, and I propose to walk warily lest I should bring myself, Sir, within the perils of your displeasure. For we have had our frontier debate, and many of the points which the Honourable Mover broached under the guise of discussing particular appointments in the department have already been discussed in that Frontier debate, and I could only adequately meet the Honourable Mover if I were to transgress our standing orders and reopen it. There is another fact also which makes me pause, and that is that, as I announced the other day, Government have acceded to the wishes of the Assembly and are shortly to appoint a Committee to consider the matters raised in that debate and other matters connected with the general North-West Frontier problem. It seems to me very desirable that the Committee should enter upon their most important labours with as open a mind as possible. Nonetheless I must refer to a point here and there. The Honourable Mover spoke for instance about members of the Political Department undertaking the duties of Deputy Commissioners, and he instanced I think the Deputy Commissioner of Kohat. Now, the Deputy Commissioner of Kohat is the Deputy Commissioner of a district as much British India as the district in which we are now sitting. That is a fact of which I am tempted to remind the House, because of the amazing suggestions that have come to us in the form of questions or otherwise that we should get rid of our frontier problem altogether by retiring behind the Indus and abandoning those British districts which lie there,—and to whom! But the Deputy Commissioner of Kohat is also in political control of the Pass Afridis and the Orakzai tribes of Tirah. Or take as another instance the Deputy Commissioner, Sibi. He is Deputy Commissioner of the British District of Sibi, and is also the Political Agent in political control of those Baluch tribes, the Maris and Bugtis, who once were the scourge of Sind. Now, if we are to take the Honourable Mover at his

word, what we should do is this. We should hand over those districts themselves to civilians unconnected with the Political Department—presumably in the case of Kohat to a civilian of the Punjab, and presumably in the case of Sibi to a civilian of Bombay. And we should further employ in addition a member of the despised Political Department to control as far as Kohat is concerned the Pass Afridis and the Orakzai tribes of Tirah, and as far as Sibi is concerned to control the Mari and Bugti Baluch. Now, I will say nothing here from the point of view of expediency or efficiency. But in one respect the Deputy Commissioner of Kohat and the Deputy Commissioner of Sibi will agree with the Honourable Mover. For they think that their burden is heavy and they themselves would gladly vote for his proposition that it should be lightened. But would the Indian tax-payer agree to it? Does the Honourable Mover really mean that we should double our establishments, that instead of doubling up our work as we are trying to do in the interest of retrenchment, we should sub-divide it all round? That is not where economy lies.

I was rather amused to find that he thought that the Foreign and Political training was the very worst training in the world for a Foreign or Political Secretary. It was rather refreshing to learn that the idea is entertained that knowledge of Foreign and Political affairs is a matter of intuition and the work of a Foreign Secretary that of a mere scribe, who requires no background in the shape of training in the practical sphere in the Department. There is another of his points which struck me as curious. He seems to think that these military officers in the Department that he sees in the list as Colonel or Major have spent their 25 years or whatever it may be in the Army and then have suddenly been called away from their proper sphere into a sphere where apparently Military officers are not needed. But take a typical case, which I select almost at random, the case of my late Deputy Secretary, Major Humphreys. He was at the 'Varsity; the Boer war broke out; he at once joined up. He came on to India in the Indian Army, and at the age of 24 he entered civil life. The Honourable Mover will be shocked to hear that he abandoned civil life. The Great War broke out; he entered the Army again and joined the Royal Air Force; came back to India; served on the Frontier; served—he will be shocked to hear—in the Secretariat; and he has now gone as the first British Minister to Kabul. (Hear, hear.) And that is a typical case, Sir.

Now, much as the Honourable Mover dislikes the civilians, he obviously mistrusts the military officer much more. But you will not get rid of him so long as the Political Department has upon it the responsibility for the frontier. Your frontier tribesmen will not allow you to get rid of him. I am a civilian myself; I had five years at Oxford; and I should be sorry to have had to forgo a single month of it. And yet I have often thought that if we civilians had exchanged one or two years of that 'Varsity life for life in the Army, we should have been better equipped for service in India; we should certainly have been better equipped for service on the frontier. Go to the frontier and hear what the tribesman says. Remember that the frontier tribesman is intensely virile; a born soldier; the best judge of a manly man that I have met in the world. Go to the frontier and ask him what he says. I assure you that the verdict will be the same as mine, and remember that I myself am a civilian and therefore should be biased in favour of my own order. But wherever I have gone on the frontier, I have felt at the start

[Mr. Denys Bray.]

that I had leeway to make up with the tribesmen from the mere fact that I was not a soldier. And some of us never make up that leeway at all.

Mark another result which would flow from the suggestion made by the Honourable Mover by inference that the Punjab ought to take over the British districts on the North-West Frontier, and that Bombay should take over the British districts in Baluchistan. Now as the direct result of the severance of the frontier from the Punjab, the recruiting of military officers for the Punjab Commission was stopped. If we revert to the administration of the North-West Frontier districts by the Punjab and if we superimpose upon Bombay the burden of administering Baluchistan, the result in either case is inevitable: you will have to re-open the Punjab Commission to the military, and you will have to open the Bombay Civil Service to the military also. (Hear, hear.)

Mr. Abdur Rahim (North-West Frontier Province: Nominated Non-Official): Sir, I have listened with great patience and great consideration to the speech of the Honourable Mover. I am sorry to find that he did not make any sort of distinction between the civilian and the military officer. He does not say that importance should be attached to the civilian only, nor does he say that importance should be attached to the military officer. I know a good many friends who have gone up for the Indian Civil Service, and when they come out here, they cannot see the difference between civil and military people. In such a case, there is hardly any difference, except that one is a civilian and should be called so, and the other is a military man and should be called so. When a military man and a civilian enter the judicial life and start from the very beginning, there is no difference, except that the civilian knows that his promotion will go on without any hinderance, while the military man knows that his promotion depends on his own merits, and a good many instances are to be found on record that the military man has proved the more successful.

Now, coming to my own Province, where I have considerable experience of military people, the Honourable Mover has referred to one officer, and I think he means Colonel Blakeway. I can tell him from my own experience that he was one of the best Revenue Commissioners we have had. He was very painstaking and was well versed in revenue work, and was in no way inferior to any civilian members. Unfortunately the Honourable Mover does not know our Province. Our Province has got three sorts of life. We have got agencies, then we have executive and judicial work combined, and then purely judicial work. As far as these agencies are concerned, they are altogether cut off from society, are not in touch with the civilisation, and the Political Agents there never get the chance to hear the English language spoken for months and months.

Referring to the other point which the Honourable gentleman has touched upon, namely, the Foreign and Political Department, take the case of the late Peace Treaty made with the Amir of Afghanistan. At the time there was unrest all round; the Amirs were surrounded by Bolshevists, and the great success of the Mission was due entirely to the Foreign and Political Department. Every effort had been made by the Germans to draw their sympathies away from the British, and it was entirely due to the Political Department that the German agents were not successful. I can say that the success was

mainly or greatly due to the Political Department. I can say this much, Sir, that in India we have not up to now come to that standard which is the final aspiration of Indians, when the judicial and executive should be altogether separate services and we will not come to that till we have got men experienced in the different departments of India. Each province has its own traditions, its own history. So, I can say this much, Sir, that, if we did not have this Political and Foreign Department, the British Government would have been deprived of its great success as a ruling nation, because these are the two Departments, Sir, where you can get practical knowledge and practical experience. In others you have got routine work. I myself am a barrister and the Honourable Mover is a pleader, so we belong to the same profession and we are guided by the rulings of High Courts and Chief Courts. Here we are dealing with a practical feature of life. I can say this much, Sir, that we ought to be thankful to these military people that they have been doing so much for us. Instead of being courteous to them, to come down upon them like this is, I think, not fair. If the Honourable the Mover will look at it from the proper point of view, I think he will agree with me that he did not mean it in that spirit in which it was taken. The Resolution does not clearly say what men should be transferred; it simply says that the men from the Political Department should not be taken to the judicial and administrative line. There is not a special class upon which we can depend. It cannot be said that a civilian should volunteer himself and should say he will rule the whole of India neither will men from the bar do for the whole of India. I have much pleasure in opposing the Resolution as it has been moved, and say that the Political and Foreign Department should be kept as it is.

There is another matter which I should like to mention. Two Honourable gentlemen sitting on the official benches are permanent heads of their respective Departments. Both Honourable gentlemen belong to the Royal Engineers, a service which it has been admitted by the whole civilised world has conferred great blessings on us. Why should a civilian or a barrister be put at the head of a railway line? Why should it not be those who are trained who should be put at the head of that Department?

I have again much pleasure in opposing the Resolution.

Colonel Sir S. D' A. Crookshank (P. W. D. Secretary) : Sir, since my Honourable friend has dragged military engineers into this Resolution, and, since the position they occupy in the Public Works services is rather unique, perhaps it will interest the House if I explain the why and the wherefore of their being there.

Now, Sir, when I sit quietly in my bench and listen to the debates in this House, I very greatly admire the lofty sentiments and the high ideal which my Honourable friend from Allahabad so eloquently expresses, but at the same time, and in the present case I am afraid I cannot always give them practical expression. It is merely a matter of theoretical *versus* practical reasoning with no malice aforethought on my part.

Well, Sir, the position of military engineers in India is that a century or so ago, they commenced constructing the Grand Trunk Road, and other great road arteries of India, the great Ganges Canal and other irrigation works, which have laid down the foundation of those works which have brought India to the very high engineering position in which she now stands. Those engineers have since been followed by a number of Royal Engineer Officers

[Col. Sir S. D' A. Crookshank,]

whose services have been lent—I lay emphasis on the word 'lent'—to the Public Works Department. And why have they been lent? The reason is that on active service the cry is always for engineers and yet more engineers. There are never enough engineers and they have to turn their hand to anything, whether it is for burying the dead, and burning stinking camel corpses, as I had to as a subaltern in Chitral in 1895, or whether it be in running the whole transportation services with the British Expeditionary Force, as I did as a General in France in 1918 with 1,60,000 engineers, pioneers and labourers to assist me. The cry is always for engineers and more of them.

Well, Sir, the Army Department in India cannot maintain and employ in peace that number of Royal Engineers which it requires on field service, whether it be on the frontier or outside India. Consequently, a certain number of these military engineers are lent to the civil department where, not only do they gain very valuable experience indeed, but they also give their services to the civil department, so that far from impairing the utility of the military engineers, as my learned friend is rather inclined to have the House believe, they help the civil administration and also acquire great experience which is useful to them on service. It would be quite out of the question to lay down that these military engineers who are giving their whole service to the civil departments should be absolutely debarred from obtaining administrative rank, because they naturally would not see the force of going into the civil departments if they saw no prospects of promotion. Moreover, the administrative ranks in the Public Works Department are not purely administrative, but also entail heavy technical duties and responsibilities. So that it will be seen that there are great advantages in utilising the services of these military engineers in the civil departments in that they are there as a reserve of engineers in case of war and also that their pay during the time they are lent to the civil departments is a relief to the weight of the military budget, as to which so much exception is, I notice, taken in this House.

I therefore, Sir, oppose this Resolution tooth and nail in so far as it relates to military engineers, not so much on behalf of those engineers but in what I consider to be in the circumstances the best interests of the country which I myself have served as a military engineer in a civil department for over thirty years.

Sardar Gulab Singh (West Punjab : Sikh) : Sir, I support the Resolution in the sense that experience and training are necessary things for every profession. The Honourable Mover has shown in his speech that institutions for every sort of business in the service are required for the training of different services. The question is that of selection. Sometimes unworthy Indians are taken into the service simply because their fathers or relatives have done some service to the Government, but would at the same time venture to make some remarks in this connection in order to dispose of some of the misgivings which may arise in the minds of my Honourable friends. Sir, what I mean is this, that my supporting the Resolutions should not be construed to mean that all the military officers who have been employed heretofore in administrative posts were as a class bad or unworthy. The Province to which I have the honour to belong contains some military officers of the type of Colonel Douglas, Colonel Montgomery and Colonel Young, who I venture to say were in no way inferior

to but rather superior to many of the present day Indian Civil Service administrators. Government does not only consist in the training of officers in the art of administration, but also in their temperament and good heart. We know the common saying that it is the hearts of the Governors that rule a people and not their training and culture. So though I support the Resolution, yet, at the same time, I want to impress upon the minds of my Honourable friends here that I do not want to depreciate the services of military officers in administrative posts in terms of a sweeping generalisation.

Sir Godfrey Fell (Army Secretary): Sir, I confess that I was somewhat surprised when I saw this Resolution standing in the name of my Honourable friend, Munshi Iswar Saran. I refer especially to that part of the Resolution which seeks to preclude the employment of military officers in any administrative posts in British India. It seems rather curious that a responsible legislative body should be asked at this juncture to limit the sphere of employment of military officers. I do not know what my Honourable friend means exactly by the expression 'military officers', but I should like to remind him that we have only recently emerged from the greatest War in history, and that every young Englishman, every young man in the Empire, who was worth his salt, served in the Army during the War either in the ranks or as a commissioned officer. My Honourable friend accused us of recruiting more officers than we need; he sought in fact to place us upon the horns of a dilemma in this respect. I can only say that we had to recruit all the officers that we could get during the War, to lead our enormous Armies and to make them effective. We now have unfortunately got rid of a large number of officers. These are not all of them young men who intended to make the Army their profession. They were for the most part men who were impelled by a sense of patriotism and devotion to the Crown and the Empire to join the Army, whatever their own predilections might be, in order to help to win the War. My Honourable friend complains of the employment of military officers in railways and in Public Works. That aspect of the case has been already dealt with by Sir Sydney Crookshank. He went on to complain to this Assembly that we had actually taken officers for the Forest Department. Now, Sir, what are the facts? The facts are that here in India we are confronted with a surplus of officers in the Indian Army, a surplus which may be taken roughly at between 2,000 and 2,500. These officers were recruited in the circumstances to which I have just referred. We do not now require their services, and we cannot afford to keep them on; and naturally the first thing we did was to see whether we could find employment for them in any of the civil departments of Government. I have here the report of a Committee which examined this question; and as the result of a reference to all Departments we found, to our great regret, that only 24 appointments—10 in the Imperial Police, 10 in the Imperial Forest Department and 4 in other miscellaneous departments could be found in the whole length and breadth of India to offer to these 2,000 or 2,500 officers. What are these officers whom the Honourable Member complains we have put into the Forest Department? They belong to the class of young men who very likely would have gone into the Forest Department in any case, who have a natural aptitude for Forest work and would perhaps have joined the Department long ago but for the War. Does this Assembly object to our finding employment for such officers in the Forest Department?

The Honourable Member went on to say that appointments of this kind are unfair to the officer himself and unfair to the public. I entirely disagree

[Sir Godfrey Fell.]

with him. I think, on the contrary, that it would be very unfair to the officer for the State not to find employment for him if it can do so. And I certainly cannot agree that it is unfair to the public to employ officers of this class. It does not matter what an officer's immediate origin is. What does matter is that he should receive the necessary training for the appointment into which he is put; and it is immaterial if his training has had to be postponed because he joined up during the Great War.

Then my Honourable friend went on to complain about the employment of military officers as Cantonment Magistrates. Well, in that connection he also made a statement which I think is based on misapprehension. He said that the law is not a matter of pure intuition. There I agree with him. He went on to say that the soldier comes fresh to the Bench. I can assure him that that is not the case. No officer, whether civil or military, obtains judicial powers until he has passed the necessary qualifying examinations. However, in connection with Cantonment Magistrates, I would mention a point that I think I touched upon in this Assembly in reply to a question yesterday, namely, that Government are now considering the question of the separation of their judicial and executive functions; and it is possible that there may be a change in the status of the officers now employed as Cantonment Magistrates.

Finally, I should like to touch upon one other point in the Honourable Mover's speech, and that is where he commented upon the employment of military officers in the Punjab and Burma Commissions. I cannot, Sir, speak for the Punjab, but I have some right perhaps to speak of Burma, for I joined the Burma Commission myself in 1895. Now what are the facts? The facts are that at the present moment, or anyhow a few months ago, there were 13 military officers in the Punjab Commission and 28 in the Burma Commission. The recruitment of military officers for the Punjab Commission ceased some time ago, and it ceased comparatively recently in Burma. These officers are a disappearing class, and personally I shall very much regret their disappearance. I have had the honour to serve under and with many military officers in the Burma Commission. I entirely share the high opinions expressed about them by one or two speakers in this debate. There are some here in this Assembly who will remember Colonel Aplin, who served in the old Imperial Legislative Council. He was a specimen, a good specimen it is true, of the class of military officer whom we have had the good fortune to recruit into the Burma Commission. And I should like to point out that there is a great deal to be said in favour of recruiting officers from this source. If you recruit an officer solely by a literary competitive examination, you may be sure of getting an officer with a certain standard of literary knowledge and a certain amount of ability. What you cannot be sure of is getting an officer of character, one who possesses the gifts of leadership and of sympathy with the people, one who will make himself acquainted with their language and their customs. But when you have the opportunity of selecting young officers from a large body like the Indian Army for prize appointments, such as those in the Punjab or Burma Commissions, it is entirely the fault of Government if they do not select officers possessing not only ability but also those qualities of leadership and so on to which I have referred. The Burma Government is certainly to be congratulated on the high level of officers whom they have obtained from this source in the past.

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : Sir, I do not agree with my Honourable friend's Resolution, that portion of it where he said that members of the Foreign and Political Service should not be given judicial appointments. I have had the honour of knowing several members of the Foreign and Political Department whom I found quite efficient and who discharged their duties well as administrators. Members of the Foreign and Political Department are not specially trained for that purpose but we find that in that Department are people who possess several qualifications and they are trained in different lines. One reference has been made by our Honourable friend, Mr. Bray, that a judicial post was filled by a Colonel who was also a barrister. I do not see anything wrong in this that if a Colonel is also trained in law why he should be deprived from holding judicial posts for which he is quite well qualified. Of course the limitation in this respect that all members of the Foreign and Political Department should not be given a chance to hold a post in the administrative or judicial department is not correct. There might be an objection if a man who is, as a favour, given a post of a judicial or administrative kind simply because a man has served well on the political line that would be objectionable ; but if he is efficient and if he possesses the necessary qualifications, there is no reason why he should be not given a chance of holding a post in these departments. There is also one thing with which I do not agree, though it does not form part of the Resolution, when my friend says that cantonment magistrates should be recruited from amongst the civilians. Those people who are living either in the cantonments or close by know very well that administration in the cantonment is very necessary to be left in the hands of those people who know about the military discipline. A cantonment magistrate is not sitting only to preside over the bench and deciding cases ; but his duties are several and manifold which cannot be performed efficiently by a civilian ; and to keep up discipline within the cantonments that can be kept up only by a man who knows about military discipline too. Therefore it is very necessary at this stage that the cantonment magistrates should not be recruited from the civilians until there is absolutely a want of such men and we cannot get hold of proper persons from the military department. Of course one point has been very clearly explained by my Honourable friend, Sir Sydney Crookshank, that military officers though they might be holding the names of ' Colonel ' , ' Major ' and so forth, are really Royal Engineers ; it does not mean, as my friend suggests, that a Colonel or Major is only fit to fight in the field and is not fit to do anything else. There is of course that point, as has been very clearly explained, that they are Royal Engineers and nobody can better understand about the running of railways than those people who have laid down the lines. There is another point considering which I would not like that the railway should be touched at present. There is one thing which is greatly lacking and I am really afraid that some of my friends might not like it, but it is an unfortunate fact that one thing which we are greatly lacking in India is that of a man's sticking to his duty and people do not here in this country receive sufficient education by which they might know their duty well and they might carry on their duty knowing it as their duty. There may be some people who do their work through some other temptations, but it is only by English education that we find that an Englishman is doing his work thinking it as his duty only ; in railway lines of course this is very essential, that proper duty and proper discipline should be kept and a man who

[Mr. Muhammad Yamin Khan.]

has lived in the military department, who is always accustomed to proper discipline above the ordinary civil English education, that is the only person who is really wanted to carry on these railway lines. If a person, who is lazy, sleeping and neglecting his duty, carries on the railway administration, we shall have every day, some collision or other and everything going wrong. Therefore at this time of course this is not the proper Resolution to touch about the railways.

Undoubtedly one portion of the Resolution is such that I give it my whole-hearted support and that is this portion that military officers should not be appointed to Judicial posts. I am not touching administrative posts, but I am touching Judicial posts. Our friend, Sir Godfrey Fell, has explained that some of the young men during the war enlisted as officers and it would be a great hardship if they were not provided in the civil department. I quite agree with him there if the matter had rested only at that point; unfortunately up to a very recent moment we find that in the Punjab and other places, there had been this custom that judicial posts had been given before the war to military officers and they are still held by some of them. I remember myself, Sir, when I used to attend lectures in the Inns of Court in London, I had one day found a gentleman sitting quite close to me who looked very elderly to me and just in conversation I gathered from him that he was a Major in the Army and he was recently appointed a District Judge in one of the districts in the Punjab; because he could not do his work properly, therefore he had come to the Inns of Court to attend lectures to study law there. That is a deplorable fact undoubtedly for any kind of this suggestion that a man about 50 years of age should go to attend lectures in the Inns of Court because he had not been able to discharge and he could not do his work efficiently. This thing of course should not be done. Otherwise I do not agree with the other portions of the Resolution.

Mr. H. Sharp (Education Secretary) : Sir, there is just one little point in the speech of my Honourable friend from the United Provinces which it is my duty to clear up. He turned and appealed to me, and his voice thrilled with horror, when he spoke of the employment of military officers in the Educational Service. I was not quite sure to what officers he was referring and so I went round and asked him and with his usual good nature and candour he showed me the name of a certain officer. The officer in question was apparently the only one

Munshi Iswar Saran : Not the only one; there are others.

Mr. H. Sharp : It was the only one that was shown to me and I can assure the Honourable Member that the officer in question is a civilian who volunteered at the beginning of the war, as I am proud to say many other men of the Indian Educational Service did (Applause); and he got a commission and now he is again doing the work of a civilian. I quite admit that my Honourable friend's mistake was quite a natural one and I do not in the least blame him for it; but those are the facts.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I am surprised to find that feeling of suspicion often crops up in the minds of Members of the Government whenever anything in the nature of criticism is levelled against the Government in this Assembly; and

they begin to say that it has become fashionable for Members to criticise the Government and say that the Government does not know its business. The Members for Government forget for the time, the feeling that prevails in the country, on the point, which the non-official Members only express in this House.

It is not merely to criticise that a responsible Member of the Assembly brings up the matter before the House for discussion, but he does so to draw attention of the Government to the impropriety of their action.

4 P.M. I am much more surprised, Sir, when I find that the criticism that has been levelled against Government has been levelled by a gentleman of such moderate views as Mr. Iswar Saran—at least I regard him so. If the criticism made by such a Member meets with such a reply from Government, I do not know how the criticisms from other Members of the other party, will be treated. Sir, so far as the principle of the Resolution is concerned, I find that the reply given by the Members of the Government is based on three points,—namely, efficiency, economy and gratitude. It is on the principle of efficiency itself that my friend, Munshi Iswar Saran, has raised this point and brought up the subject for discussion. He gave out in the very beginning that a man from the Military Department could not be expected to be quite efficient in Judicial or Administrative line. It is just possible, and also probable, that certain Members of those departments may have done well in the judicial or administrative line and may have worked efficiently. That cannot, however, be said of all Members who have been posted to the Civil Department; many of them have not shown themselves to be equally capable as the civilians in judicial or administrative matters. Sir, I come from a province which had also the misfortune or good fortune, or whatever it may be, of having certain military officers employed on such work,—I mean in the sub-province of Berar which is attached to the Central Provinces. My friends from Berar will be in a better position to say as to, what efficiency and capacity such officers in such lines generally have, but so far as my information goes, many of them have not proved as capable as the civilians. Sir, efficiency is the word which is flung at Indians whenever they demand any benefit for themselves or whenever they attempt to encroach on the preserves of the Europeans and military people. Sir, whether the standard of efficiency is viewed differently by the Government or by the Europeans on the one hand and by the people of my country on the other, I do not know, but in practice it often differs. One is regarded as efficient by us, and the same is regarded by the Europeans as inefficient. The angle of vision is not the same. Now look to the standard of efficiency that has been put before us by my Honourable friend, Mr. Denys Bray. He says that the lawyer's province and the lawyer's business is to go and appear before a Judge in Court; and not to come to the Assembly and criticise the action of the Government. I do not agree with him. Lawyer is also wanted to be in the Assembly. May I remind the Honourable Mr. Denys Bray that it is also the business of this august House to legislate and to frame laws for the guidance of the administrative and executive officers. May I ask Mr. Denys Bray as to who would be in a better position to do that duty. According to Mr. Denys Bray's standard of efficiency, if that standard is correct, the military officers would be equally competent and suited to make laws in this Assembly. If this is the standard of efficiency by which the military officers in judicial line are judged, then I bow to him, and would admit that military officers could be efficient judges; but my standard of efficiency differs from his.

[Mr. K. B. L. Agnihotri.]

I say that even though the military officers be found quite efficient in the judicial lines, it is not desirable on principle to post them to judicial and administrative posts. Sir, from the 'Recollections of Lord Morley', we find that a certain high military officer was not given the Viceroyalty of this country. Why was it? Nobody could deny his capacity; nobody could deny his experience; nobody could deny his diplomacy and efficiency also, then how was it that it was not thought proper to appoint him as the Head of the Administration in this country? The same principle should also apply in posting military officers and officers of the Foreign and Political Departments to the judicial and administrative branches of the Indian services. Sir, my friend, Khan Bahadur Abdur Rabim, has said that so far as his province was concerned, military officers holding such posts have been found quite capable. It may be so, but the Administration Reports that were quoted in this very House by Sir Sivaswamy Aiyer during the Frontier debate gave a different version. They showed that there is much that was wanting in such officers so far as judicial and administrative lines are concerned.

Sir, the second point raised by some speakers is that of economy. Colonel Waghorn, and if I mistake not, Sir Godfrey Fell, have said that it is for maintaining a reserve that the military officers have generally been so employed. If that is a fact, I do not understand why should not they be kept on the military side, why the same men are to be shown on the civil side also. Their reply is that they would have to pay double; have to maintain a double set of officers, one on the civil side and another on the military side, and thereby incur double expenditure. But, Sir, look to the aspirations of my countrymen also. Many Indians do not get any chance of appointment to high judicial and administrative appointment as they are given to military officers. Therefore, I submit that so far as possible, the military officers and the officers of the Foreign and Political Departments should not be posted on the civil side. Indians cost less than military officers and the employment of Indians is more economic than military officers. I fully appreciate the feelings that have been given expression to by Sir Godfrey Fell; he says it is out of feelings of gratitude that we should employ those who offered their services for the war. I admit that it is but right that these persons who came forward to help and render assistance in times of need and crisis should be repaid for their kindness, but, Sir, I may also add that for certain branches of services, this even cannot be desirable at all—and those services have been enumerated by my Honourable friend, Munshi Iswar Saran, in his Resolution. Sir, may I ask a question from the Members of the Government, if the military officers are so experienced, if they are so very capable and efficient, how many such military officers are in such services in their own country, of England—I mean in the administrative and judicial services? I think the standard of efficiency does not differ in England and India, but is the same.

Sir, with these few words, I support the Resolution so ably moved by my Honourable friend, Munshi Iswar Saran.

Colonel W. D. Waghorn (President, Railway Board): Sir, I should like to offer a few remarks in regard to the aspect of this Resolution which has been so ably dealt with by Sir Sydney Crookshank. In the first place, I was a little surprised to find that the Honourable Mover dealt on somewhat different lines with the technical services, in that presumably he intended

that though military officers might be employed in those services during the junior period of their service, they were not to rise to administrative rank. I do not know whether that was really his intention. I can hardly think so.

But, to deal with the other aspect of the case, the broad aspect, namely, as to whether military officers should be found employed on railways and public works and on surveys during peace time. I would point out to this Assembly that these officers are being trained in duties which are essentially military duties. In war time, the number of officers required for carrying out these works on service has to be very largely increased, and it is therefore necessary that a reserve of officers should be maintained in those branches and employed economically and efficiently during peace time. It is therefore an economy to thus maintain your reserve of military officers, and employ them in your civil cadres. These officers are on exactly the same scales of pay as civil officers, so that they really cost nothing more than would be the case if purely civil officers were employed.

I think the Honourable Mover referred to another point. He said, why should you find it necessary to employ additional officers in peace time? They are not additional officers; they are required to complete the cadre of your railways and your services. In time of war, you reduce that cadre; you carry on the work by promoting your subordinate ranks, by employing temporary officers and by other means for a short period. You do thereby save but if such measures are continued for any length of time you are going to force yourself into a position from which only inefficiency can result. We have been through the war and we know perfectly well how our railways have suffered from the shortage of officers on their being taken away for military duties, and indeed many civil officers were taken as well.

The Honourable Member referred to specialization. Well, if you are going in for specialization, that will just double the number of your officers. You will have to keep your military officers ready as reserves in time of war and you will have to supply civil officers on the same rates of pay during peace time. Specialization is a very costly matter. I think it would be well to bear in mind what that cost is going to amount to, and, in applying specialization, bear in mind the conditions under which it is to be employed.

Mr. W. C. Renouf (Punjab: Nominated Official: Sir, as a Punjab Civilian who has served for over 30 years in a Commission partly recruited from the Military Department, I associate myself entirely with Sir Godfrey Fell in the tribute which he has paid to the Military Civilians. In levelling ridicule at the bare circumstance that officers with military titles hold posts as Deputy Commissioners and as Judicial Officers in the Punjab, the Honourable Mover has entirely forgotten to inform the House that these officers are selected men, that they received the same administrative and judicial training as their civilian colleagues, and had to pass the same exacting Departmental examinations. If they had not passed those Departmental examinations, they would not have been retained in the Punjab Commission. They have served continuously in the Civil Department since the age of 24 or 25, and, taken as a whole, they are just as competent to discharge their civil duties as the average member of the Indian Civil Service. It is probable that the Indian Civilian generally makes a better Judge than the Military Civilian, but I can point to many military officers in the Punjab who have been and are excellent Judges. One of them, Colonel Beadon, became a Judge of the Chief Court, and, but for a bar in the rules regarding appointments to the Chief Court,

[Mr. W. C. Renouf.]

which was waived after much difficulty in the case of Colonel Beadon, I think that many other military officers in the Judicial Department would also have been promoted to the Chief Court. I am glad to see that in my estimate of the merits of military officers, I am supported by Sardar Gulab Singh. The Resolution however has no bearing whatever on the Punjab at the present time, as the recruitment of military officers stopped when the Frontier Province was created. I for one regret that it ceased. I think the Punjab owes a great deal to the many eminent men who came to the Punjab Commission from the Army.

As regards the alleged expense of employing military officers, I can only say that they receive precisely the same salary as civilians and cost no more. I earnestly trust the House will reject this Resolution.

Chaudhri Shahab-ud-Din (East Central Punjab : Muhammadan) : Sir, if the Honourable Mover meant to disparage the military officers who were appointed as judicial officers and did work in that capacity, I disagree with him very emphatically. But if he meant that those who started their career as military or political officers should be allowed to acquire efficiency and experience only in their own lines, and that the Judicial Department should be confined only to those who began their careers as such, I am entirely with him. These two propositions, I regret to find, have to some extent been mixed up. In the Punjab I have known military officers who have acquitted themselves more ably on the Bench as District Judges than many of the civilian Judges, or even better than many of the lawyer Judges who have been appointed recently. That has been my experience. I recall the fact that I once appeared before a military officer in a murder case in which the hearing continued for a number of days. I can say that I have never found in all my experience a more patient Judge than that officer, and he understood law better than many Judges before whom I have had the opportunity of appearing as a lawyer. To hold therefore that military officers, because they started their careers as military officers, should not be appointed at all to the Judicial Department is, in my opinion, a preposterous position to take up. If a certain person starts his career as a military officer and after a couple of years or so his services are transferred to the Judicial Department, where he acquires a sufficient training and is then raised to the higher posts in that Department, I for one see no objection. I do not think that the Honourable Mr. Iswar Saran ever meant that military Judges were either mediocre or in any way inferior to other Judges after they had acquired sufficient experience in the judicial line. But, as I take it, I think he simply meant that the Judicial Department should be reserved only for those who start their career in that line. In this I entirely agree with him.

As regards the Frontier Province, my Honourable friend, Mr. Abdul Rahim, said that he wanted none but military officers. I think that there he was going to the other extreme. Sir William Clark was one of the ablest Judges we had on the Chief Court, and he was District Judge at Peshawar for more than five years. Of course the local circumstances of the North-West Frontier Province are such that military officers are better fitted to fill very many posts there than civilians. Because in connection with their military duties they pick up the language of the Province and come to know the people, and they are, therefore, in my humble opinion, better fitted to fill certain

posts in that province than civilians, who of course have not picked up the language and do not know the customs of the people of that part of the country.

The separation of that province from the Punjab has been only incidentally hinted at. I think that is a big question. It has already been discussed here, but there is one thing which I will certainly say without fear of contradiction that the judicial separation of that province from the Punjab was a retrograde step and I regard it still as a very retrograde step and a blot upon the administration, because the province which had been under a regular judicial administration for 70 years was cut off. New rules, new regulations and new laws we made for that province. If that province had been separated for administrative or even military reasons, I would have no objection. I went there in April last with Sir Godfrey Fell. Lawyers, very many (not all) of that place approached me and I also tried to fathom the feelings of laymen as to whether they wanted the judicial administration to be assimilated with that of the Punjab and I found that they were very anxious. Of course I do not think that that province can safely be put administratively under the Punjab Government, but judicially it can be put under the High Court of Lahore, and I am a strong advocate of that course. Mr. Iswar Saran's Resolution states that military officers should not be appointed to judicial posts even where the exigencies of the service so require and even where their ability and efficiency make them the fittest judges. As the Resolution is so ambiguous, I am very sorry I am unable to lend my support to it as it stands and, therefore, I oppose it.

The Honourable Sir William Vincent (Home Member) : I hope, Sir, that the House will not accept this Resolution, because it is, as I think many Members will see if they examine it themselves, of much too sweeping a character. There may be a good deal to be said, as was said by the last speaker, about the recruitment of judicial officers and the judicial administration in the North-West Frontier Province. That is a matter which I understand is to be the subject of a special inquiry and it is unnecessary for me to dilate upon it. But when it is suggested that no officer of the Military or Foreign and Political Service should be appointed to any high administrative office, then surely the Mover of this Resolution must realise that he has gone a little further than the facts justify. Let me for one moment take the case of high officers in the Frontier Province and its neighbour Baluchistan, and mention the name of Sir Robert Sandeman. Has anyone ever suggested that a man of that capacity and that sympathy and that great ability was not fitted for the work which he was called upon to perform? Would not the acceptance of this Resolution deprive Government in future of the services of such a man? I will take another case, that of Sir George Roos-Keppel. (Hear, hear.) Is not a man of that character worthy of occupying the highest administrative post? Indeed, they occupied the highest administrative posts to the great advantage of India. Is it fair to ask that this Assembly should now decide finally that whatever be the character, whatever be the capacity, whatever be the ability of these officers, they must be precluded from holding administrative offices, because they have the misfortune to belong to the Foreign and Political Service? That, seriously considered, is a proposition which I am quite sure this House will not endorse. Similarly arguments may be adduced in respect of military officers in the Railway, Irrigation and Public

[Sir William Vincent.]

Works Departments generally. Have they proved so inefficient? Have not the Military officers done much to build up a great system of canals and roads in this country? Have not their services been of the greatest benefit? Is it right to say that we will never take officers of this class again into any administrative posts?

Again, let us see who is to take the higher administrative offices in a province like the North-West Frontier Province, for instance, if such appointments are prohibited. Is it to be a civilian from some other province or is it to be a lawyer like my friend, the Mover? I do not know whether it would be a greater disaster to the province if I were to be appointed to a high office in the province or if he were.

Munshi Iswar Saran : I would do very well.

The Honourable Sir William Vincent : The Honourable Member has every confidence in himself, I am glad to see.

There are, however, many of us here, I think, who might say that someone who knew something of the tribesmen, who had worked for years in that territory, who was familiar with their customs, habits—their very violent habits—might be better fitted to administer the province than someone who has no experience of them. Now, let us take another administrative post, the Foreign Secretaryship, in the Government of India. What has been our experience of officers of the Foreign Department here? It is impossible for an officer like Mr. Bray to speak for himself, but I can assure this Assembly that I do not believe that anyone who had not been trained in the work of the Frontier and Foreign affairs generally could do his work half as efficiently as my friend here. (Applause.) I do not think the Mover could have ever realised the difficult character of the work in that department when he made the suggestion that he did. Does he suggest that an outsider should go in and deprive the Foreign and Political Department of one of the plums of the service, although the man whom he proposes to put into the appointment would necessarily have no practical experience whatever of either frontier affairs or of foreign politics in so far as they relate to the frontier. Sir, I believe that the attack on the Foreign and Political Service in so far as administrative posts at least are concerned—I refrain from making any observations as regards the judicial posts, because that subject is under inquiry—is entirely undeserved. More undeserved, however, are the attacks on the military service. Sir, I often think that there is truth in the charge that it is only in times of war that we remember our soldiers at all. (Hear, hear.) When it is proposed to put a soldier into the Indian Police, the Government is asked what he has done to deserve special consideration. The answer is that he has only risked his life. That is all he has been doing for us for the last 4 or 5 years. And when it is proposed after the war is over, in a time of peace to admit the soldier into any service in this country, the argument is 'No, no'; somebody else must be appointed, some gentleman who has been sitting at home and passing examinations while the soldier was fighting. That is the spirit in which this question is often approached, although the soldier candidate may be fitted in every way for the career which he subsequently takes up. This, I submit, is an attitude that is unworthy of this Assembly and I am quite sure they will not take it for one moment. As for the Punjab and Burma Commissions, Military Deputy Commissioners have in the past done admirable work in

Burma and in the Punjab. I think I am right in saying that when Upper Burma was first annexed, their work was of a peculiarly valuable character and indeed such work demanded great military knowledge and skill. At the same time, conditions have changed in Burma and in the Punjab and I may say that we now no longer recruit Military officers either for the Punjab Commission or for the Burma Commission.

But, as to the police, we do recruit a large number of young British officers at present and have done so in the past and I believe that they are officers who are deserving of the support and encouragement of this Assembly. They are young men who have worked and fought for the country during the war. Nearly all the men we have taken in are what they call war-service men. I put it to the Assembly that if this Resolution is adopted, their services will be lost in future to a service for which they are peculiarly fitted.

I may say also that this principle of enrolling war-service candidates to various services has not been confined to Europeans, but the principle has also been applied in the case of Indians who served in the war. I may add that in the police military officers are particularly needed, particularly in connection with the military police where their military knowledge is of special value. Nor is it unusual in other countries to use military officers for such services as the police. If you go to England, you will find half the chief constables recruited senior military officers. You will find a large number of military officers employed in various capacities of a similar nature. Of course, if it is a necessary assumption that because a man is a soldier, he is, therefore, incompetent, no argument can be adduced in favour of appointing military officers, but the fact is that many of these young soldiers would ordinarily have entered Government service in any case and entered the Army temporarily merely because they were anxious to serve their King and country during a period of great difficulty and danger.

Sir, the Honourable Mover the other day accused me of professing sympathy when I really did not feel it. I have heard many expressions of sympathy in this Assembly, but I have seldom heard one as unconvincing as the Honourable Member's exposition of one of his motives in bringing this Resolution, when he said that it was his desire to help the political and military officers that he brought this Resolution (Laughter) and I hope the Assembly will not accept his views on the point.

Munshi Iswar Saran: Sir, I regret that the Honourable the Home Member should have permitted himself to use language which was rather strong. Sir William Vincent is very particular about the choice of his language, but being human he has forgotten himself on this occasion, and I can well understand the reason of it; but I shall let that pass.

I am deeply indebted to Sir Godfrey Fell for the most valuable help and assistance that he has given to me. His is really the most powerful support to my Resolution which I have received during this debate. I had the impudence to suggest that military officers should not be appointed to various judicial and administrative posts. Honourable Members have tried to tear me to pieces; I suppose some of them would have been delighted to do it physically; but at any rate they have tried to do so intellectually. But this wicked suggestion of mine has been acted upon by a wicked Government, Sir Godfrey Fell tells us, in the Punjab Commission and in the Burma Commission, military officers are no longer taken. I say that the Government itself

[Munshi Iswar Saran.]

has recognised the validity of the position which I am putting forward before this Honourable House to-day. If my submission is valueless, if it is irrational, I ask this House to consider why is it that Government itself in the Punjab Commission and in the Burma Commission has made a rule that it will no longer take military officers? I, therefore, contend that there is force at least in this part of my Resolution. It was with a sigh of relief that I heard that part of the speech of Sir Godfrey Fell where he simply contented himself by saying that, as regards Cantonment Magistrates, the Government of India had appointed a Committee, and he held out a sort of vague hope that it was possible that what I am contending for, might perhaps in some measure be given effect to. As far as the appointment of military officers as Cantonment Magistrates is concerned, you find that Government itself, if it has not accepted my principle, at any rate has considered it important enough to appoint a Committee which will submit a report on it.

We have heard references to the great war. One would have thought that the system I complain against was brought into existence only after the great war. I ask my Honourable friends on Government Benches, has this system been brought into existence after the great war, or was it in existence before the great war. If it was in existence before the great war, then I say that it is no good dragging in the great war in order to justify a system that has been long in existence, much before anyone heard anything about the great war at all. (Hear, hear.)

The Honourable Sir William Vincent: May I give the Honourable Member the information? The system of recruiting military officers for the Punjab Commission ceased before the war. Since the war we have admitted over one hundred candidates who have served in the war, under special conditions, to the Service.

Munshi Iswar Saran : This leaves my position unaffected.

Then it has been suggested, not only suggested but stated, that I have found fault with—I shan't say, abused the members of the Foreign and Political Department and the military officers. Sir, I have done nothing of the kind. It is absolutely foreign to my purpose to say anything about the work done by these particular officers. My only submission before the House is that they should consider this question of principle, and should say whether in the Year of Grace One Thousand Nine Hundred and Twenty Two this system should be allowed to continue.

I was rather amused to hear Sir Godfrey Fell, a distinguished and brilliant member of the Indian Civil Service saying: 'Oh, by competition you get only intellectual men, educated men; but if you want men of character and sympathy, then you have to select.' I suppose, Sir, Sir Godfrey Fell will do well to agitate about it that the service which he adorns to-day should be abolished, and that there should be no more competitive examination, and that all these officers should be selected for their sympathy and for their character.

Mr. Bray—if, Sir, it is not impertinent for me, I should like to congratulate him on his most admirable maiden speech—referred to me with that skill which I shall now learn to associate with his utterances; referred to my speech as having wafted him into cloud-land, and then most dexterously

proceeded to defend the much maligned officers. The whole point is that Sir William Vincent and Mr. Bray mentioned a few names and said: 'Look at these brilliant administrators,' but that didn't touch the question at all. Did I mean for a moment to suggest that no military officer or no member of the Foreign and Political Department had risen to eminence, or had given a good account of himself? Did I mean to contend that no member of the Foreign and Political Department, or that no military officer had the capacity to become a good officer? I did nothing of the kind. I repeat I did nothing of the kind. Why then name these distinguished officers whose record of work every one appreciates and admires, and thereby confuse the issue? The issue is, should you or should you not continue this system? Sir William Vincent, who spoke last, said: 'Oh, this takes place in England too.' Will Sir William Vincent, with his vast knowledge and vaster experience and still vaster tact, be pleased to enlighten me as to how many military officers are occupying seats on the Bench in England. I shall feel grateful if Sir William Vincent will be pleased to confer that great boon upon me by giving the information I ask for. I pause for a reply. Not a word has been said in defence of the principle that I am asking the House to attack. If the submission that I have been making is unsound, reject it, but do not, I pray you, be misled by the names which have been mentioned by these distinguished officers representing various departments of Government. The issue is simple, will you continue this system which, without the least fear of contradiction, I say, is peculiar to India and cannot and will not be considered to be sound by any civilised system of Government?

Rai G. C. Nag Bahadur (Surma Valley *cum* Shillong: Non-Muhamadan) May I suggest, Sir, that the Resolution be split up into two parts and that you allow each part to be put separately?

Munshi Iswar Saran: I agree to the suggestion.

Rai G. C. Nag Bahadur: May I suggest the way in which I would like the Resolution to be split up into two parts?

Mr. President: I do not think we can separate judicial and executive functions in that way.

Rai G. C. Nag Bahadur: I suggest that it be split up in this way, that military officers should not be appointed to judicial posts in British India and that members of the Foreign and Political services should not be appointed to judicial or administrative posts in British India.

Mr. Denys Bray: I beg to point out that the Foreign and Political Department, as the Honourable Member has pointed out several times, consists largely of military men. Therefore, I hardly see how the Resolution can be split up.

Mr. President: The Honourable Member should have thought of that before and moved an amendment. The Resolution stands as one whole on the paper and he could have moved an amendment dividing it up in a different way. It is not possible for me now to say that the Resolution is in two parts.

Rai G. C. Nag Bahadur: If I am in order now, I would like, with your permission, to move an amendment splitting up this Resolution.

Mr. President: I cannot take an amendment now. The debate is over. The question is that the following Resolution be accepted :

'This Assembly recommends to the Governor General in Council that members of the Foreign and Political services as well as military officers should not be appointed to judicial or administrative posts in British India.'

The Assembly then divided as follows :

AYES—18.

Agarwala, Lala G. L.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Gour, Dr. H. S.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.
Man Singh, Bhai.

Misra, Mr. P. L.
Nag, Mr. G. C.
Neogy, Mr. K. C.
Samarth, Mr. N. M.
Singh, Babu B. P.
Sinha, Babu Ambika Prasad.
Sinha, Beohar Raghurir.
Subrahmanayam, Mr. C. S.
Subzposh, Mr. S. M. Z. A.

NOES—33.

Abdul Quadir, Maulvi.
Abdul Rahim Khan, Mr.
Akram Hussain, Prince A. M. M.
Amjad Ali, Maulvi.
Asjad-ul-Jah, Maulvi Miyan.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bridge, Mr. G.
Bryant, Mr. J. F.
Cotelingam, Mr. J. P.
Crookshank, Sir Sydney.
Dalal, Sardar B. A.
Dentith, Mr. A. W.
Fell, Sir Godfrey.
Habibullah, Mr. Muhammad.
Hullah, Mr. J.
Jejeebhoy, Sir Jamsetjee.

Kamat, Mr. B. S.
Keith, Mr. W. J.
McCarthy, Mr. F.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Nabi Hadi, Mr. S. M.
Percival, Mr. P. E.
Rao, Mr. C. Krishnaswami
Renout, Mr. W. C.
Sapru, the Honourable Dr. T. B.
Sarfaraz Hussain Khan, Mr.
Sharp, Mr. H.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was negatived.

MESSAGES FROM THE COUNCIL OF STATE.

Mr. President: The Secretary will now read the Messages from the Council of State.

Secretary of the Assembly: Sir, one Message runs as follows :

'I am directed to inform you that the Council of State has at its meeting of the 23rd February agreed without any amendment to the Bill further to amend the Indian Lunacy Act, 1912, which was passed by the Legislative Assembly on the 8th February, 1922.'

The second Message runs as follows :

'I am directed to inform you that the Bill to consolidate and amend the law relating to income-tax and super-tax, which was passed by the Legislative Assembly at its meeting of the 28th January, was passed by the Council of State at its meeting on the 23rd February with the amendments indicated in the attached statement.'

The Council of State requests the concurrence of the Legislative Assembly in the amendments.'

The Assembly then adjourned till Eleven of the Clock on Monday, the 27th February, 1922.

LEGISLATIVE ASSEMBLY DEBATES

MONDAY, 27th FEBRUARY, 1922

Vol. II—No. 36

OFFICIAL REPORT



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- The Indian Ports (Amendment) Bill.
- Resolution *re* India's participation in the British Empire Exhibition.
- Resolution *re* Prohibition of Traffic in Minor Girls.

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LEGISLATIVE ASSEMBLY.

Monday, 27th February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

STATEMENTS LAID ON THE TABLE.

The Honourable Sir William Vincent (Home Member) : I lay on the table a revised statement giving the information promised in reply to a question by Mr. K. Ahmed, on the 30th September, 1921, regarding the average salary of officers of the Indian Civil Service in 1911 and 1921, to be substituted for the statement laid on the table by me on the 11th January, 1922.

The statement laid on the table on the 11th January, 1922, did not include the exchange compensation allowance drawn by the officers of the years of service in question who were on duty on the 1st July, 1911; the present statement has been corrected on this account. The average rates of salary on the 1st July, 1921, include overseas pay, judicial pay and duty allowance when drawn; they also include personal pay sanctioned for certain officers to protect them from loss of emoluments on the introduction of the new scale. They do not include exchange compensation allowance still drawn by a few officers who were eligible to receive exchange compensation allowance when the new scale was introduced and who have been permitted to continue to draw exchange compensation allowance under the existing orders in order to obviate an actual reduction in their emoluments; the number of these officers is not known to the Government of India and they will gradually cease to draw exchange compensation allowance as their emoluments increase under the new scale.

Revised statement showing the average salary of officers (on duty) of the Indian Civil Service of 5, 10, 15, 20 and 25 years' service on the 1st July, 1911, and 1st July, 1921.

Years of service.	(a) Average salary on 1st July, 1911.	(b) Average salary on 1st July, 1921.	REMARKS.
25	3,141	3,116	
20	2,558	2,500	
15	1,857	2,043	
10	1,312	1,515	
5	828	935	

(a) Including exchange compensation allowance.

(b) Including overseas pay and judicial pay.

(2559)

The Honourable Sir William Vincent : On the 24th January last, in reply to a question by Mr. K. C. Neogy, I promised to lay on the table a statement of the suggestions which the Government of India recently made to Local Governments with the object of securing some measure of uniformity in the sentences passed on persons convicted under the Seditious Meetings Act and Part II of the Criminal Law Amendment Act. At the same time I was careful to state that I could not give a guarantee that our instructions would be published in full. I now lay on the table a statement which gives the general purport of these instructions.

Statement of suggestions made to Local Governments by the Government of India with a view to securing greater uniformity in the treatment of persons convicted under the Seditious Meetings Act, and the Criminal Law Amendment Act, Part II, in different provinces.

1. The sentences awarded for similar offences in different provinces and even in different courts in the same province vary very greatly. The Government of India recognise that in some localities the severe sentences, passed on a few leaders and others who were arrested immediately after the Act of 1908 was brought into force, have had the effect of checking the activities of the volunteers altogether, at any rate for the time being. On the other hand, in some places many of the persons convicted have been released under the orders of the Local Government before they have served the full term to which they had been sentenced. The Government of India would be glad if Local Governments would consider whether it is not possible to have the sentences already passed carefully examined in order to secure some uniformity, and also to ensure that where the penalties awarded are unduly severe they are reduced. Leaders who are responsible for the pre-ent condition of affairs, and are in fact promoters of the campaign against the Government, of course deserve more severe punishment than their immature and ignorant followers. It is, of course, within the competence of the Local Government to reduce or commute any sentence where such a course is desirable.

2. The question of awarding sentences of rigorous imprisonment to many of these offenders also requires consideration. Although they recognise the danger that a universal rule of simple imprisonment for all persons convicted under the Act of 1908 and under the Seditious Meetings Act might tend to increase the number of those who court arrest, the Government of India believe that, in many cases, sentences of simple imprisonment or even fine would meet the requirements of justice; but, where sentences of rigorous imprisonment are required, the Government of India think that many of the offenders of this character might not unreasonably receive different treatment from that accorded to ordinary criminals in the matter of labour, food, clothing and other privileges. They believe that in many provinces this practice is followed.

3. As to persons under trial, it would probably meet all requirements if the Public Prosecutor was to make it clear that, in the case of minor offenders, Government were anxious to vindicate the authority of the law rather than to see the offenders punished with excessive severity, and, where the accused are mere lads who have clearly been carried away by youthful enthusiasm, a fine, or even a warning where a promise of amendment is forthcoming, might be more suitable than a sentence of imprisonment. But where a fine is inflicted every effort should be made to realize it.

QUESTIONS AND ANSWERS.

EXEMPTION OF MEMBERS OF LEGISLATURE FROM OPERATION OF INDIAN ARMS ACT, 1878.

220. ***Rai Bahadur Bakshi Sohan Lal :** Will Government be pleased to state what action, if any, has been or is intended to be taken on the Resolution of the Honourable Lala Sukhbir Sinha adopted in the Council of State

held on 26th March, 1921, 'that all members of the Assembly and the Council of State be exempted from the operation of the prohibitions and restrictions contained in the Indian Arms Act, 1878.'

The Honourable Sir William Vincent : In accordance with the undertaking given by me in the course of the debate on the Resolution, Local Governments were consulted on the subject. They are practically unanimous in their condemnation of the proposal to extend the list of exemptions in the manner proposed.

I may add that, on the 8th February, Government accepted a Resolution moved in this Assembly for the appointment of a Committee to examine and report on the Indian Arms Rules, 1920. The recommendation embodied in the Resolution passed by the Council of State will be referred to that Committee.

INCREASE IN NUMBER OF COACHING VEHICLES.

221. * **Mr. N. M. Joshi :** With reference to the answer to question No. 234, printed at pages 2061—62 of the official report of the Legislative Assembly Debates, Volume II, No. 25, will Government kindly state whether any, and if so, what, steps are being taken to increase the number of coaching vehicles so as to restore the ratio of vehicles to passengers to that obtaining in 1895 or 1905? †

Colonel W. D. Waghorn : In 1905 the number of passengers carried was 237,542,000 and the number of coaches was 20,438. Thus each vehicle carried on an average 11,622 passengers per annum. In 1920-21, 30,165 coaches carried 445,704,000 passengers or an average of 14,762 passengers per coach. It is estimated that in order to reduce the average number of passengers per coach to that obtaining in 1905, 8,150 additional coaches will be required. The provisional programmes submitted by the Agents provide for more than 4,500 coaches in the next five years, but as prices are falling, it is probable that considerably more will be procured.

This matter is under further examination and will be taken up with the Agents.

EXEMPTION OF RAILWAY COMPANIES FROM PREPARATION OF STATISTICS.

222. * **Mr. N. M. Joshi :** With reference to the note 'Railways not shown do not prepare these statistics' occurring at the top of the Appendix 13 to the Administration Report on the Railways in India for 1919-20, will Government kindly say on what principle Railway Companies are exempted from the preparation of such statistics? †

Colonel W. D. Waghorn : The general principle underlying the exemption accorded to certain metre and narrow gauge railways from the preparation of the statistical returns referred to by the Honourable Member is that their value is not commensurate with the labour and expense involved.

The Analysis of working is, however, submitted in respect of certain narrow gauge railways, as the main railway administrations working them compile it for their own use.

† Question put on behalf of Mr. Joshi by Rai G. C. Nag Bahadur.

Dr. H. S. Gour: Sir, the Honourable Sir Godfrey Fell has asked me to give him a little time to prepare a reply to this question No. 223.† With your permission, I will ask this question next time.

THE EAST INDIAN RAILWAY STRIKE.

224. * **Beohar Raghbir Sinha:** (a) Will the Government be pleased to inform this House of the causes underlying the recent East Indian Railway strike?

(b) In what areas or localities the strike is confined?

(c) What measures are being adopted for the amicable settlement with the strikers and for relieving the inconvenience of the passengers?

(d) In what stations troops, if any, have been deputed?

(e) What are the duties entrusted to them?

(f) Will the Government issue any instructions in order to avoid any excesses or abuse of power?

Colonel W. D. Waghorn: (a) The pretext for the strike was an alleged assault on an Indian fireman, but there is every reason to believe that the real cause of the strike was purely political. The strikers did not even put forward any demand of an economic nature until the strike had been in progress for several days.

(b) The strike extends practically all over the East Indian Railway system but Indian staff only are affected.

(c) Every attempt has been made to bring the strikers to a reasonable frame of mind. Two independent inquiries have been held into the truth of the alleged assault on the fireman, and it has been established that the story of the assault was a gross misrepresentation. The finding has been published

† 223. (1) Is it a fact that the Military Works authorities have organized a service for temporary non-regular and Civilian officers, and the same has been sanctioned by the Secretary of State for India?

(2) Is it a fact that the number of such officers is to be about 249?

(3) That their minimum monthly emoluments are fixed at Rs. 650 and maximum at Rs. 1,350 with an annual increment of Rs. 50 with a month's bonus and two months' leave on full pay for each year's approved service?

(4) That their contract of service is nominally for 3 years, subject to six months' notice on either side extensible indefinitely thereafter?

(5) That the Director of Military Works is authorized to fix the initial pay of the incumbents?

(6) And that the several officers have been recommended for employment on the initial pay of Rs. 1,200 and none has started with the minimum pay fixed?

(7) Is it a fact that all officers so employed are Europeans and not a single Indian has yet been employed though the service was expressly non-denominational?

(8) Will the Government be pleased to state how many Indians applied for this service and why their applications were rejected?

(9) What are the qualifications of those engaged and those rejected?

(10) Is it a fact that some Indians who have already been in the service, and their services dispensed with through no fault of their own, have not been re-employed to any of these vacancies, but have been offered re-employment on a lower scale of salary and on more unfavourable terms?

widely among the strikers but without result. It is feared that grave inconvenience to the public is inevitable, but the responsibility lies with those who have fomented this strike for reasons entirely unconnected with the welfare of the strikers.

(d) and (e). Troops are stationed at most of the important stations along the line. Their duty is to guard the stations, to prevent sabotage and to see that loyal workers are not intimidated.

(f) The Government see no reason to apprehend any excesses or abuse of power and do not propose to issue any special instructions.

Mr. K. Ahmed : Is it not a fact that the railway people are not satisfied with the magisterial inquiry and that they demand an inquiry by one Indian lawyer, three railway officers and three of the railway employees ?

Colonel W. D. Waghorn : I have not received any intimation of that demand.

Mr. K. Ahmed : Was there not any communiqué published recently in the papers with the authority of the Government of India or with that of the Magistrate ?

Colonel W. D. Waghorn : It is quite possible, but I am not aware of the communiqué to which the Honourable Member refers.

Mr. K. Ahmed : Is it not a fact, Sir, that the Anglo-Indian officers working in the railways always are not friendly with the Indian workers ? Is not that also one of the causes of the present strike ?

Colonel W. D. Waghorn : Sir, I must object to the insinuation that is made by the Honourable Member in regard to the treatment of Indians by other officers of the railway.

Mr. K. Ahmed : Is not that one of the causes of the strike, Sir ?

Colonel W. D. Waghorn : May I ask the Honourable Member to repeat his question ?

Mr. K. Ahmed : Is not that ill-feeling on the part of Anglo-Indian officers one of the causes of the strike ?

Colonel W. D. Waghorn : The cause of the strike was an alleged assault which has been disproved after two reports have been made, one by the police and another by the Magistrate.

THE GORAKHPUR TRAGEDY.

225. * **Bechar Baghubir Sinha :** (a) Will the Government be pleased to issue an authorized statement as to the Gorakhpur tragedy ?

† (b) What measures the Government have adopted or are going to adopt for the relief of the sufferers and the safety of the law-abiding citizens ?

The Honourable Sir William Vincent : (a) The Honourable Member is referred to the communiqué issued by the Local Government which appeared in the press on 7th February last.

(d) The relief of the families of those who were killed will undoubtedly receive full consideration from the Local Government which is primarily concerned. Information regarding the measures taken for the protection of law-abiding citizens has been given in the communiqué mentioned above.

Mr. K. Ahmed: Is it not a fact that the volunteers had been debating with the Sub-Inspector of Chauri Chaura saying, 'How is it and why is it that you treated the volunteers badly on the previous day, that is the *hat* day? Will you explain the reason?'

The Honourable Sir William Vincent: I am afraid I have not that complete information about the action of the volunteers which the Honourable Member has; the only information I have is that derived from communications which I received from the Local Government. I believe that the whole question will subsequently come under judicial investigation, as I understand that certain persons have been arrested.

Mr. K. Ahmed: But the Sub-Inspector did apologize for his conduct of the previous day. Was he asked by the authorities to explain his conduct?

The Honourable Sir William Vincent: Was that the Sub-Inspector who was subsequently killed?

Mr. K. Ahmed: No, Sir, that was not the Sub-Inspector who was subsequently killed. On account of his past conduct on the previous day, this matter was developed. Was he censured or was he dismissed?

The Honourable Sir William Vincent: I have no information on the point.

AMALGAMATION OF EXCISE AND SALT ESTABLISHMENTS IN BIHAR AND ORISSA.

226. * **Babu Baidyanath Prasad Sinha:** (1) Will the Government be pleased to state why the proposal made by the Government of India in 1913 and the sanction accorded by the Secretary of State for India in 1914 for the amalgamation of the Excise and Salt establishment in Bihar and Orissa has not yet been acted upon?

(2) Has the attention of Government been drawn to the reply given by Mr. Sifton, on behalf of the Government of Bihar and Orissa, to a question put in the meeting of the Legislative Council of that province held on 22nd November, 1921, on this subject?

(3) Has the Government of India been recently addressed on this subject by the Government of Bihar and Orissa; and if so, will the Government be pleased to lay on the table a copy of the letter and reply given to the said Government?

(4) Will Government be pleased to state if they are prepared to give effect to the aforesaid changes from the 1st April next, which is likely to give some financial relief to the Provincial Government concerned?

(5) If the answer to the above be in the negative, will Government be pleased to state the reasons?

Mr. A. C. Chatterjee: (1) The transfer of the preventive work in Bihar of the Northern India Salt Revenue Department to the provincial Excise Department was postponed on account of the war. Bihar is the home of an

important saltpetre industry and as it was essential to develop the output for munitions purposes, it was considered inadvisable to effect a transfer of control during the war.

(2) Government are aware of the reply given by Mr. Sifton on behalf of the Government of Bihar and Orissa in the meeting of the Legislative Council of that province held on the 23rd (not 22nd) November, 1921.

(3) Not officially, but a demi-official inquiry has now been received whether the question may now be taken up again.

(4) and (5). The question will be examined, but it will be impossible to effect the transfer until the consequent financial arrangements between the Central and the Provincial Governments are settled; and there is no hope of a decision by 1st April next.

UNSTARRED QUESTIONS AND ANSWERS.

POST OF DEPUTY INSPECTOR OF SCHOOLS IN THE PROVINCES.

271. **Mr. Syed Nabi Hadi:** Will the Government be pleased to state in which of the provinces of India the post of Deputy Inspector of Schools in the Education Department is provincial one and in which not?

Mr. H. Sharp: Deputy Inspectors of Schools in Bombay are in the Provincial Educational Service, in Bengal, Burma, Central Provinces and Assam they are in the Subordinate Educational Service. There are no educational officers designated 'Deputy Inspectors of Schools' in any other Province. In the Punjab, Bihar and Orissa and the North-West Frontier Province there are District Inspectors of Schools in the Provincial Educational Services.

PRESSURE OF WORK IN THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, CENTRAL REVENUES, DELHI.

272. **Mr. B. H. Jatkar:** (1) (a) Is it a fact that the office of the Deputy Accountant General, Central Revenues, Delhi, has been running under chronic arrears for the last two years and the clerks have been forced to work beyond office hours?

Is it a fact that several had to proceed on leave on medical grounds and at one time during 1920 and 1921 about one-third of the establishment was on medical leave, and during the short life of about 9 years of the office of about 55 clerks five fell victims to phthisis out of which two died; three fell into swoon in office and several others to some other chronic diseases?

(b) Will the Government be pleased to lay on the table a statement showing the number of men who proceeded on leave on the plea of ill health and the total period of such leave granted during the years 1920 and 1921 along with number of men and period of leave granted on grounds other than medical?

(2) (a) Is this also a fact that holidays under Negotiable Instrument Act even are being stopped (not because of the fault of the Establishment but because of the deficiency of the strength) irrespective of religious importance;

(b) privilege and casual leave are generally granted only when one falls down and even pay for leave more than three days was deducted in certain cases by appointing substitutes who were not put on absentees work and the cost even could be met against other vacancies ?

(3) Will Government be pleased to issue instructions not to extend office hours beyond the limit fixed for the Account and Audit offices and that leave should be given sparingly as notified in Finance Department Resolution No. 1367-C. S. R., dated 29th July, 1920, and consider to compensate the incumbents who have suffered hardships ?

The Honourable Sir Malcolm Hailey: The information required has been called for and will be supplied to the Honourable Member as soon as received.

AMENDMENT OF STANDING ORDER.

Mr. President: The Assembly will remember that when the report of the Select Committee on the Standing Orders was taken into consideration on Monday, the 13th February, the Assembly passed an amendment moved by Sir Vithaldas Thackersey. It was an amendment of Standing Order 61, sub-clause (1), to which it was proposed to add as sub-clause (c) the following :

'With the permission of the President may authorise another Member who has balloted for the same Resolution and whose name stands lower in the list of business the same day to move the Resolution in which case the latter Member may move it.'

It has been found that that amendment is not in a convenient form, and it has been proposed to me that it should be redrafted in the following form and added as a proviso :

'Provided that the Member may, with the permission of the President, authorise any other Member, in whose name the same Resolution stands lower in the list of business, to move it on his behalf and the Member so authorised may move accordingly.'

I have simply to acquaint the Assembly that the amendment will be made in the Standing Order in that form. No change of substance has been made in the original amendment as carried by the Assembly.

THE INDIAN INCOME-TAX BILL.

Secretary of the Assembly: With your permission, Sir, I lay on the table the Bill to consolidate and amend the law relating to Income-tax and Super-tax, as passed in the Legislative Assembly and amended by the Council of State.

The Honourable Sir Malcolm Hailey (Finance Member): With your permission, Sir, I desire to move :

'That the amendments made by the Council of State in the Bill be taken into consideration.'

If the House will glance at the list of these amendments they will see that nos 1, 2, 3 and 5 are in effect drafting amendments. No. 4 is the only amendment of any substance at all.

The motion was adopted.

Mr. President : The question is :

‘That this Assembly do agree with the Council of State in the following amendment :

‘That in clause 2 (1) (b) (iii) for the words ‘when he does not keep a shop or stall for the sale of such produce not being the produce of his land’ the following words be substituted, namely :

‘in respect of which no process has been performed other than a process of the nature described in sub-clause (ii).’

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, I have some doubts about this amendment which I wish to place before the Honourable the Finance Member for his explanation. As far as omitting the words ‘when he does not keep a shop, etc.’ goes, it is in consonance with my view expressed on the last occasion. I thought the clause was unnecessary and I am glad to see that clause has been removed. But I am doubtful about the addition of this new clause :

‘In respect of which no process has been performed other than a process of the nature described in sub-clause (i).’

The difficulty I feel is this. If Honourable Members will turn to sub-clause (2) (b) (ii) they will see it is as follows

‘The performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market.’

Now, being familiar with cocoanut plantations I put that case first, because I myself own a large plantation of cocoanut trees and know the difficulties of cocoanut growing. Sub-clause (2) (b) (ii) says ‘produce fit to be taken to market’. Now, take the case of cocoanut leaves which are taken from the trees and we then employ our farm servants to convert them or weave them into mats for purposes of roofing huts. Is that process a process for making the leaves ‘fit to be taken to market’? It is a very difficult question to decide, because the leaves can be sent as they are to the market without this process of conversion into mats. Take again the outer shell of the cocoanut. We draw fibre out of it, employing our farm servants for this purpose. Suppose I sell that fibre? Take again the inside or kernel of the cocoanut. When we break the cocoanut we break it into two cups. There is a large demand for these cups from rubber plantations. Supposing I sell the cup or kernel, or these leaves after they have been woven into mats so as to sell them in these forms, can it be contended that these are all processes for making ‘produce fit to be taken to market’? Then, again, take paddy. I get a large quantity of paddy and I keep my own mill. Instead of selling the paddy as paddy, I convert it into rice and sell the husk separately and the rice separately. Am I doing a thing which will come within the scope of this clause? Again, take sugarcane. I crush the sugarcane and sell the juice or convert it into jaggery and sell it in that form. Am I complying with the provision contained in this clause? Similarly, there are so many processes which we adopt which I am afraid cannot be aptly described as merely processes for making the produce ‘fit to be taken to market’, because, taking the case of sugarcane, for instance, the cane itself can be taken to market without doing any of these things. So also with paddy. So also with wheat. Supposing I convert wheat into flour, supposing I were to use my farm servant for that purpose, and sell the flour—am I doing a thing which can correctly be said to make the wheat ‘fit to be taken to market’? I am afraid that, by the introduction of this clause, this qualifica-

[Rao Bahadur T. Rangachariar.]

tion, this proviso, you will be forcing the agriculturist to sell the things as he receives them; he cannot make those economic processes which he is accustomed to do, because the whole value of the produce becomes liable to income-tax. The object of this is to exempt agricultural income from taxation under the Income-tax Act; but I do not know what the Mover of this amendment had in mind, what processes he had in mind, when he introduced this clause in order to qualify the question of sale. I sell my produce in the most economic form I can. If, for instance, I convert my cotton and keep a spinning mill and convert the cotton into yarn or into cloths, that may be a different thing. But these processes which I have described: for instance, take plantain cultivation—we cultivate plantains; we convert the plantain leaves into cups which are very frequently used; and the leaves are dried and sent out; the green leaves are sold as they are sometimes, but I make economic use of these leaves by making use of these processes, by employing servants on my farm in hours when they are not employed in actual cultivation, and sell them. Can it, for one moment, be contended that this is not income from agriculture? Therefore, it requires a great deal of attention. I do not know how the Government proposes to do, whether they propose to convert these processes into processes by which you want to bring that income under the income-tax category, or whether they want to exempt the processes which I have described; and, if so, what safeguards the Government proposes to give in that direction in order to exempt such processes from being treated as processes other than that of making the produce fit for being taken to the market. These are the practical difficulties which I feel in accepting this clause and I would therefore ask for information on the point.

Beohar Raghbir Sinha (Central Provinces : Landholders) : Sir, I associate myself with the remarks made by my Honourable friend, Mr. Rangachariar. I have to say that I prefer this amendment made in the Council of State to what was made in the Assembly, though the addition of the words 'not being the produce of his land' to the words 'when he does not keep a shop or stall for the sale of such produce' in the Assembly, was a very necessary and important addition. But, to my mind, it appears that it was very difficult to ascertain what quantity of grains kept in the shop for sale were the shop-keeper's produce from his land and what quantity was not his own produce. So there would always have been disputes on this point. Now, the clause as amended by the Council of State would relieve the disputes just apprehended; but I have only some misgivings, as has been said by Mr. Rangachariar, *viz.*, whether turning *dhan* or paddy into rice or gram and other cereals, such as arhar, urd, moong or masur into dal, comes within the meaning of sub-clause (ii). I think dals should not be taxed. Now again, gur or jaggery, the product of sugarcane, should not be taxed, as in the villages sugarcane has not so much market value as gur and cane-juice. These points must be made clear either by adding a clause by way of explanation or in the rules made under sub-clause (ii). So that, there would be no possibility of the misinterpretation of the clause. These are the only observations that I have to make.

Mr. G. G. Sim (Joint Secretary, Finance) : Sir, as Mr. Rangachariar has himself admitted, this amendment was made in order to carry out the object that he himself had in view when he supported the amendment that was made in the Assembly, in order to provide that in cases where a cultivator keeps

a shop for the sale of the produce of his own land, he should not be liable to the tax. The reason for the amendment taking this particular form is simply this, that it was desired to make it perfectly clear that, where a person sold the raw produce of his land after it had been worked up by a process other than the processes described in sub-clause (ii), it should still be the case that the profits of the working up are profits liable to income-tax, otherwise it would not be possible, for example, to tax the profits from running a sugar-cane factory where the owner of the factory gets the cane from his own land. Similarly, in the case mentioned by Mr. Rangachariar, where a man has a rice-milling factory we must still tax the profits of the milling. There is no difficulty at present experienced in separating off, in these cases, the purely agricultural from the industrial profits. The rule that has always been enforced is this, that where a man works a factory which is entirely supplied from the produce of his own land, we deduct as a business expense the whole value of the raw material, that is to say, the value that it would fetch in the open market; that is, the price that it would fetch if he sold the produce to another factory is deducted as a business expense. No difficulty has ever been experienced in working that rule. I am afraid that I know nothing whatever about the question raised by the Honourable Member about his cocoanuts. I have never come across any case of assessment of cocoanut profits to income-tax. And I do not know whether the Honourable Member's plantation is so large that if he subtracts from the profits which he gets from the cocoanuts the value of the raw cocoanuts, that is, the price they would fetch in the open market, the amount would be very great. I am sorry that as regards that specific point I can give no definite information.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor : Non-Muhammadian Rural) : Sir, the omission of the words 'keeping a shop or stall', I think, will lead to considerable danger, that is, the danger of people who are not intended to be made liable to the tax being made liable. There was something definite when we had the words 'shop or stall'. It meant that a villager who carried his produce after some kind of conversion to a town where he had a stall would not be liable to be taxed. Now, the omission of these words makes it much wider; if he sells the produce of his own land, at his own house, after some conversion, as detailed by my Honourable friend, Mr. Rangachariar, he might be made liable to be taxed; when we had those words, we had one definite place where at any rate he would be liable to pay the tax. Now, the omission of those words makes it more general—that is, the sale by a cultivator of produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii), means sale anywhere; therefore, the exception becomes much wider. As for the argument that no difficulty has been experienced till now, that does not give any comfort. The class of people who would be affected by this clause are the people who ought to be carefully protected: they would be the villagers. It is all very well for tradesmen and others living in towns who can take care of themselves. It is the villagers that will get into trouble. A man has got his agricultural produce, which he converts before sale, and he sells it in his own place. The question has been raised as to whether he will be taxed on the difference between the sale price and the actual price of the raw produce. We have to enter into minute calculations. Therefore, I think the omission of the words 'shop or stall' has made the Bill more stringent.

[Rao Bahadur C. S. Subrahmanayam.]

In regard to work of an Industrial character, that is, where the sugarcane is crushed and juice is extracted, there again we get into a very vague sphere, because what is industrial conversion? It is a common practice with men who grow sugarcane in villages to convert the sugarcane juice into jaggery; that is, he crushes the cane on the land and sends the juice to the nearest place where it is converted into jaggery. Now, will it apply to the sale of jaggery or will it not? That is a specific question which my Honourable friend, Rao Bahadur Rangachariar, put and no answer has been given to that. The only comforting answer that has been given is that no difficulty has been felt. If the income-tax officers go and charge upon the sale price of this jaggery or on various other things which my Honourable friend detailed with which we are all familiar, what is going to be the position of the poor cultivator? 'Shop or stall' at any rate prevented a tax being levied on produce sold on the farm, but now this makes it a little wider. I think it is a very serious change which the other Chamber has introduced, and I cannot understand why the Government should have allowed such a sweeping change to be made in that clause after it was discussed here and the amendment had been passed. We know we fought over that amendment. We wanted to restrict the scope of the sale in the shop or stall by making it perfectly clear that the tax should be only on such produce not being the produce of the land. After the decision arrived at here, it requires some very strong explanation why the clause was allowed to be altered in the other Chamber which affects a class of people who are not really represented there. This clause would affect the ordinary *ryot* in the villages, and it is for that reason we are very anxious that provisions which would encroach upon the agricultural income of smaller men ought to be very carefully worded and properly safeguarded. Therefore I oppose this amendment which was proposed by the other Chamber.

The Honourable Sir Malcolm Hailey: The Honourable Member asked why when the clause had already been amended here it was allowed to be amended in another sense in the Council of State. I was unaware . . .

Mr. N. M. Samarth (Bombay: Nominated Non-Official): I could not hear that humorous remark.

The Honourable Sir Malcolm Hailey: The Honourable Member asked why it was allowed to be amended in another sense in the Council of State, and it is news to me, Sir, that we have such power either here or in the Council of State that we can dictate what form an amendment should take.

Then, Sir, the Honourable Member suggested that this is a wide and sweeping change. He has suggested that he and his friends find it essential to stand up for the interests of the small cultivator and land owner otherwise not represented. That Mr. Rangachariar has also expressed doubts on this clause is, I think, a sufficient proof that there are other and perhaps even more vocal interests affected as well as the small cultivator, and are perfectly well equipped to defend those interests. Now, have we effected a wide and sweeping change as suggested by the Honourable Member? Under clause 2 special processes of manufacture always were taxed. We have introduced no change at all in that respect. All we have done is to bring clause (i) strictly into line with clause (ii). As I have pointed out, if any one were under the existing Act to engage in any special process of manufacture other than that ordinarily employed by a cultivator to bring his produce to the

market, he was taxed on the profits derived from that special manufacture even though it were employed on his own produce. Let me take the case of tea. That is a somewhat vexed case which has formed, as several Honourable Members here know, the subject of much discussion and of decisions in the High Courts. The profits of the special processes employed to fit tea for sale in the market were according to one of the High Courts taxable under sub-clause (ii). We have, therefore, introduced no change at all in this respect. Special processes were taxable before, special processes will be taxable now. The fear that Mr. Rangachariar felt that he would be charged tax on the whole produce of his cocoanuts and not merely on the profits of any special process of manufacture which he may employ on his produce, has, I think, been dispelled by Mr. Sim. We do not propose now, and we never did propose, any change in the law or any interpretation of the law that would have the result of making a man pay tax on the profits derived from his own produce as such. The tax would be simply imposed on such profits as he derived from any special processes of manufacture and nothing more. Now, I put it to the Honourable Member who has just spoken whether he knows of any case in which the small cultivator whom he seeks to protect employs such special processes of manufacture as are likely to render him liable to taxation. I know of no such case. I have spent half of my official life in agricultural districts and I know of no such case, nor have I ever heard of such a case, and, to my mind, the fear the Honourable Member has expressed is really perfectly illusory. We have had to put this amendment simply in order to make it perfectly clear that where, for instance, a tea garden raised its own tea and then manufactured it for sale, then the profits of the special processes of manufacture should be liable to taxation. Or again, where a large sugar company raised its own sugarcane and then manufactured the produce for the market in a commercial form, then in spite of the fact that it was using its own sugarcane, the profits derived from the process of manufacture should be liable to taxation, and that is the sole reason why this amendment was put forward in the Council of State. Other members who have spoken have recognised that the omission of the words 'shop' and so on, is an improvement. It does not give a wider scope for taxation than the original form of the sub-clause; it extends the scope of the exemption, not of taxation. This amendment was put in simply, let me repeat these words, to bring sub-clause (iii) into direct line with clause (ii), and it has the result of providing that where a man engages in any special process of manufacture, the profits derived from that process and from nothing else shall be liable to taxation.

Bhai Man Singh (East Punjab : Sikh) : Sir, I am sorry to say that I have not been able to follow the line of argument adopted by my Honourable friend, Sir Malcolm Hailey. The Honourable the Finance Member has definitely stated that only the special processes of manufacture will be taxed and not the original produce. The other important statement he has made is that he has known of no agriculturists who are resorting to such processes of manufacture in regard to their agricultural produce which become liable to taxation under the new clause. In regard to this statement, Sir, I have to submit that everybody who has any knowledge of village life would know that lots of agriculturists make *gour* out of their sugarcane

The Honourable Sir Malcolm Hailey : Are they taxed ?

Bhai Man Singh : Whether they are taxed or not, I cannot say.

The Honourable Sir Malcolm Hailey : Are they taxed ? That is the point.

Bhai Man Singh: I cannot say whether they are taxed or not, but take the Bill as it stands. There is nothing to stop an Income-tax Officer from taxing them. We have to see whether actually, under the present wording of the Act, they are taxable or not. Surely, if a zemindar who has paid land revenue for his sugarcane only makes *gour* out of that sugarcane and sells it in the market, this process does not strictly come under clause (ii) which simply says 'fit to be taken to market.' People actually take sugarcane also to the market for sale, so this does not strictly come under sub-clause (ii). Again, I should think that if we take out the juice from sugarcane, that is *ras*, even that is a process that does not strictly come within the process of making it fit to be taken to the market, and that also can be taxed under the present wording of the Act.

Again, Sir, I should like to know what is there in the wording of the Act itself to show that the whole produce itself will not be taxed over again, and it is only the produce derived from the process of manufacture that will be taxed? If you read the words of the Act as they would stand according to this amendment, I think it would read like this :

'The sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii).'

Whenever any other process is performed in respect of any produce, the whole of the sale money is to be taxed over. A man has received, say, 50,000 maunds of wheat from his land, but by a manufacturing process of grinding he makes it into flour. He sells that flour in the market for a certain price. I should like to know where is the provision in the Act to show that the whole of the sale produce including the total price which he has realised is not taxable under the present words of the Bill? Is there any provision to show that a reduction will be made for the price of the wheat which was the produce of his own land and that it is simply the profits which he has realised from the manufacturing process that will be taxed? I submit that I have got perfect sympathy and that I am perfectly at one with the view that if a manufacturing process on a larger scale is carried on like the one mentioned by my Honourable friend, Mr. Rangachariar, *e.g.*, if a man makes yarn out of his cotton, then surely that should be taxed, and if you find that it does not come within the present words of the Act, you could have it. But, for the sake of bringing in such rare instances you are making the words of the Act so very doubtful that every petty zemindar can be taxed under it for the real produce of his land simply because he changes its shape a bit, simply because, instead of sending raw cotton to the market, he sends ginned cotton. We could even say he performed the process of ginning with his own small handy ginning machine called *Belna*. My Honourable friend, Chaudhuri Shahab-ud-Din, has suggested that instead of sending *dhan* a man can husk it on a small scale in his own farm and then sell rice in the market. Would it not be taxable? I should submit with due deference that there is absolutely nothing in the words of the section which excludes such small processes of making *gour* or ginned cotton or *ras*, etc., and there is also nothing in the words of the Act to show that only the profits of manufacturing processes are to be taxed and not the produce itself. There is no provision for both these contingencies, and in the anxiety to tax the big mill-owners who may also be big landowners, we have made a provision which may act prejudicially to the interests of lots of poor agriculturists. I cannot say whether in the past Income-tax Officers have

or have not been making that mistake, but they are liable to interpret it like that, and there is nothing in the Act itself to stop them from making that use of the words of the section. Therefore I submit that the remedy would be much worse than the evil we are trying to remove. Therefore, I oppose the amendment as made by the Council of State.

The Honourable Sir Malcolm Hailey : With your permission, Sir, I should like to clear up one point that has been raised. If the processes to which the Honourable Member refers are not processes of manufacture, then they obviously do not come within sub-clause (ii) at all. He says that they are not processes of manufacture; if so, they are excluded by sub-clause (ii).

His second point is with regard to the possibility of taxing small landowners. I think he will realise that unless any specific process of manufacture brings in a profit by itself which amounts to Rs 2,000, then it cannot be liable to taxation at all. That, I think, ought to clear his mind of any possibility that the great bulk of agriculturists can possibly be affected by this. Unless the special process of manufacture earns in itself Rs. 2,000 then of course it cannot be liable to taxation.

The third point is that we do not specifically by the Act protect from taxation the produce of a man's own land. Well, Sir, there has never been any doubt on this particular point. Our rules make it perfectly clear that in applying sub-clause (ii), the actual produce of a man's own land or the value of it shall be entirely excluded in any question of taxation. That rule, I can give the House an assurance, will be repeated. The Honourable Member says, 'Who will prevent the Income-tax Officer from applying this rule so as to assess everybody on their own produce?' Well, Sir, if he wants an assurance on that point, I will tell him, I will. We have the power to issue rules. We have issued rules already and we will make it perfectly clear that that is the interpretation of the Act. If the Honourable Member has any doubt whatever about it—I have none but he has no doubt—our rules will make it perfectly clear that the actual value of a man's own produce must be excluded in calculating the assessment. I hope that that assurance will satisfy him.

Mr. G. Bridge (Assam : European) : Sir, I have been connected with tea plantations for 47 years and I have tea gardens and I have manufactured tea there, but for 47 years or more the manufacture has never been taxed. It is very difficult to assign the value of tea after it has been manufactured and before it has been manufactured, that is, the value of the green leaf before the manufacture. Through all these years we have also been considered as cultivators and we have not been taxed. It is only, I believe, in the last year or so that Government has thought that it should be taxed, and I cannot see how to assign the value of the tea after it has been manufactured and before it has been manufactured. The green leaf is only being roasted and made into tea for keeping purposes. I consider that it will be very difficult indeed for Government to tax the manufactured portion of tea from the cultivated. Therefore, I think that it ought not to be taxed, as it comes under the head—pure cultivation. That is my view, and the planters' view, I think, Sir.

J. Ramayya Pantulu Garu (Godavari *cum* Kistna: Non-Muhammadan Rural) : It seems to me, Sir, that the discussion that has been going on for the last few minutes is more or less irrelevant. I find that my friend, Mr. Rangachariar's difficulties arise really under item (ii) of sub-clause (b).

[J. Ramayya Pantulu Garu.]

That lays down that, where an agricultural produce undergoes certain processes in order to make it marketable, it is not to be liable to be taxed. The amendment made by the Council of State is only to introduce this clause into item (iii). The amendment made in item (iii) by the Council of State only introduces the clause which has already been enacted in item (ii), and inasmuch as item (ii) has already been passed by both the Houses, it seems to me that this discussion is irrelevant. Now, the points raised by Mr. Rangachariar are really those of interpretation to be settled by the assessing officer. It seems to me that the real test in the matter is whether the agricultural produce as it is received from the farm is saleable as it is or not. If there is a market for the raw produce as received from the farm, I suppose that any process which it may undergo in order to enhance its value will have to be taxed. But, in that case, I think the assessing officer, if he is reasonable, will tax only the additional value that is imparted to the article by the processes which it undergoes, and not the entire value of the article including the value of the raw produce. Take, for instance, the case of sugarcane. If there is a demand for sugarcane as cane in the neighbourhood of the place where it is grown, I would suppose that the manufacture of that cane into jaggery for the purpose of enhancing its value would be *pro tanto* liable to tax. Take a similar case, the case of indigo. In my own part of the country they grow indigo leaf largely, and generally it is sold in the raw state. But sometimes there are merchants who buy the leaf and manufacture it into indigo and export it for sale. Then it is liable to tax, but the sale of the leaf is not liable to income-tax. It seems to me that the real test in such cases is whether you can sell the raw produce as you receive it without making it undergo any process. If you can sell it as it is, it seems to me that any process which the produce is made to undergo for the purpose of enhancing its value may be considered by the assessing officer as a process entitling him to assess the additional value imparted to the article by the process. But, whatever that may be, it is really a point of interpretation, and I do not see how by any amendments we can make here we can avoid the difficulty arising out of that.

As regards the point raised by my Honourable friend, Mr. Subrahmanayam, it seems to me that he is mistaken as to the scope of the amendment made by the Council of State. It really restores to the cultivator the advantage which he was taken away by the amendment made in this House, namely, that if he sells the produce of his land, he will not be liable to tax unless he keeps a shop for the purpose of selling similar produce which is not received from his lands. Well, this removes that restriction, and to that extent it seems to me that it benefits the cultivator rather than restricts his privilege.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): The difficulties that have been pointed out by the previous speakers as regards the amendment proposed by the Council of State are really difficulties which surround the interpretation of the previous clause, clause (?). This clause reads as follows:

'the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market.'

Honourable Members will find that the sole question which concerns this clause and the subsequent clause proposed to be inserted by the Council of State depends upon the meaning of one word, and that word is 'produce'. When is the produce of the land not the produce of that land, but something else? So long as it remains the produce of the land and its identity is not transformed beyond recognition into something different, it remains the produce of the land despite the process to which it may have been subjected. I take an instance. The cultivator grows paddy in the field. He removes the husk and the rice is sold in the market. That is the produce of his land. He converts his rice into flour. That is not the produce of his land, because it has altered its identity. Put a little water into that flour. It becomes starch. That is not the produce of his land. It may then undergo various other changes and become a manufactured article. You might make biscuits with it, you might make different other articles with it. That does not remain the produce of the land. The question, therefore, is one of degree. What is the alteration made to the produce of the land so as to convert it into an entirely different article? Take, for instance, the case of tea referred to by my Honourable friend from Assam. The tea planter grows tea in the fields. He roasts it, then tins it and sells it in the market. It is tea which is the produce of his land, but if he was to extract juice from it or make tannin or other manufactured products, it will cease to be the produce of his land, and therefore it will come out of clause 2 to which I have adverted. Now, Sir, take the case of sugarcane. So long as the sugarcane remains sugarcane, it is, of course, the produce of his land, but the moment the grower extracts juice of sugarcane and converts it into jaggery, it is not the produce of his land. My friend, Bhai Man Singh, would be using the language somewhat too widely if he was to say, 'I grow sugar and jaggery on my land'. All he can say is that sugar and jaggery come out of the produce of his land. I therefore think that jaggery and sugar, which are manufactured products from sugarcane which he grows on his land, would be subject to tax under clause 2, and therefore also subject to tax under clause 3. The Honourable Sir Malcolm Hailey said that, if the profits of the manufacture be more than Rs. 2,000, the manufacturer would be liable to tax. I submit that is not the crux of the case at all, and I venture to submit that the Honourable the Finance Member has misunderstood the very purport of the Act of which he is the chief sponsor. The question is not what is the quantum of profit that he makes. The question is: When does the agricultural produce cease to be an agricultural produce and become an industrial product? That, I submit, is the underlying principle of clause 2 and it is continued in clause 3. Now, adverted to the amendment suggested by the Council of State, they have cut out the words, 'when he does not keep a shop or stall for the sale of such produce'. That enlarges the scope of clause 3, and the agriculturist need not in the slightest degree be afraid of the cutting out of those words, because, even if he keeps a shop or stall in which he sells his produce, he would be exempt from this tax.

The clause, then, which is sought to be inserted by the Council of State
 12 Noon. simply takes us back to clause 2, and all the difficulties which have been pointed out by the Honourable Mr. Rangachariar and the subsequent speakers are not difficulties which have been created by the amendment suggested by the Council of State but are difficulties which underlie the construction of clause 2, which, I submit, is no longer open to

[Dr. H. S. Gour.]

discussion in this House. I, therefore, submit that, so far as this amendment of the Council of State is concerned, it should be accepted.

Mr. Darcy Lindsay (Bengal : European) : I move that the question be now put.

Mr. President : The question is :

'That this Assembly do agree with the Council of State in the following amendment :

'That in clause 2 (1) (b) (iii) for the words 'when he does not keep a shop or stall for the sale of such produce not being the produce of his land' the following words be substituted, namely :

'in respect of which no process has been performed other than a process of the nature described in sub-clause (ii).'

The motion was adopted.

Mr. President : The question is :

'That this Assembly do agree with the Council of State in the following amendment :

'That for the *Explanation* to clause 4 (2) the following *Explanation* be substituted, namely :

'*Explanation* :—Profits or gains accruing or arising without British India shall not be deemed to be received or brought into British India within the meaning of this subsection by reason only of the fact that they are taken into account in the balance sheet prepared in British India.'

The motion was adopted.

Mr. President : The question is :

'That this Assembly do agree with the Council of State in the following amendment :

'That in the *Explanation* to clause 10 (2) (iii) for the words 'a Mutual (Benefit Society as defined by rules made under this Act' the words 'such Mutual Benefit Societies as may be prescribed' be substituted.'

The motion was adopted.

Mr. President : The question is :

'That this Assembly do agree with the Council of State in the following amendment :

'That in clause 15 (2) for the words 'any male member' the words 'any adult male member' be substituted.'

Rao Bahadur T. Rangachariar : Sir, I am very sorry I have to oppose this amendment. This amendment has been made by the Council of State on a misconception and a misapprehension. The misconception is in relation to the legal position of a Hindu undivided family. The misapprehension relates to the view that they have taken that this is a peculiar advantage which is given to the undivided Hindu family. The well-known view as regards the joint Hindu undivided family is that every male member born in the family acquires by birth an interest in the family properties. It is an undefined interest. No member can predicate what his exact interest in the family is, and the position is that every acquisition made by any member of the family belongs to the family and that is why the Income-tax Act takes the joint Hindu undivided family as one person for the purpose of assessing the income of that family to income-tax. We do not object to such a course being pursued. The Income-tax Act also recognises that where an assessee incurs expenditure in the shape of insurance

of the assessee or his wife he shall be entitled to a deduction. That is the general rule, as Honourable Members will see, which is contained in section 15 as it is. Section 15(1) says:

'The tax shall not be payable by an assessee in respect of any sums paid by him to effect an insurance on his own life or on the life of his wife.'

The assessee in clause () may be an infant himself. We all know that infants inherit business on which income-tax is leviable. Therefore, if the assessee is an infant and if his life has been insured, he is entitled to the benefit of that exemption under clause (1), so that any assessee, if he is an infant assessee, whether he be an European or a Muhammadan or a Hindu or a Parsi, is entitled to the benefit of that clause, because 'person' includes infants also and an assessee may be an infant; so that if an infant has insured his life, then he is entitled to the benefit of the protection of this rule. Clause 2, as amended by this Assembly, extended that benefit to the infant assessee in the Hindu undivided family. Therefore it was idle to suggest to the Council of State that this is a privilege which is accorded to the Hindu family and which is not accorded to others. That is the misapprehension on which the Council of State has proceeded. In the case of the Hindu undivided family each member is an assessee, and therefore it is not correct to say that any benefit is accorded to the assessee's child because the child or the infant is the assessee himself. I quite agree that the law should not extend this protection to the case of the assessee's child. Confine it to the assessee and his wife. I am agreeable to that.

But in giving this protection, as we did in this Assembly to the infant assessee in the undivided Hindu family, we were not giving anything new, or any new privilege which other communities do not enjoy. Every community enjoys it. It is a mistake to say that it is a special privilege. It is on that ground that I see the Honourable the Finance Member induced the Council of State to accept this amendment. On the other hand, you are only extending the privilege which you give to every assessee to the undivided Hindu family. It is but reasonable that when you take his income into account, as I have already pointed out when this was debated in this House, you should exempt expenditure incurred on him. As is very common in undivided Hindu families, especially in trading families, boys from 12 to 18 assist their parents and brothers in running the business on which the income is liable. Probably, branch businesses are run by infants. Their income is taken into account in calculating the amount of the income of the family for the purpose of assessment. He is an assessee himself. He is as much interested in the property of the family as other adult members of the family. When you are inclined to give this exemption to adult members of the family, on what reason can you separate one member of the family from the other? An infant member does not cease to possess interest in the family property. His interest is equal with that of the adult member. Now, you are willing to allow the exemption in the case of a joint family of 10 or 12 adult members. If 10 or 12 adult members insure their lives you are willing to extend the protection of the exemption. But suppose a joint family consists only of two infant brothers. That very often happens. That family is liable to income-tax also, and if the mother insures the life of the infants you will not give the exemption. Now, what is the reason on which you are going to refuse this benefit or privilege, which you extend to others, to the infant assessee in a Hindu undivided family?

[Rao Babadur T. Rangachariar.]

That is the way in which the whole question has to be looked at. Why should the Council of State be asked to interfere in a matter like this? It is not a matter which is going to affect the finances of the country. I ask why should the Council of State take upon itself or be advised to take upon itself this course of overruling the considered decision of this House on a matter like this which is based on principle? Where this House has done something which is wrong in principle, by all means let this Council of Elders take it upon themselves to correct us. (Laughter.) Have we erred so egregiously in extending this privilege to an infant assessee? Let us not forget that he is an assessee. Let us not mislead ourselves into the belief that he is not an assessee. He is as much an assessee as an adult member. He is as much an assessee as infant assessees of other communities. Keeping that in view, I ask, have we erred so egregiously that this House of Correction should take it upon itself to correct us? (Laughter.) I say it is a matter which ought not to have been taken up like this and I do not think this conflict should have been brought about. It is a matter on which we are bound to stand by our decision. We have only done the right thing, and I am very sorry indeed that the Council of State has been induced to accept this change. I, therefore, strongly oppose this amendment.

The Honourable Sir Malcolm Hailey: I would remind the House that, when we originally debated this point, the House itself had some doubt on the subject. If Mr. Rangachariar will turn to the list of votes, he will find that the numbers were as nearly as possible equal.

I turn now to the definite argument which he has advanced to-day in regard to this particular amendment. He did not advance it when he originally put forward his proposition and the brilliant thought has, I think, struck him since then. It is a brilliant thought, but not a very sound one. What is his argument? His argument is this, that under clause 15 (1)—and I would ask Honourable Members to turn to that clause—an assessee may himself be an infant. Now, since the members of a Hindu joint family are all equally shareholders in the family, they are in theory also equally assessees. Consequently, as an assessee may be an infant under clause 15(1) and has certain privileges under that clause, an infant assessee in the Hindu joint family should have similar privileges. That, I think, is his argument. Sir, in a Hindu joint family, I understand, all male children born in the family are equal shareholders. Consequently, even grand-children are equal shareholders. That is so. (*Cries of 'Yes, that is so.'*) Consequently, Sir, the analogy between clause 15 (1) and clause 15 (2) is not in any way as complete as he would suggest. It is quite clear that whereas you cannot obtain any relief in respect of premia paid on the life of an infant son, Mr. Rangachariar would give that relief to the Hindu joint family on premia paid on the life even of a grandson. Yet he can still pretend that he only wants equal privileges for both. The case, I put, Sir, shows that the analogy which he has set up, or attempted to set up, breaks down entirely. It remains a fact that we have, following our own previous procedure and following the law of every civilised country, except I think one State in Australia, not provided for the relief from income-tax of premia paid on the life of a minor. In England, when they debated the case recently, it was proposed to remove from the existing law even the relief granted in respect of premia paid by the head of a

family on his own life or on that of his wife; they did not do so, but they materially reduced the relief. We, following the English law as it originally stood, have retained the relief in full. We have merely refused to follow the example of the one isolated State in the world to which I have referred and to give relief on premia paid on the life of an infant. We are, therefore, fully in accord with the income-tax law of the whole civilised world in this respect.

Sir, I will not go again into all the substantive arguments that were used on the last occasion or in the Council of State on this particular question. They are, I think, perfectly well known to Honourable Members. Here let me repeat one fact; it is a fact that goes to the root of the whole matter. Why do we grant this exemption? We grant it, following the argument used by Mr. Gladstone very many years ago, when the exemption was first granted in England, because, when a wage-earner dies, there is a definite capital loss to the family, and it is to our interest to protect the family from that loss by inducing the head of the family to insure his life. That is the sole reason why we and other civilised countries give this exemption. Sir, if you do give the exemption in favour of an infant, even though he may be a shareholder in a Hindu joint family, then you are giving to that family an advantage which the principle I have enunciated does not justify, because when a small child dies, whatever the real loss to the family may be, there is certainly not that specific economic loss which follows the death of the head of the family, or his wife. I have re-stated this principle because it seems to me to establish a convincing argument. I should like to have left the case at that as a matter of pure reason, but Mr. Rangachariar has gone further. He has demanded what right the Council of State has to interfere in a matter which is not a matter affecting the finances of the country? Well, Sir, if they had interfered in a matter which affected the finances of the country, many Members here would rightly or wrongly have joined in that objection. They cannot do so, because the Council of State has interfered purely on a matter of principle, purely in order to get our law into exact accord with the law of other civilised countries, and on that ground alone.

Now, Sir, may I add one word as to how we stand now in regard to this Bill. We have an unfortunate difference with the Council of State on the subject. But, Sir, this is not a taxation Bill. It adds nothing to our revenues. Indeed, as the Honourable Member will, I am sure, admit, in regard to administration it eases the burdens on the tax-payer. It is not a Government Bill, for, though it has been put forward by Government, I have known of no measure of late years which might so truly and honestly be described as a non-official measure. My Honourable friend, Mr. Sim, has no doubt given his assistance in this matter throughout, but the deliberations have been carried out by non-officials, the Joint Committee which finally settled the form of the Bill was presided over by a non official and was almost entirely non-official in character, and it has been drawn up in the interests of the tax-payer and not in the interests of Government. Finally, in this particular point which we are now discussing there is no question of revenue at all concerned.

And, Sir, let me say this. I have described the character of this Bill. I impressed, or tried to impress, on the House before what it really is. The Bill has been drawn up entirely in one spirit, namely, to aid in the greater correctness of assessment, the greater ease of collection, greater justice all round. If by persisting in this difference—a difference on

[Sir Malcolm Hailey.]

really quite a minor point—you now substantially delay the passing of this Bill, my honest belief is that you really will be injuring the cause of the tax-payer.

Rao Bahadur T. Rangachariar: You might have told the Council of State that.

The Honourable Sir Malcolm Hailey: The Council of State is after all entitled to some voice in the legislation. All that the Council of State has done is to differ from you on one small point. The whole of the rest of the Bill has been accepted without alteration. Now, as the case stands, do you desire further to delay this measure? It is a measure of great advantage to the general tax-payer throughout the country. If we cannot proceed now with the Bill; we cannot proceed with the publication of those rules which every body, commercial interests and the general tax payer alike, have been demanding. I put it to the House that this is not a matter in which Government is very greatly concerned. We should like these improvements made; but we are not going to lose any money if this Bill is not passed. As Finance Member I can perfectly well say to the House, 'Leave it alone if you like, we shall get our money nevertheless'; but as a tax-payer, I should like to see this Bill passed and I deprecate any long delay in bringing it into force—not on behalf of Government but purely in the interests of the tax-payer.

Dr. H. S. Gour: Sir, I was very much surprised to hear the Honourable the Finance Member declare that the Income-tax Bill was not a taxation Bill.

The Honourable Sir Malcolm Hailey: No, it is not.

Dr. H. S. Gour: It is a Bill which is intended to levy a direct tax on incomes . . .

The Honourable Sir Malcolm Hailey: No.

Dr. H. S. Gour: And the fact that it is a consolidating Bill and is not actually passed like a Finance Bill does not in any way make it the less a taxation Bill in the general sense of the term.

The second point raised by the Honourable the Finance Member was that, if this question is once more sent back to the Council of State, it will involve delay. Now, I submit, Sir, that, if any delay takes place, the responsibility must rest on the shoulders of the Honourable the Finance Member. It was he who instigated the Council of State.

The Honourable Sir Malcolm Hailey: No, no.

Dr. H. S. Gour: It is he who is responsible for this amendment which the Council of State has sent down to this House.

It has been said by the Honourable the Finance Member that in all civilised countries the head of a family is allowed a certain exemption for the reasons which he has given; but the Honourable the Finance Member cannot be unaware of the fact that a Hindu undivided family stands on an entirely different footing to the families in other countries, and the income-tax is levied not upon each individual of a joint Hindu family but upon a whole

family, which is regarded as a corporation. The Honourable the Finance Member a few minutes ago gave us the illustration of a tax being levied upon an income of Rs. 2,000 or more. May I give this House another illustration? If two members of a joint family, called A and B, each has an income of Rs. 1,000 a year, they would both be exempt from the income-tax if they are not members of a joint Hindu family; but because they happen to be members of a joint Hindu family, both A and B would be conjointly liable to pay income-tax. Their position, therefore, is anomalous and unique. Now if in this case both A and B are minors, who is the head of the family? They are both coparceners. Hindu law does not recognise coparcenary rights to commence with the attainment of the age of majority. It recognises the right not only from the date of birth but from the date of conception, and the fact that a Hindu coparcener is a minor or is an adult is a matter of no consequence as regards the definition of his rights. The question, therefore, is—Is this clause in consonance with Hindu law or with the accepted notions of coparcenary rights in Hindu families? The clause, when it was inserted by this House, was the subject of prolonged discussion. It went up to the 'House of Correction' and there the Honourable Elders said: 'We will insert the word 'adult'.' But they have given no reason, and judging from the report of the debate in that House . . .

Mr. President: The Honourable Member is not entitled to refer to proceedings in another House.

Dr. H. S. Gour: I submit, Sir, that so far as the insertion of this word 'adult' is concerned, it follows no practice of Hindu law, it is not in accord with the accepted canons of general taxation, and is, I submit, not even in accord with the broad principles of equity. I, therefore, invite the House to throw out the amendment proposed by the Council of State.

The Honourable Dr. T. B. Sapru (Law Member): Sir, I do not wish to make a long speech, but there are just one or two points which I should like to elucidate. I must very strongly and unreservedly differ from the statement which has been made by my Honourable friend, Dr. Gour, that this is a Bill of taxation. It is nothing of the kind. Whatever truth there might be in criticism of that character with regard to income-tax Bills of former times, I am quite sure that that criticism is absolutely wide of the mark when we remember the character and the purpose of this Bill. It is not a Bill imposing any taxation in the slightest degree. It is a Bill which provides a machinery for taxation, and it is a Bill which lays down certain principles.

Dr. H. S. Gour: It is not a torture, but an instrument of torture!

The Honourable Dr. T. B. Sapru: I am rather surprised that an acute and astute lawyer like my Honourable friend, Dr. Gour, should confuse the machinery of taxation with taxation itself.

Then the second point I wish to bring to the notice of the Assembly is that this amendment was made, I understand, not at the instance of the Honourable the Finance Member, but at the instance of a member of the Select Committee from the other House.

Lastly, I would say that, while I am not quite familiar with what may happen down in the South or in other parts of India, I should be very much

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surprised to know that it is usual or customary in Northern India—at any rate that part of Northern India with which I am most familiar—to get insurance effected on minor children.

Well, I have not come across a single case which has gone to any court of law; I cannot also think of a single case within my knowledge where insurance has been effected on minor children. It may be that a custom like that might grow up in the future. But we must bear in mind that, so far as Northern India is concerned at any rate, it does not exist and we shall be providing for a possibility of the future, and not for circumstances which exist at the present moment.

Mr. N. M. Samarth: Sir, my only point is that if, as the Honourable the Law Member says, there are not in Northern India or in any other part of the country many minors who are insured, then there would surely be no loss to the general tax-payer by accepting the amendment which we made and rejecting the amendment which the Council of State has made. I mean, there would be no loss if very few minors are insured. But, as a matter of fact, I know that there are some men who send out their young boys to England or Europe for study and they insure the lives of those boys although they are minors; and, in point of fact, the money goes out of the earnings of the man who sends them. Why should you prevent that premium being deducted because the person who has been insured is a minor? If the total amount is very small, surely there should be no objection on the part of the Finance Member to allow this proposal of ours. So far as the reasons given in the other House are concerned, they have been sufficiently answered by the two Members who have spoken, Mr. Rangachariar, and in a way by Dr. Gour; and I strongly ask this House, whatever the consequences may be, in a matter of this kind to stand by their guns and to reject this amendment.

Mr. Darcy Lindsay: Sir, I cannot understand my Honourable friend Mr. Rangachariar's objection to what in my opinion is a very necessary amendment of the Bill. I am talking, Sir, as an insurance man, and I can tell the House that throughout the world companies view with very grave concern the attempts that are made to insure the lives of children of tender age. It is regarded as a gamble by interested third parties; it is not an insurance, as Sir Malcolm Hailey has explained, to make provision for the family on the decease of the wage-earner. This insurance on the life of a child is, I maintain, a gamble that ought to be discouraged in every possible way. I may say, Sir, that my company and—I may safely assert—the very large majority of insurance companies throughout the world do not countenance the insurance on children below the age of 18. I cannot therefore realise why the members of the Hindu undivided families should wish to encourage such insurance amongst their own children. My Honourable friend, Dr. Gour, talks of equity. Where would be the equity in allowing an infant Hindu joint family member to obtain relief from income-tax on life insurance premia when infants of all the other communities does obtain that relief? Sir Malcolm Hailey has explained that in clause 15(1) it is clearly laid down that it is only the father or mother that can obtain relief on their life insurance premium. I do not know whether my Honourable friend, Mr. Samarth, has great experience of insurance; he also referred to parents wishing to ensure their children who proceed to Europe for training.

But is it only the children of the joint Hindu families that proceed to England for training? Why then this special concession to the one community? But, Sir, on the main grounds I referred to at the commencement of my speech, I say it will be a most dangerous precedent to permit any encouragement of the insurance of children, and on these grounds I support the amendment.

Chaudhri Shahab-ud-Din (East Central Punjab : Muhammadan) : Sir, there is a little doubt in my mind which has prompted me to stand up and put it before this Honourable House. I will make my meaning clear by stating a case as an illustration. Suppose there are two minor brothers, Muhammadan by religion, carrying on business or trade and living jointly. They are not the members of a joint Hindu family, but yet they are joint for all practical purposes. Suppose at the same time there are two minor brothers, members of a joint Hindu family, who are working on the same lines, and both sets of these two brothers are neighbours. Now, under clause 15 (1), I think, the Muhammadan brothers, if they were to insure their lives, will be exempt from paying income-tax so far as the premia paid by them are concerned; but I see that the Hindu brothers, simply because they happen to be members of a joint Hindu family, will not be entitled to the same exemption under clause 15 (2). This difference to my mind requires an explanation from the Honourable the Finance Member. I think the law should be uniform where it can be. I do not see why people who are similarly circumstanced should be treated differently by the two sub-clauses of clause 15 of the Bill. This is the only remark I had to make; and, if I am satisfied on this point, I shall be only too glad to vote in favour of the amendment; otherwise I would not only oppose it myself, but will ask the Members of the House to oppose it strongly, because it is not supportable on principle.

Mr. G. G. Sim : Sir, I only wish to refer to the point raised by the last speaker. Under clause 15 (1), if two Muhammadan brothers living together have a joint business they will not get any allowance under clause 15(1). On the contrary they would be treated as an unregistered firm and would get no allowance whatsoever on account of insurance premia, whether they were adults or minors. Under clause 15 (2) two undivided Hindu brothers would get the exemption if they were adults; but in the case put by the Honourable Member, the two Muhammadan brothers would receive no allowance on account of any insurance premia.

Rao Bahadur C. S. Subrahmanayam : Sir, the argument that the joint Hindu undivided family is getting a special benefit or claiming a special benefit is based on certain fallacies. One fallacy which I wish to tackle is this. The Honourable Mr. Darcy Lindsay said why should minor members of this family claim an exemption while minor members of other communities cannot. The answer is simple. The sons of a European do not get any right in the property of the European. They have absolutely no right in the property of their father. So also with regard to the sons of Musalmans. Whereas in the case of Hindus of joint families every male child of a member has got a right, which can be enforced in a Court the moment a child is born; so that legally each member is owner of a certain share of the profit; and, therefore, if that right was ordinarily enforced as it can be enforced, and as at times it is enforced, then there would be a separation of the family into so many small parts, and each of the divided parts will not be liable to the income-tax. The joint Hindu family therefore contributes to the coffers

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of the State because in the aggregate it becomes liable to the minimum tax, as also to the higher grade of tax. That point has been clearly explained by my friend, Dr. Gour. Therefore, to say that the Hindu joint family claims any special privilege is not correct. On the contrary, it, contributes more by being joint and pooling together the resources of each of the members of the family into one sum and adds to the coffers of the State. Well, the claim which is now made on behalf of the Hindu joint families follows logically from sub-clause (1, of section 15 as explained by my Honourable friend, Mr. Rangachariar. Therefore, I want to dispel the idea that the members of the Hindu joint family do claim a special privilege in regard to exemption of premia on insurance. The case of tender children no doubt raises some difficulty, but that is not the way to deal with it 18 is the age of majority. From 15 to 18, strictly speaking, persons may be minors in the eye of the law, but in the matter of carrying on business, they are all as good as adults over the age of 18. No doubt, insurance companies may hesitate to accept the lives of tender children of, say, 5 and 6. We all know that the percentage of deaths at this age is much larger than in other stages of life, but that argument cannot apply right through to the age of 18. We made this claim on the ground that the joint Hindu family enables the State to levy higher rates of taxes, and therefore it is on the ground of clause 1 that each member of a joint Hindu family ought also to have the privilege to have his life insured and his premia exempted.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, one of the points raised by the Honourable Sir Malcom Hailey in favour of the amendment is that there will be no specific loss to the family by the death of a minor. Sir, it has been said by many members already, and it is by now apparent that in a Hindu family even the minors give help to the head in earning and augmenting the family income, and how can it then be said that his death.....

The Honourable Sir Malcolm Hailey: May I rise to a point of order, Sir? I am very loath to interrupt the Honourable Member. What I said was that the death of a child is not the same economic loss as the death of the head of a family.

Mr. K. B. L. Agnihotri: All right, Sir, even in that case there would be some economic loss to the family. Insurance is generally effected in the case of Hindu minors to make provision for their education after a certain age, and with the idea that after they have received their education they would certainly add to the income of the family which will be an additional source of income to the State. Therefore, I submit that the premium paid on such insurance should not be liable to taxation. Sir, it has also been said by many of my friends that there will be no gain of income to the State if we pass such an amendment. The Honourable Dr. Sapru said that there are very few persons who insure the lives of their minor children and there would be no loss to Hindu families in allowing the amendment to remain as proposed by the Council of State. I do not then understand the need of such amendment. When the time comes, and when we find that there is a distinct loss to the State on account of such premia being exempted, we may then put in an

amendment to this section. Till then there is no necessity, and the proposed amendment is superfluous. In answer to the question put by my Honourable friend, Mr. Lindsay, who says that insurance is regarded as a gamble by interested third parties. I submit it is not so and is solely done for the purpose of providing for education to children at a certain age. There are only a few forms of insurance in regard to minor children that are accepted by the Insurance Companies, and all those forms are intended to provide for the future education or marriage of children. The Insurance companies do not in case of death pay the whole amount insured for but only the premia paid. This cannot be a gamble. I therefore oppose the amendment proposed by the Council of State.

Mr. Maumohandas Ramji (Indian Merchants' Chamber and Bureau : Indian Commerce) : Sir, I have to make only one observation and it is this. There is another case in which it is quite necessary for Hindus to insure the lives of adults of the age of 11 or 12. There is a system of marriage among Hindus, and, in case of death, the widow has to be provided for, and it is for that reason that insurance has to be effected.

Then, again, another point which my Honourable friend, Mr. Lindsay, brought out was that parents do not generally encourage the insuring of children's lives. Well, if that is the case, then, as one interested in the insurance business, he ought to bring in a Bill making it illegal to insure the lives of minors or children. The Insurance Companies can and do accept such risks, and, therefore, it is futile to say that, because they think that it is a risk, they do not insure their lives. But, then, it is quite legal to insure children's lives.

Mr. President : The question is :

* That the Assembly do agree with the Council of State in the following amendment :

'That in clause 15 (2) for the words 'any male member' the words 'any adult male member' be substituted.'

The Assembly then divided as follows :

AYES—33.

Abdul Quadir, Maulvi.
Abdul Rahim Khan, Mr.
Akram Hussain, Prince A. M. M.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bridge, Mr. G.
Bryant, Mr. J. F.
Carter, Sir Frank.
Chatterjee, Mr. A. C.
Crookshank, Sir Sydney.
Dalal, Sardar B. A.
Dentitt, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Habibullah, Nawab Khwaja.
Hailey, the Honourable Sir Malcolm.
Hullah, Mr. J.

Innes, the Honourable Mr. C. A.
Kabiraji, Mr. J. K. N.
Kamat, Mr. B. S.
Keith, Mr. W. J.
Lindsay, Mr. Darcy.
McCarthy, Mr. F.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Percival, Mr. P. E.
Renouf, Mr. W. C.
Sapru, the Honourable Dr. T. B.
Sharp, Mr. H.
Sim, Mr. G. G.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

NOES—36.

Abul Kasem, Maulvi.
 Agarwala, Lala G. L.
 Agnihotri, Mr. K. B. L.
 Ahmed, Mr. K.
 Asjad-ul-lab, Maulvi Miyan.
 Barua, Mr. D. C.
 Bhargava, Pandit J. L.
 Coteslingam, Mr. J. P.
 Das, Pandit R. K.
 Gajjan Singh, Sardar Bahadur.
 Gour, Dr. H. S.
 Gulab Singh, Sardar.
 Iewar Saran, Munshi.
 Jatkar, Mr. B. H. R.
 Mahadeo Prasad, Munshi.
 Manmohandas Ramji, Mr.
 Man Singh, Bhai.
 Misra, Mr. P. L.

Mudaliar, Mr. S.
 Nag, Mr. G. C.
 Nayar, Mr. K. M.
 Neogy, Mr. K. C.
 Ramayya Pantulu, Mr. J.
 Rangachariar, Mr. T.
 Rao, Mr. C. Krishnaswami
 Samarth, Mr. N. M.
 Sarfaraz Hussain Khan, Mr.
 Sarvadhikary, Sir Deva Prasad.
 Shahab-ud-din, Chaudhri.
 Shahani, Mr. S. C.
 Singh, Babu B. P.
 Singh, Rana U. B.
 Sinha, Babu Ambika Prasad.
 Sinha, Beohar Raghbir.
 Subrahmanayam, Mr. C. S.
 Subzposh, Mr. S. M. Z. A.

The motion was negatived.

Mr. President: The question is :

'That this Assembly do agree with the Council of State in the following amendment :

'That in clause 24 (2) :

- (a) after the words 'income, profits or gains' the words 'of the year in which the loss was sustained' be inserted; and
 (b) the words 'in the year in which the loss was sustained' be omitted'.

The motion was adopted.

THE INDIAN PORTS (AMENDMENT) BILL.

The Honourable Mr. C. A. Innes (Commerce and Industries Member) :
 Sir, I move for leave :

'To introduce a Bill to regulate the employment of child labour in ports in British India.'

I do not think, Sir, that I need detain the House very long over this little Bill. It is not a Bill of any great importance. The House will remember that last March they recommended to the Governor General in Council that we should ratify the Draft Convention adopted by the International Labour Organisation at the Washington Conference for fixing the minimum age for the admission of children to industrial employment. Article 6 of that Convention prescribes that in India children under 12 years of age shall not be employed in the transport of passengers or goods or mails by rail or in the handling of goods at docks, quays and wharves, but excluding transport by hand. We have no machinery at present by which we can make that prohibition effective, and therefore, in consultation with Maritime-Local Governments, we propose to take the necessary power by a slight amendment of the Indian Ports Act. The amendment does not carry us very far. It merely prohibits the employment of children under 12 years of age at piers, jetties, landing places, etc., in all processes which involve the use of machinery. But, Sir, we have decided to introduce this little Bill in order to render effective the pledge which we have given to the League of

Nations, and I think that every one in this House will recognise that when we do make an undertaking of this kind to the League of Nations, we should carry out that undertaking. That, Sir, is the reason why I am introducing this small Bill.

The motion was adopted.

The Honourable Mr. C. A. Innes (Commerce and Industries Member): I now introduce the Bill.

RESOLUTION *RE* INDIA'S PARTICIPATION IN THE BRITISH EMPIRE EXHIBITION.

The Honourable Mr. C. A. Innes (Commerce and Industries Member): I beg to move, Sir, the following Resolution:

'This Assembly recommends to the Governor General in Council that necessary steps should be taken and funds provided to enable India to participate on an adequate scale in the British Empire Exhibition to be held in London in 1924.'

I do not propose to detain the House with any long and detailed description of the origin and progress of the idea of holding a British Empire Exhibition. The idea was first conceived by the late Lord Strathcona as far back as 1913, but the outbreak of war prevented the scheme from coming to fruition. It was revived in 1919, and it was first intended that the Exhibition should be held in 1921, but it soon became evident that the date so fixed was inconveniently early. The Government of India, for instance, when they were consulted in 1919, felt that beyond arranging for a display of Indian timbers they could not participate officially in an Exhibition to be held in 1921. They felt that within the time allowed to them all that they could do would be to bring the Exhibition to the notice of the general public in India and to manufacturing firms.

But in 1920 affairs took a different turn. It was decided to postpone the date of the Exhibition, and the whole scheme assumed a much more ambitious form. His Majesty's Government decided warmly to support the Exhibition, and a public meeting, held at the Mansion House 1 P.M. under the presidency of the Right Honourable the Lord Mayor of London, cordially and unanimously endorsed the proposal. In 1920, therefore, the question was reconsidered in India. It was discussed in April and November of that year at two Conferences of Directors of Industries, and at those Conferences the opinion was unanimously expressed that India should participate in the Exhibition on a scale befitting her place in the Empire. In the meantime His Majesty the King-Emperor had consented to become the Patron of the Exhibition and His Royal Highness the Prince of Wales to be the President of the General Committee. His Majesty's Government obtained the authority of Parliament, by a special Bill, to participate in the Guarantee Fund to the extent of £100,000, in June, 1921, His Royal Highness the Prince of Wales made a public appeal to India and the Dominions to co-operate cordially in the Exhibition. In response to that appeal Sir William Meyer, the High Commissioner, at a public luncheon promised that India would do all she could to make the Exhibition a success. The arrangements were entrusted to a General Committee of which His Royal Highness the Prince of Wales is the President and of which Mr. Montagu and Sir William Meyer are Vice-Presidents.

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The actual arrangements are in charge of an Executive Council. The Right Honourable Lord Morris is the Chairman of that Council, and India is represented by Sir Louis Kershaw of the India Office and Mr. Chadwick, the Indian Trade Commissioner.

I now propose to put before the House a general outline of the scheme which I invite them to approve, but before doing so, it is necessary to add, by way of introduction, an explanation of the present position of the Government of India in this matter. In 1920, before the present constitution came into being, it was our provisional view that India should not stand out in this great Exhibition, and that if she did participate she should participate on a worthy scale. But before we could promise participation on such a scale, it was clearly necessary for us to be assured of the support of the Provinces. In January, 1921, accordingly, we invited the views of the Provincial Governments, and though one Province has since signified its inability to incur any expenditure on the Exhibition, every Government and Administration replied to our inquiry that India should participate officially. Since the receipt of those replies it has been our intention to take the earliest possible opportunity of placing the matter before the Assembly, but we have been prevented from doing so by two causes. The first of these is that the Executive Council of the Exhibition for obvious reasons determined that it could make no official announcement as to the date of the Exhibition until they had been able to raise the guarantee fund to a sum of one million pounds sterling. This sum was reached only in January last, thanks to a special appeal issued by His Royal Highness the Prince of Wales to the great cities of England. The second cause was the uncertainty whether those Dominions and India whose co-operation was particularly desired would agree to the suggested postponement of the Exhibition from 1923 to 1924. We were consulted on this suggestion and expressed ourselves in favour of it. In fact, the postponement to 1924 has been made very largely at the instance of India. We were particularly impressed with the necessity of adequate time in which to make our preparations, and moreover we had to bear in mind the fact that Provincial Governments like ourselves would have to obtain the concurrence of their Legislatures before they could make the necessary provision in their Budget Estimates. We have just been informed that the date of the Exhibition has officially been postponed till 1924, and it will be held from May to October in that year.

The scheme I wish to place before the House is this. With the exception of Burma, which has expressed a desire to be a self-contained unit, all Provincial Governments are unanimously of opinion that India should be represented at the Exhibition as a whole. This view is also held very strongly by the Exhibition authorities, and is one in which I think all who are in favour of participation will agree. If the Exhibition is to be impressive and worthy of India, it must show the best that India can produce in every class of article displayed. If it is to attain the highest effect, the Indian portion of the Exhibition should be contained in buildings and courts forming a symmetrical and harmonious whole, while the individual characteristics of Provinces and Indian States participating may be preserved by the allotment to them of separate courts, giving them scope for the display of individuality in the matter of decoration and for the exhibition of industries and crafts peculiarly their own. If this result is to be achieved, it is

necessary that the Central Government should, in the first place, make themselves responsible for the buildings required for the Indian portion of the Exhibition. A very fine site at Wembley Park has been secured on the outskirts of London. The authorities of the Exhibition have provisionally allotted to India a ground space covering 100,000 square feet in a position which is admitted to be the best site in the Exhibition. This site will be assigned to us free of charge, but we shall be required to pay for any buildings that we may erect upon it. By the agreement which the Exhibition authorities have made with the Body which will ultimately take over the ground, that Body has no claim to any buildings which may be erected on it, but we shall be at liberty to dispose of our buildings at the close of the Exhibition in any way we please. We shall not be entitled to any share in the ordinary gate money, but we are not required to contribute towards the guarantee fund. We shall be permitted to charge special fees for entrance to special side-shows or branches. In addition to the cost of erecting our buildings, we shall have to meet such charges as water, gas, electricity and the like. The items of expenditure on the Exhibition will comprise the erection and decoration of the buildings and other incidental expenses which I have mentioned, together with the cost of moving the actual exhibits from India to London. There is one more item to be taken into consideration. It is essential for us to employ some one to organise the exhibits for the whole of India, assist and advise the participating Provinces, States and private exhibitors in the matter of selection, despatch and arrangement of their exhibits and to conduct negotiations with the Exhibition authorities and with architects, decorators and contractors.

The exact method of dividing the cost will be settled in detail later, but as a working basis we suggested last year to Provincial Governments that the Central Government should meet the cost of this special officer or Commissioner and of the buildings, and that the Provincial Governments, States and private exhibitors should pay for the collection and transmission of their exhibits and should also pay to us rent for the portion of the buildings occupied by them, together with a share of the incidental charges connected with electricity, lighting and the like. This suggested division of the cost has met with the general approval of Local Governments and is, I think, the most reasonable arrangement which we could make.

The House will no doubt want to know exactly what liability this Exhibition will involve, and I may explain that that is precisely the reason why I am moving a separate Resolution on the subject instead of merely making a demand for a grant. The demand for a grant would merely show the expenditure which will be involved next year, and I think it is essential that before the Assembly commits itself to the Exhibition, it should know clearly what its liabilities are, that is to say, the sums which will come up for payment in subsequent years. I regret, however, that I am not in a position to give at the present stage very definite figures. The Exhibition authorities have given us a rough estimate of 15 shillings a square foot for the buildings, which includes erection of the buildings themselves and external and internal decoration. We cannot, however, estimate the extent of the buildings to be erected until we know exactly how many participants there will be and what their requirements are. We learn, however, from Sir Louis Kershaw, who is our representative on the Executive Council of the Exhibition, that we shall not be required to pay any large portion of the initial cost of the buildings during the

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next financial year. We shall, however, be justified in estimating the total initial cost on buildings at £110,000, against which we shall eventually be able to set off the rent charged to participants and the proceeds obtained from the disposal of the buildings at the close of the Exhibition.

We have up to the present, pending the approval of the House to our proposals, taken no steps towards the selection of a Commissioner. Having regard to the duties that will devolve upon this officer, it is clear that we require some one possessing exceptional qualifications. He should be a man possessed of organising ability, wide imagination and tact and experience in dealing with men. It will naturally not be easy to secure the kind of man we require and we do not know how much money we will have to pay, but we have provisionally provided at present for a pay of Rs. 2,800 a month. In addition, of course, we have to make a small provision for travelling allowance, staff, contingent expenditure and the like. It is most desirable that this Commissioner, if the House decides to participate in this Exhibition, should be appointed at a very early date. Until he has studied the arrangements in consultation with the Exhibition authorities in London, we shall be able to make little progress.

It is in our own interests and those of the provinces who will participate that an estimate of the final cost to each participant should be prepared as soon as possible. No orders can be placed for buildings until the participants are able to tell us what their requirements will be, and before they can estimate, they need advice which can only be given to them by an officer who has gone into the arrangements with the authorities on the spot. Our proposal is, therefore, that if it is decided to participate in this Exhibition, the Commissioner should be selected without delay and should take over his duties from 1st May this year. After a month or so spent on familiarising himself with the scheme as presented to us and working out his own plans, he should proceed to England for about three months to study the arrangements there. He should then return to India with all the information necessary to enable him to draw up complete estimates, explain details to intending participants and help them to organise their exhibits. The total cost on account of the Commissioner, his staff and travelling and other allowances which will fall within the next financial year, are estimated at Rs. 26,000 to be spent in India and £700 to be spent at Home. It is not possible yet to estimate the initial cost of the work to be done on the Exhibition ground, nor to say when we shall be required to pay for the buildings to be erected, but we should make some provision on that account in the next year's Budget estimates, and I propose to ask the House to include a sum of £10,000 for this purpose in the estimates for 1922-23. The total amount required to be placed in next year's Budget will then be £10,700 for expenditure in England and Rs. 26,000 in this country. During the years 1923-24 and 1924-25 we shall have to meet the total cost of the buildings, for which it is proposed that we should obtain a return in the shape of rent and of the disposal price at the conclusion of the Exhibition. We shall also have to pay for the Commissioner whose services will be extended from beyond the first year.

I do not wish to detain the House by entering into a more detailed explanation of the case which I have endeavoured to lay before it.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : What is the total liability ?

The Honourable Mr. C. A. Innes : I will come to that later. I should like to say a few words about the object of the Exhibition. To quote from the statement made by the Executive Council of the Exhibition, it aims, in the first place, at taking stock of the resources of the Empire, and at showing how those which are as yet undeveloped or only partially utilised can be converted into wealth. Greater production is urgently required. The war left the world very much poorer. There is a scarcity of almost all the necessaries of life, of foods, of materials, of many of the substances which keep our factories busy. Not until supplies are brought into a more equal ratio with the world's demand can the cost of living be reduced to any appreciable extent and the nations enabled to enjoy once again the comforts and conveniences which were theirs before the war. The second object of this Exhibition, as stated by the Council, is to make the people of the Empire better known to one another; to show how they work and how they play; what are their principal sources of wealth; what are the natural features of the land they inhabit; the nature of their schools and their factories; the houses they live in. Nothing of the kind on so large and comprehensive a scale has ever been undertaken before. Thirdly, there is to be a very important scientific side. A number of committees are being formed among men of the highest distinction in all branches of research and practice. These committees will arrange displays calculated to arouse public interest in all efforts to conquer disease and unhealthy conditions of existence. Housing and sanitation will be given especial prominence. A far reaching attempt to better the conditions under which man lives and to check all influences hostile to his well-being will be set on foot. Fourthly, the Exhibition will enable established industries to show what they have to offer, and new industries to attract attention by proving what they can do. Experience shows that Exhibitions are of undoubted value as a means of direct advertisement to many trades and to countries which are desirous of pushing their products.

In our own case, we have considered with particular care whether in the present financial circumstances we are justified in asking the House to commit themselves to an expenditure which, spread over three years or so, may, taken as net expenditure, that is to say, allowing for recoveries in the shape of rent and the disposal price for buildings, amount to some Rs. 15 lakhs. We have no hesitation in making this request. The material advantages of this Exhibition are likely to be great. It will be the first great Empire Exhibition since 1886, and it may be as long again before there is another Exhibition on as great a scale. It affords an opportunity of demonstrating to the Empire and to the world the progress which India has made, her resources and her potentialities, and it will be unwise to let slip that opportunity. But, personally, I attach more importance to other considerations. The Exhibition aims at being a great Empire Exhibition and His Royal Highness the Prince of Wales has publicly appealed to India and the Dominions to co-operate. We understand that all other parts of the Empire have agreed cordially and whole-heartedly to support the Exhibition. It will be visited by people from all parts of the Empire and all parts of the world, and I should not like them to look in vain for representation of the greatest part of the Empire, namely, India. When they come there, they will find all the Colonies and the Dominions represented on a scale worthy of those Colonies and Dominions, and personally I should not like them to find India an absentee.

[Mr. C. A. Innes.]

I am one of those who think that there is nothing of greater importance at the present juncture than that we should do everything which lies in our power to uplift the status of India in the Empire and the world. India's reputation, I am glad to say, stands particularly high in the League of Nations (Hear, hear.) Mr. Chatterji, when he came back from Geneva a short time ago, was able to tell us that India has gained a reputation for carrying out her undertakings, and, as I said, in the Council of the League of Nations India is consolidating her position every day. We now hope that we shall secure recognition from the Council of the League of Nations as one of the eight chief industrial States in the world, and what I feel, Sir, is that if we are not represented at this Exhibition, we shall lose an opportunity of proving our status both within and without the Empire.

Now, Sir, that is my case. I have stated it as fully and frankly as I could. I do not disguise from myself for a moment that our financial position is not good and I do recognise that it is a matter of careful consideration whether at this time we are justified in incurring this expenditure. But, Sir, after giving the matter my most careful consideration, I have deliberately come to that conclusion. It is not the material advantages that I am looking to; it is not the orders which we expect to get; but, Sir, what I feel is this, that it is up to us now to prove that India is as great a country as any other part of the Empire. What I feel, Sir, and what I wish this House to take into consideration now is this: that, if this Exhibition, which is the biggest Exhibition which has been held in London since 1886, is held in 1924, and, if it is an Exhibition in which every Colony and every Dominion is fully and worthily represented, then I do hope that this House will agree with me that, though it may cost 15 lakhs spread over three years, India should not stand aloof.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan, Urban); Sir, I desire to give this motion very strong and cordial general support.

Any one visiting England is impressed with the utter lack of facilities for bringing the economic case of India before the British public and, through the British public, the world public. The vast offices and agencies that the Dominions and Colonies have in London for this purpose are a striking land-mark there, and arrest attention; you go in and know all about the Dominions and the Colonies and their economic conditions and everything else connected with them. Three matters recently came under my observation, in particular, which made me hope that some day it would be possible for India to have a self-contained organisation like the Colonies and the Dominions have in England, and the proposed Exhibition will afford the opportunity and the nucleus. Take the case of the neglected timber of south-western India, which Sir William Meyer has taken up as decorative timber with promising effect for the English market. I visited a leather exhibition and there I found a little stall, away in the obscurity of the background, where leather, manufactured in India and sent over to England, was extorting the admiration of people accustomed to high-class tanning for a long time. Then I heard of inquiries from Canada as to whether India could not send over pottery to Canada where there was a considerable demand. Inquiries like this which could be satisfactorily answered if there was a proper agency in England, are many. The Trade Commissioner and the High Commissioner

for India between them are doing a great deal, but when opportunities like this come, it would be worse than folly not to fully and more than fully avail ourselves of them.

I do realise, Sir, that we are passing through a financial crisis of a very serious character and ought to be very careful; at the same time, from the high-grade points of view which the Honourable Mr. Innes has put before us, as well as from the point of view of practical business, it is of the greatest importance that India should, as a matter of expediency and business as well as for higher political, economic and moral reasons, be adequately represented at an Exhibition like this where all the world's eyes will be turned and where India must be well in evidence if it is to be in evidence before the world. We are all naturally wanting the trade balance to be in favour of India. How are we going to secure that unless we can bring home to the consumer abroad the great possibility in India not only with regard to raw materials but also of finished articles, a great deal of which can be advantageously sent over to other countries? We have heard about the education, the food, and the housing branches of the proposed Exhibition. With regard to every one of these, India could give a fairly good account of itself in an Exhibition like this. Mr. Sharp might organise an educational exhibition which would create impressions which would not be altogether unfavourable to Indian education. With regard to housing, this is a question of great importance in England, where they cannot have even a small house for £500 or £1,000. When I told people interested in the new garden suburbs, that in India we can get houses for Rs. 200 for the poor, they opened their eyes in wonder. And we can give them points in cheap food and clothing. All these are questions, the details of which need not and cannot be gone into on an occasion like this, but can be sufficiently dealt with in properly constituted committees. Even with regard to scientific instruments, I am sure we could send over a consignment of instruments that will create a good impression. From Dacca muslins to the microscope and mathematical instruments will be quite a long range, and imagination will have free play, if things are properly handled, within the financial limits that Mr. Innes has indicated to us and which, if adhered to, would be a good investment. We have got to be careful that the financial responsibilities do not become heavy, but between the provinces and the Central Government we ought to be able to give a good account of ourselves in England without prohibitive cost. And the least that we can do now is to give general support to the Resolution which the Honourable Mr. Innes has just moved.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I am afraid I cannot share in the very optimistic views put forward by my friend, Sir Deva Prasad Sarvadhikary, as regards the net result which is likely to accrue to this country by our participating in this costly Exhibition. Not that I stand up to oppose this Resolution. It requires very careful consideration before we commit ourselves and the country to the cost of it. I think that the proposal ought to be seriously examined by a Committee of this House before the Assembly is asked to vote for it.

Now, Sir, what is the object of taking part in an Exhibition? It is to advertise our goods. Are we able to produce goods for our own market, let alone for other countries? Sir, I have some experience of the Victoria Technical Institute in Madras which exists for promoting indigenous industries in that province. (*A voice*: Not industries but art.) No, as it is, we

[Rao Bahadur T. Rangachariar.]

are not able to produce enough to meet demands. We have orders from America, from Japan, from England, outstanding for twelve months, and we are not able to turn out the necessary articles now.

My Honourable friend, Sir Deva Prasad Sarvadhikary, said that India could give a good account of itself. Well, of what industries or industrial products that our country has established are we to be so proud? Are there so many products that we can supply the three hundred millions of the country and also send out things all over the world? Are we not importing goods, small goods and large goods, from other countries and exporting our raw products in large quantities? It is quite true, in leather and hides we are able to give a good account of ourselves; but in what way—when the hides are tanned here and sent over there and then come back to us in the shape of boots and shoes for which we pay 100 per cent. or 200 per cent. over the cost price? Establish factories yourselves. We want so many boot factories all over the country, and we have not established one. And then to talk of how proud we are of our industrial advancement in this country is really astonishing. We had an Industries Commission which sat all over the country and produced a report. We are still having committees and reports. Where are your technological institutes? How are our countrymen going to take advantage of this Exhibition? Are you going to send students over there to learn the various modes and methods adopted in other countries? Is that going to be part of the programme? I did not hear anything about that in the elaborate details given to us by the Honourable Mr. Innes. I did not hear of any proposal for sending over there Indians to get themselves trained, to get themselves acquainted with the methods of manufacture which are followed there and all the other things which are most valuable for educating the Indians in these matters so as to fit them to take a part in the industrial development of their country. There is a great deal of money needed for starting schools. I may mention one instance. We have been talking of starting a Mining School in this country. A Principal has been appointed, and an Assistant Principal has already come out without a school being in existence. We are starving for want of funds to establish such a school. We are not able even to put aside 10 lakhs for this purpose, and here we are asked to embark on expenditure, we are asked to commit the country to large expenditure on a thing of this sort. I do not under-rate the moral or political side of it. I quite appreciate that side; but when I think of the poor part which my country can play at this Exhibition, I feel depressed, I feel sad, and not at all proud of the share we can take in this Exhibition. We have a lot to do yet in developing the indigenous industries of this country. Sir Deva Prasad Sarvadhikary spoke of Dacca muslins. Well, how many orders can we execute for these muslins? How many yards can be produced in Dacca? How many of us are able to produce Dacca muslin? What is the use of saying we can produce this or that unless we can re-establish mills and factories all over the country and produce in quantities, not only enough for home consumption but for consumption abroad? What is the good of our saying that we can take part in this Empire Exhibition? It is quite true that India is a part of the Empire. In that sense we are bound to take part in it, but as I have already said, we have to consider this question very carefully. We are passing through a grave financial crisis. We do not know how we are going to make revenue and expenditure meet, and so long as you are not able to do that and

your wits are exhausted in that direction, I do not think we should rashly embark upon sentimental efforts of this kind. I do not want to throw much cold water but I do want all of us to think carefully about this whether really the game is worth the candle.

Mr. B. S. Kamat (Bombay Central Division: Non-Muhammadan Rural): Sir, I am not surprised at the attitude shown by my Honourable friend, Mr. Rangachariar, towards the Resolution moved by the Honourable Mr. Innes, for the simple reason that he happens to belong to the fraternity of lawyers. If he had been a business man I think he would have supported this Resolution with the greatest alacrity.

To a commercial man or to a man who has the slightest notion of industrial development, I believe this Resolution must appear to be well worthy of the heartiest support. I believe every man of business knows that the first principle of success in business is not only the art of production but also the art of marketing, and when we have grasped the importance of marketing our goods, I believe there can be no two opinions that the first essential of successful advertisement and marketing is exhibition in fresh markets.

Now, Mr. Rangachariar referred to one or two points. He asked, have we got enough goods produced in this country to go round the world? I believe that is not the right way of looking at things at all. There are certain articles which, if they fetch a better price outside India, if they fetch a better price abroad in any country, I think the manufacturers would be well-advised in sending out of India, provided they enrich the country by export. And if it is contended that the articles of Indian manufacture are not up to the mark, my reply is, the Exhibition which we have in view is exactly the remedy we want for the present state of things. It will indicate to our manufacturers how to produce better goods and how to market them. I can give you one little instance which will convince anyone of the advantages of showing your goods in a foreign market and also of inducing manufacturers to turn out new goods at a cheaper price. While in America, I looked at some show-cases at a draper's, and I found all varieties of ladies' hats sold at tremendous prices. Some of these ladies' hats could be made by Indian manufacturers, if only they could be shown the patterns and materials they are made of, and in a very short time—perhaps in a couple of months—I was sure the Indian manufacturers would be able to turn out ladies' hats exactly to those patterns, at perhaps one-third of the prices which were shown in the windows. If Indian manufacturers could see these things in foreign countries, mark what materials they are made of and how they are made, it would be quite easy for them to manufacture such things themselves. That, I believe, would be of the greatest advantage to artisans in India.

Of course this postulates one thing, and that is a point I wish to bring to the notice of the Honourable Mr. Innes. If the Exhibition is to be a great success, it is not only necessary to send out exhibits from India. It is not only necessary to appoint an organiser who knows only England perhaps, or a few Indian articles. But if the scheme is to be of any use, it will be absolutely necessary for the Government of India to send a few Indian selected manufacturers to this Exhibition in order that they might see the various articles from the Dominions and from England exhibited in this great Empire Exhibition, and also watch, inquire and find out what articles they can manufacture easily on their return to this country at cheaper prices, so that they could

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send the same articles abroad, either to England, America, or the Colonies, and make money out of similar manufacturing processes. Let not my Honourable friends in this House run away with the idea that every such article to be manufactured requires high mechanical skill or mechanical equipment. There are a thousand and one things which we buy from Germany or from other countries which could, after a little training, be manufactured in this country. Many of such articles we use every day of our lives. If our manufacturers could be shown new patterns and processes by which these things are turned out, they would soon be able to manufacture them here. And this can be achieved by the Government of India if, when sending these exhibits, they will also send a few representative manufacturers from the different Provinces to this world Exhibition.

One more point, and it is this,—It will be necessary also to appoint provincial committees in order to select the typical and representative articles of fine art to be displayed in this world Exhibition. Probably the organising officer who is appointed by Government will see to it; but the standard of taste in articles of art, as seen by a foreigner, is one thing, and the standard of fine art, as judged by an Indian, is another. It will be advisable, therefore, for the Government of India to appoint provincial committees in order to assist this organising officer in the selection of goods which the Government of India will send to this world Exhibition. I think this world Exhibition has a commercial value; it has also a political value as my Honourable friend, Mr. Innes, put it. If we are absentees in a world Exhibition like this, India will go by default. If, on the other hand, we can show our raw products and works of art, I believe we shall grow in the estimation of the Dominions and other countries which will be represented in this Exhibition. For the political uplift as well as for raising the commercial status of India, I have no doubt it is absolutely indispensable that we should send out our products and certain finished articles, as also a few manufacturers from this country to this world Exhibition.

Mr. Maumohandas Ranji Indian Merchants' Chamber and Bureau (Indian Commerce): I also rise to support the Resolution. It is by exhibition that a great deal of progress can be made. There is no doubt about that. I need cite only one instance. When in 1906 we launched the Swadeshi Stores in Bombay we were selling money purses at a price of 5 annas and they were very coarsely made. We made an attempt to improve upon that and, within the course of six or eight months, we persuaded the manufacturers and got money purses which were very superior, and, after one year, an Australian traveller came to visit our stores; he was surprised to see these money purses at the price they were selling and he said that if we sent those purses to his place they would fetch very good remunerative prices. That goes to show that, if there is an exhibition, our produce can be shown commercially and also our manufacturers can come to know the real advantages and the real direction in which they ought to move. Of course, when there is an exhibition, there is every chance that persons interested in the produce of the land will be persuaded to go there to exhibit their own articles and they will be interested in comparing their articles with the other world productions, and therefore it will be a great advantage to India to be represented there. My friend, Mr. Rangachariar, pointed out that in this critical financial position we ought to be very careful about spending this

huge sum of Rs. 15 lakhs; But I can point out that, if India is properly represented in that Exhibition, Rs. 15 lakhs would probably bring Rs. 150 lakhs by way of gaining experience and knowledge.

Sir Frank Carter (Bengal: European): I move that the question be now put.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Mubammadan Rural): Sir, I quite disagree with my friend, Mr. Rangachariar, in that mournful homily he gave to this House. We may be this year in financial stress; but that is not a reason for not joining in an endeavour which is undoubtedly productive of great benefit. The question is not simply whether we are industrially as good as the most advanced countries of Europe or America. The question simply is, are we to shut ourselves out from this Exhibition? Is it not our duty to show to the world what India is capable of with its limited industrial development as it is called, that India is capable of showing to the world the high attainments in arts and such industries as it has been carrying on for centuries? The art work of India, the craftsmanship of India has really attained a superior position in the world of art and craft. That position will be enhanced, will be more widely known, if we get an opportunity of exhibiting, say, our ivory work or brassware or carpets and so many other things which India is noted for. I am very sorry that my friend should go and take up an extremely narrow and insular attitude in this matter and strike the first discordant note in a matter in which we should all unanimously support the Resolution that has been put forward. What is Rs. 15 lakhs if you take the millions of other items on which we incur expenditure year after year and month after month? Rs. 15 lakhs would not suffice to build an Arts college. Therefore to say that in a big affair like this, a matter of a world Exhibition, Rs 15 lakhs is too much and to ride that horse of economy and that horse of financial stringency which does not seem to apply to many of our other concerns, I think, is very, very disappointing. Now, it is not a case of a lawyer or tradesman or contractor or a member of any of the other professions, which are open to the people; the question of arts and the encouragement of arts and the wide publicity that ought to be given to the art work of India ought to be the concern of every one here; and therefore the sum that is proposed is certainly modest if we take the general revenues of the whole of India. We often forget in dealing with these subjects what we do in our own affairs; whenever an ordinary celebration takes place in our homes, it takes away a substantial part of a man's income; and when the State enters upon matters of ceremonial, I suppose we must allow it a certain latitude of pomp and show. But this is not a case of pomp and show; this is a case where we want to advertise our art work, craft work, that is going on in this country. My learned friend referred to the Victoria Technical Institute. I am very familiar with it, though I have not the honour of being on its management or any such thing. I make a visit to it every time I happen to go to Madras. Well, it collects art work from all parts of the Presidency, things which people would otherwise not be able to see in one place. Shop-keepers may keep things here and there, but all the workmanship from various parts of the country, from Ganjam and Vizagapatam down to Tutucorin, are exhibited there. It gives you in one view the fine things, the slender mats of Tuticorin, the southern most place in Madras and the fine ivory and ebony work of Vizagapatam and Ganjam in the north and the carpets in the various districts.

[Rao Bahadur C. S. Subrahmanayam.]

I mention only a few : there are other things such as Madura cloths. That institute no doubt is an institute managed by Government or partially managed by Government with a high staff ; it may or it may not be paying.

Rao Bahadur T. Rangachariar : No high staff there ; the pay is only Rs. 150.

Rao Bahadur C. S. Subrahmanayam : Well, I have no knowledge about it ; but it is not run as a shop or on a commercial basis ; it is run more as a place where superior work, not ordinary work, is accepted. Ordinary chairs and tables and ordinary brass work are not allowed to be accepted ; and no art collection would allow such things to be so taken ; that would be doing what an ordinary shop-keeper does every day. Another fallacy of my Honourable friend's speech lies in the fact that he is mixing up two things— what an ordinary shopman does and what an artistic Exhibition or Exhibition of arts and crafts is intended for.

The ordinary shop-keeper only deals with goods which are in common demand, and he has nothing to do with art-ware. Art-ware is a special thing, and what is done in Exhibitions is that only such goods as are not handled by the ordinary trade are exhibited. Therefore, the opposition started by my Honourable friend is entirely wrong, and I think we should give our whole-hearted support to the demand which has been made by the Commerce Member.

Mr. President : If the Assembly wishes to continue the debate, we may now adjourn.

The Assembly then adjourned for Lunch till Ten Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Ten Minutes to Three of the Clock. **Mr. President** was in the Chair.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadian) : Sir, while we have listened with very great interest to the debate of the Resolution moved by the Honourable Mr. Innes, we think that the Honourable Member might be given a little more time to work out details of the actual gross cost and net cost to the Central Government by our participation in the British Empire Exhibition. Many of us think that we should join heart and soul in this Empire Exhibition, but the straitened condition of our finances deters us from actually making commitments before we are in a position to say what would be the actual cost of the buildings and other things next year, the year following and in the last year of the Exhibition, or rather in the last year 1923-24. The Honourable Mr. Innes would perhaps take time to give us the figures necessary for the construction of buildings and the collection of other materials, and we should also like to know on what scale the other Colonies of the Empire such as Canada, Australia and South Africa, are going to contribute to this Exhibition. The Budget will be published the day after to-morrow, and this question might suitably come up after the Budget figures are announced to the House. I, therefore, request, Sir, that further discussion on this Resolution do stand adjourned *sine die*.

Mr. President : The question is that this debate be now adjourned.

The Honourable Mr. C. A. Innes: Sir, I am entirely in the hands of the House, and if the House would prefer that this debate should be taken on rather later, when they have had an opportunity of hearing what our exact financial position is and when I have had a further opportunity of working out in as great a detail as possible the exact extent of our liabilities in connection with the Exhibition, I have no objection at all. But I must explain that I think it will be rather difficult for me to get any information regarding the scale on which the other various overseas Dominions propose to participate in the Exhibition. All I can say on that point is that at the public luncheon which was held in July 1921, Canada, Australia, South Africa and New Zealand, through their representatives at that luncheon, all announced their intention of taking part wholeheartedly in the Exhibition and doing everything they could to make the Exhibition a success. But whether I shall be able to ascertain exactly how much money they propose to spend is, I think, very doubtful.

Mr. President: The question is that this debate be now adjourned.

The motion was adopted.

RESOLUTION *RE* PROHIBITION OF TRAFFIC IN MINOR GIRLS.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan): Sir, the motion that stands in my name reads as follows :

'This Assembly recommends to the Governor General in Council to be so pleased as to enact a law prohibiting the wholesale traffic in minor girls for immoral purpose ostensibly intended as *Devadasis* but in reality used for indiscriminate immoral purposes.'

Sir, I need hardly apologise to the House for bringing this question once more before the Assembly. Only the other day we had a discussion on the subject of endorsing the Convention which the League of Nations recommended for our acceptance. That was a more general motion. The Resolution I wish to move to-day is of a very much more restricted character. Honourable Members of the House will see that it is not my object to move for a general suppression of the vice of immorality. Even if that had been my object, it would be impossible, because I do not think that we can make people moral by an Act of Parliament. Nor is it my purpose to ask this House to adopt any drastic measures on a large scale for the purpose of combating the evil of general immorality. What I propose this afternoon to do is to ask the House's concurrence to the suppression of an evil of a specific character connected with certain institutions in this country. Honourable Members will observe that in certain parts of India the evil of prostitution has been going on for a very long time and is associated with the ceremonial observances in certain temples. It has become an established part of the accepted usage in that part of the country. In certain parts of the Bombay Presidency and in the southern Presidency of Madras, we have what is commonly known as *Devadasis*. A very short description of *Devadasis* will probably interest the House :

'In the Madras Presidency, there is an ancient custom of dedicating young girls to the *Pagodas* as *Dasis* variously called as *Aradhins*, *Baoris*, *Bhawanis*, *Devadasis*, *Jogins* or *Murlis*, or maids and dancing girls, but who, it is notorious, are used for the purpose of prostitution. Both *Dasis* and dancing girls are dedicated to the temple by the performance of certain ceremonies after which they cannot marry but lead the lives of life-long prostitutes. They are called *Devadasis* or dancing girls of the temple, and by custom they claim a

[Dr. H. S. Gour.]

right to vote on or veto the admission by dedication of new *Devadis*. It appears that after dedication girls pass through a period of novitiate during which they learn singing and dancing. The dedication is accompanied by the registration of their names as belonging to the *Pagoda*. The order in which the several acts of dedication may be performed would appear to be these: (i) application by the minor's guardian for permission to dedicate; (ii) acceptance by the *Pagoda* authorities; (iii) her registration on the *Pagoda* list from which date she commences to draw her pay; (iv) tying of *bottis* a ceremony of nominal marriage with the idol called *Bisvi*—consigning her to life-long spinstership; fifthly, period of novitiate during which she learns singing and dancing; sixthly, dancing at *pagoda* ceremonials, and, of course, prostitution for which there is no starting point.

Mr. K. G. Badge : (Bombay Central Division : Non-Mohammadan Rural ; What is the name of the book ?)

Dr. H. S. Gour : My friend asks me what is the name of the book. It is a book on the Penal Law of India, 2nd Volume, paragraph 3 P.M. 3608. (*Mr. T. Rangachariar* : 'Is that a quotation or is it your own?') It is a very short description, a short summary of the existing practice culled from books and from local inquiry, and I may mention, Sir, that before quoting it to this House I submitted it to the opinion of two of my friends who hail from that part of the country where this practice is rampant, and they have assured me that it is a correct description of the *Devudasis* as given in the book.

Now, Sir, the question is not a question of any religion or sect. It is a question of common morality, and it is on that ground that I ask the support of this House. Honourable Members will find that some years back, in 1906 and 1907, the Government of India addressed a letter to the Provinces concerned and asked them to report on the growth of this evil. The Collector of Dharwar reported to the Government of Bombay that in the quinquennium 1901—1905, 876 minor girls had been decoyed from their homes and consigned to this life of infamy. The Collector of Belgaum said that within his jurisdiction, 836 cases had been so decoyed and the Collector of Bijapur reported that 911 girls had been seduced from his district. Consequently, these three Collectors, reporting in 1908 (I am giving the figures for 1901—1905), were able to say that no less than 2,623 girls had been seduced from their homes for this purpose. Now, that was the state of affairs in three districts of the Bombay Presidency and there are other districts from which the reports were not then available. But I have no doubt that if seduction on this large scale is going on, the number of girls, who must have been decoyed and dedicated to the temples for the purpose of prostitution, must be very large indeed. As I have said at the opening, I am not here concerned with the general question of prostitution. I am here concerned with one short question which belongs to the *Devudasis* or the *Murlis* and it is only that evil that I desire this House to deal with. A long series of cases of the Bombay and Madras High Courts have established the rule that these girls who are taken away from their homes when they are either 6, 8 or 11 years of age, and in all cases before attaining the age of puberty, go through a form of marriage with the deity and thereafter become *Devudasis* or the wedded brides of the shrine. They are incompetent thereafter to revert to the life of a householder. They are incompetent to marry and for the rest of their lives they must devote their services to the institution and to all persons who visit that institution. In a case reported in the Madras High Court, L.L.R. 15, Madras, page 75—

(*Mr. T. Rangachariar* : There was a Full Bench case after that.) (A

Honourable Member : 'There is something more recent.'—evidence was given and Mr. Justice Parker opens his judgment with the following words :

'The evidence shows that a girl who is dedicated as a *Basavi*, becomes incapable of contracting a marriage which would be recognised as valid by the laws and customs of her caste, that she is at liberty and is expected to have promiscuous intercourse with men generally and that she and any children born to her inherit in her father's family only.'

In the Madras Census Report of 1911, paragraph 67, we have the following statement :

'In Southern India, a girl may marry an arrow, or a tree, perhaps to escape the reproach of attaining puberty unmarried. She may marry an idol which generally implies that she becomes a prostitute.'

Now, Sir, there can be no doubt that it is revolting to all human feeling that a girl as soon as she is 6, or 8 or 10 years of age, and in a majority of cases before she attains her puberty, should be exposed to this lifelong vice and that at a time when she is unable to decide for herself, when she is under the influence of her parents and guardians, those very guardians and parents should dedicate her to a life of immorality. Honourable Members will find that the recruitment of this unfortunate class is made in the following manner. The retired *Devadasis* cast about for fresh recruits. If they have daughters of their own, they dedicate them to the temple as a matter of custom. If they have no daughters of their own, they adopt them and after adoption they then dedicate them to the temple. In many cases girls are purchased for a price, and in the reports which were sent to the Government of India in 1912 and 1913, we find that as much as Rs. 2,000 was paid as the price of an infant girl.

What we suggest, Sir, is that some measure should be taken by the Government of India to stop this evil and that girls during their minority, during their tender years before they attain puberty, when they have neither the intelligence to perceive the nature and effect of the action of their parents and guardians, nor the capacity to visualise the life of shamelessness to which they are consigned by those whose duty it is to protect their honour, should not be sent to these temples and thereafter made *Devadasis* and exposed to promiscuous intercourse by visitors to the temples.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban) : Am I right in thinking that the Honourable Member means to say that these are allowed in the temples?

Dr. H. S. Gour : If the vice had merely affected the girls themselves, it would in all conscience be an appalling one. But instances are on record when they communicate disease and visitors suffer lifelong pain and often they are themselves the victims of this promiscuous intercourse. I do not wish to exaggerate the evil. If I have done so, it is entirely unintentional.

Rao Bahadur T. Rangachariar : In ignorance.

Dr. H. S. Gour : I only desire to call the attention of this House to a practice which I venture to think is no longer in accordance with the growing national sentiment of the people in this country and which is and never was tolerated by our religion. I am perfectly certain that whatever may be the reasons which actuate my Honourable friend who has been interrupting me, so far as the ultimate conclusion is concerned he and I are at one : We

[Dr. H. S. Gour.]

both desire to protect young children from being exposed to this constant menace upon their honour and we are anxious that the legislator should do his duty in stamping out as far as possible this source of national contamination. I do not wish, Sir, to say one single word more than is necessary for the purpose of ensuring the acceptance of my Resolution. I have studiously avoided going into details, but I do desire that, whatever may have been the history of this institution and whatever may have been the causes and whatever may have been the mischief of this malpractice in the past, Honourable Members of this House will join in concerting a plan to see that in future our society will be purged of this evil. I do not for a single moment ascribe this practice to the orthodox creed, to the heterodox creed or to any creed at all, and I do not wish to suggest that this practice is tolerated by the good sense of Hinduism. All I suggest is that it is a practice which obtains in certain parts of this country, and I only desire Honourable Members to take note of a fact which is a fact. Having done this I shall have discharged my duty. How this practice grew and under whose sanction it is allowed to continue, are matters of no moment. All that the Honourable Members of this House should concentrate their attention upon is to see that this practice is put an end to by an Act of legislation, because unless legislation intervenes, there is no other method for putting an end to this practice. I do not for a moment, Sir, doubt that any Member of this House will countenance a practice which lays down that young girls are free to be bought and sold and to be adopted for the purpose of immorality and that they should be married to an idol and after that custom should prohibit their marriage and consign them perforce to a life of shame. What Member of this House who respects his religion, whose *Smritikars* have laid down the exalted morals which constitute the philosophy and creed of Hinduism, can for one moment tolerate this intolerable wrong which is being perpetrated in the guise of religion. I feel, Sir, that this is not a question in which Hinduism or Muhammadanism or any other religion comes in conflict. This is, I submit, a principle upon which there cannot be two opinions. We all feel here as Members of this House that we are in charge of the lives of those young girls who live in this country and who are entitled to the protection of law, who are entitled to be protected by their parents and guardians and I submit that if they fail to do their duty, nothing should deter or daunt us from ourselves doing our duty. Nothing, I submit, Sir, that can be said or will be said with regard to this being an ancient practice will ever weigh with the Members of this House in countenancing this palpable, this manifest wrong from which the minors of this country suffer. When I gave notice of this Resolution, some of my esteemed orthodox friends came to me and said that my Resolution is much too limited. They appealed to me to enlarge its terms, because they said: 'Our young children are exposed to this grave menace'. Boys are decoyed, stolen and dedicated to this sanctuary, which should be resorted to for purposes of worship and reverence, but which is being used as a pretext for purposes which cannot but be denounced as grossly immoral. (Cries of 'Boys'.) Some of my Honourable friends say 'boys'. Well, I am not referring to boys in connection with my Resolution, but, when I refer to boys, I am referring to what has been stated to me as an evil of another character, but affecting the young lives of our children. I am informed that a large number of people take away young boys, and afterwards these boys are used for purposes which are certainly not decent or moral. But I

am not dealing with that question. Members here will speak for themselves. I am here conining my Resolution, as I have said, to one singular practice which obtains in this country, which cannot be denied, and which is a social evil. In parts of India, a very large number of women are attached to temples, live within their precincts and they are used for immoral purposes by persons who resort to the temples. (Cries of 'No, no'), (*Mr. B. S. Kamat* : 'Are you quite sure they do it in the precincts of the temple?') (*Another Voice* : 'On information, is it?') A very large number of girls are dedicated to idols and, after their dedication, they are used for promiscuous immoral purposes. Some Honourable Members object to my saying that they are used within the precincts of the temples. I want their support and, if they think that that detail is wrong, I am prepared to withdraw it. (Hear, hear.) (*A Voice* 'Do it'.) I have not come here to affront anybody's religious susceptibilities; I am here, Sir, to vindicate a cause on which I feel, and feel strongly. It may be that the information that has been given to me is, in point of detail, inaccurate, and I ask the Honourable Members to overlook it; but what I ask the Honourable Members to unanimously support is my Resolution which invites them to lend their assistance to the suppression of an evil, the existence of which cannot be doubted.

With these words, Sir, I move my Resolution.

Rao Bahadur T. Rangachariar: Sir, it is very easy to pose as a moralist and, especially on a Resolution like this, it is very difficult for one to speak against it. But I am emboldened to speak on this occasion because of the gross ignorance which has been exhibited by the Mover of the whole subject. I am quite in agreement with my Honourable friend that some steps may be necessary to be taken, and I have therefore asked in my amendment that the Local Governments and the Indian Associations concerned should be consulted before action is taken. I said that my friend is grossly ignorant of the subject on which he has dared to come forward before this Assembly and it gave me great pain, Sir, when I read what he stated the other day when I was absent on this matter. He stated deliberately :

'It is scandal, a national scandal, that young girls are decoyed in large numbers and taken to places sacred to religious purposes and there these girls are used for grossly immoral purposes.'

It is a calumny, a base calumny, utterly false and it is all due to the ignorance of the Honourable Member, because, as he himself confesses, he has spoken of provinces with which he has nothing to do and I do not know if, as a Hindu, he has ever honoured a temple with his presence. (Laughter.) Sir, I have a great deal to do with temples in my part of the country. I am on the board of supervision of a very important temple in Conjeeveram, a well known temple, and I know the affairs of these temples very closely and intimately. Most of the temples have come under my jurisdiction as a vakil in consequence of the religious disputes which often arise between the various sects in my province. Therefore, I can speak with some authority and personal knowledge, whereas my friend has to rely on information which he cannot disclose, which he dare not disclose. I can well imagine a missionary preaching some other religion holding forth in the way in which my Honourable friend has indulged in to-day. It gives me great pain to hear a person who professes to be a Hindu talk in that ignorant way in which my Honourable friend has spoken. It is quite true that these unfortunate girls do lead

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a life of prostitution. Nobody gainsays that fact; but to say that they are decoyed into temples and dedicated to lives of prostitution by the temples, I say is the very reverse of the truth.

Now, the question we have to consider is whether the law, as it is, affords sufficient protection, whether it has to be strengthened in the direction of remedying the evil. Sir, I know in my province it has become absolutely difficult, after the Government of my province took earnest steps to enforce the sections of the Penal Code, to get enrolment of dancing girls in temples. Many a temple which had 12, 13 or 14 dancing girls attached to them, many important temples that had revenues, now go without any dancing girls. From the year 1890 to the year 1895, these sections of the Penal Code were rigorously enforced against the trustees of temples, and, when these girls are dedicated, that is the ceremony which is called dedication, then the High Court rules that the presumption will be that they are dedicated to a life of prostitution, and, therefore, trustees, who enrol these girls under the age of 16, have been prosecuted, convicted and fined; and, after that, it is impossible in my province for the trustee of a temple to dedicate a girl to the temple, when she is under 16.

Above the age of 16, the religious tenets prohibit their enrolment. A girl to be dedicated according to the rules which have been observed from time immemorial must be a virgin, and therefore they took care when this practice was instituted to dedicate girls under the age of 14. No temple authority would ever think of dedicating a girl to the temple who is above 14. Now the law has stepped in and said that if girls under 16 are dedicated to a temple, the trustees are liable to prosecution and several cases of trustees being successfully prosecuted have taken place and their conviction confirmed on appeal to the High Court. The matter has, I am glad to say, taken a very desirable turn indeed in my Province.

Another thing which is a great factor in these matters is the spread of education—the spread of ideas among the people. As my Honourable friend admitted, you cannot make a whole people moral by legislation. What has happened now is that instead of these dancing girls that we used to have before, you have in their place a number of girls who are not dancing girls by caste and other girls who have taken their place who are really prostitutes. But let my Honourable friend go into the streets of Delhi. It will simply open his eyes. Now if his sympathy had been aroused in favour of these unfortunate girls rather than in favour of those girls on whom he has not set eyes and knows nothing about—I could understand that. It is very easy to preach morality and ask Government to interfere; but how are you going to make a nation moral by legislation? Many a great statesman and many a great thinker have tried their wits upon this problem, but have not been able to find a solution to it; and I don't think that in these sexual matters the world is going to get any right solution. It will go on as it has always gone on. I am not saying that nothing should be done, because the State must intervene whenever a wrong is done, and it is a wrong if these girls are seduced, degraded, to a life of prostitution. The law must protect them, and I think our law does protect them. If there are any defects in it, we must leave it to the local authorities to correct them. They have a better knowledge of local conditions. Since the investigations made and the reports called for in 1912-1913 matters have greatly improved. And you now have representatives in the local Councils

who can speak with authority on a matter like this. Here is a matter which concerns Bombay and Madras. I know that this question does not affect the Telegu districts—only the Tamil districts. This question of the dedication of girls affects children in these parts. Don't defame them before you see them ; and don't attribute these things to the temples themselves. The original object of these dancing girls was connected with processions—that is to say after the religious ceremonies were over. They do perform certain ceremonies—that is to say, the concluding portion of the ceremonies ; but they have nothing to do with any religious ceremonies inside the temple. Therefore this legislation won't affect religion at all. It is a mistake to suppose that the existence of these girls has anything to do with the real religious ceremonies inside the temple. It is only in processions and other such things connected with the temples that these girls come in at all. Therefore no serious harm will be done to the temples themselves or the religious instincts of the people, if some steps are taken to protect these girls.

But we have also to remember that these ancient arrangements were made by our forefathers who knew better than ourselves. Out of the superabundance of their knowledge, they founded a legalised system of control by founding a caste. The progeny of these girls were entitled to a certain status, whereas now illegitimate children are looked down upon. They had certain customs of their own, and a certain position in life, while the illegitimate children of prostitutes nobody will look at. Not that I am defending them. I am only pointing out what can be said on the other side. Let us not cry we are the only moral people in the world who can sit in judgment on our forefathers. It is easy to sit in judgment from a platform. However it does not matter. I am not defending them. I am only giving my support to the Resolution of my Honourable friend, Dr. Gour. Only I want to warn him against committing this Assembly and the Government of India to immediate action on a matter like this without consulting the people concerned. The people's representatives are now on the local Councils. Let them have an opportunity of considering this matter. They know best in what direction any improvement can be made ; and I, therefore, Sir, move the amendment which stands in my name that instead of taking action as suggested at once, they should consult Local Governments and Indian Associations with a view to enact the law required. I don't think my amendment is at all in opposition to the Resolution of my Honourable friend, although I join issue as to the correctness of the statements which he has made about these girls. But I forgive him for what he has stated. I will forgive him for that as he has a good object in view, and, therefore, Sir, I move my amendment :

'Insert the words 'consult local Governments and Indian Associations with a view to' between the word 'to' where it last occurs in the first line and the word 'enact' in the second line.'

Mr. B. S. Kamat (Bombay Central Division : Non-Muhammadan Rural) : Sir, I support the amendment of my Honourable friend, Mr. Rangachariar, that opinions from Local Governments may be invited. With reference to the remarks which have fallen from the Honourable the Mover of the Resolution, my friend from Nagpur is a Doctor of Law and sometimes a law unto himself. I believe he has vitiated the presentation of his case by one or two grave faults. Firstly, both in drafting his Resolution and also in presenting it, by his laboured peroration and the high pitch of

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his voice, I think he has laid himself open to the charge that he has exaggerated and overcoloured the picture. The second fault is, I believe, he has after all dwelt on a partial solution of this great problem by confining himself to the *Devadasis* only. I come from a part of the country where the system of *Devadasis* is still lingering to a certain extent. I am also connected with the Society for the protection of Children, and I think I can give my Honourable friend some information both as regards the system of *Devadasis* and the nature of the dedication and also the extent of the evil. After going into facts we can consider how far the remedy suggested by my Honourable friend, Dr. Gour, is suitable or if there is already a remedy in the law.

Now, Sir, Dr. Gour has by his description created an impression, particularly among my Muhammadan and European friends as if every Hindu temple in the country is full of *Devadasis*. Let me contradict that impression in the first place. Even the figures which he quoted are rather against him. Speaking about Bombay city, I think I am quite right in saying that, as an institution, Bombay city has no institution of *Devadasis* at all, not a single *Devadasi* will be found in the Bombay temples. Similarly in the Deccan districts, Sholapur for instance, Nasik and other places, there is no regular system of converting minors and even grown-up women into *Murtis*, as they are called; in Poona district, there is no doubt a shrine called *Sejuri*, chiefly frequented by men, I believe, of the fisherman class; here unfortunately there is a system prevailing of dedicating girls to the temple. But if we examine the figures which Dr. Gour quoted from the report of the proceedings of the Imperial Legislative Council in 1912 when the Government investigated this question, we find that in five years the district of Dharwar had to report 876 cases of dedication. That gives an average of 175. I do not think the figures justify Dr. Gour's description of 'wholesale traffic.' That wording in his Resolution, I think, is rather inaccurate and over-coloured. I proceed down the Bombay Presidency to a part of the country called the Konkan, on the western coast. There, undoubtedly, it is a fact that certain temples have *Devadasis*, popularly called there *Bhavin*. Here the *Bhavin* class is unfortunately a class of *Devadasis* who as a side-profession perhaps have recourse to prostitution. But let me assure Dr. Gour that within the precincts of the temple itself there is absolutely no taint of prostitution at all. Unfortunately the class of *Bhavin* carry on this profession both as *Devadasis* and prostitutes from generation to generation. The *Bhavin* has, according to ancient rights, the privileges of serving and doing menial duty in the temple at the altar; perhaps she is privileged to carry the lamps (something like the practice of carrying the candles in Roman Catholic Churches) and she is entitled to certain perquisites from the collections in the temple or the charity box. The institution of *Devadasis* or *Bhavin* was mainly for the purpose of menial attendance at the altar and the temple. That has now degenerated into a worse institution; but a *Bhavin* within the temple looks after her own duties and nothing else. The fact however, is, it is the man who tempts the woman and if there is any young rich bachelor in the neighbourhood he is the first man to corrupt the woman. When this *Bhavin* has a grown up daughter, she again in her turn is dedicated to the temple for the same duties; and both mother and daughter unfortunately make a living or supplement their living by prostitution. But yet the *Bhavin* has a right as it were to serve at the temple and has also a right to perquisites from the charity box or the collections at the altar. The question,

therefore, will arise, if you stop dedication, you will have to stop the right of these women to have these perquisites of the temple. I am not defending, Sir, the institution of dedication. As a social reformer, I undoubtedly hold Government would be justified in interfering to stop this system of dedication to the temple. But what I have to point out both to Dr. Gour and to the Assembly is not to attempt only a hap-hazard or a partial solution of this problem. I wish to draw the attention of the House to facts recently found in Bombay, the Bombay Government at the instance of one legislator recently went into the problem and took a census of prostitutes in Bombay City; and it has been found by a Committee which was appointed by the Government that in Bombay City there were no *Devadasis* as such; yet there are thousands and thousands of minor girls who are turned into prostitutes and they are of all classes and creeds. That Committee, when they took the census with the assistance of the Police Commissioner, found out that in the streets of Bombay there were girls who were doing business of prostitution and they came from all parts of the world; there were Chinese girls, Japanese girls, Armenian girls, Muhammadan girls, girls from the Punjab, from Kashmere, from Rajputana and girls from the South. Now, I ask those who want to solve this problem, are these *Devadasis*? How are these minors decoyed, and enticed into this profession? Not by dedication for one *Devadasi* in a particular district, there are perhaps thousands of girls brought into the streets of Bombay from upcountry and converted into these prostitutes, although they do not go through any ceremony of dedication whatever and have nothing to do with this institution of *Devadasis*. I therefore contend that this problem is a larger one and if you take only the institution of *Devadasis* which is a localised evil only, confined to certain tracts of the country and to certain tribes who carry on the principle of dedication from generation to generation, then you attempt only a partial solution of this problem.

Now, I come to the question of the remedy, My friend, Dr. Gour, who is a learned man in law said that legislation was absolutely necessary. In this respect I refer him to the proceedings of the Imperial Legislative Council wherein he will find that when Government investigated that question, it was pointed out that in the present Penal Code there was provision to stop this dedication. Under section 372 of the Indian Penal Code, I gather dedication might be interpreted as disposal of the girl; and there have been cases both in the Madras High Court and in the Bombay High Court as well in which the High Courts have held that dedication is against the Indian Penal Code, that it is against the existing law, so that the very existing law which we have is ample as far as I can understand it to deal with this evil. Unfortunately the law is not put into practice and it is perhaps a dead letter. What seems necessary to me, therefore, is for Government to see that it does not remain a dead letter. However even assuming according to the interpretation of some lawyers that the ordinary law is not enough or is not strong enough, I am perfectly in favour of having recourse to legislation for the stoppage of this evil. But when Government want to stop immorality and prostitution, it is no use, as my friend Mr. Rangachariar, pointed out, attacking the one hundredth part of the evil which is to be found in temples, but I maintain that the whole problem should be attacked wholesale in a comprehensive manner, so that you eradicate the evil thoroughly. It is no use trying to eradicate the *Devadasi* or the *Bhavis* and flood the whole of the street of Delhi, Calcutta or Bombay or Rangoon with all sorts of minor

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girls who though not dedicated are seduced, or purchased, or are hired out in all the different processes of fraud by brothel-keepers. We have got not only Hindu *Devadasis* to stamp out, but also Chinese girls, Japanese girls, Armenian and Jewish girls, brought from all the different parts of the world into the port of Bombay. I say the evil has to be attacked at the very root and in a radical manner and we have not to look at the evil only from the point of view of the Hindus, or Muhammadans or the purity of the Church. These are the observations which I have to make with reference to the proposal made by my Honourable friend; and I think the best course for the Government is, as Mr. Rangachariar in his amendment has shown, simply to find out from local Governments the nature and extent of the evil and then to apply the remedy.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I am really surprised to see that there have been apologists here for the institution of *Devadasis* in India (Cries of 'No apologists'). I am going to explain how an attempt at apology has been made. It has been said that our ancestors, who knew better, must have had some very valid reasons for bringing this institution into being. I have listened very carefully to all that has been said in favour of the institution and in favour of deferring the action that has been proposed by Dr. Gour; but I have not been able to see how the proposal to defer is to be supported. It has been stated by Rao Bahadur Rangachariar that *Devadasis* are attached to temples, but that they do not stoop to any mean practices within the precincts of the temples although outside no doubt they do carry on prostitution. It has been also stated that the prostitution of *Devadasis* would be part of the larger problem of prostitution in general prevalent in India. But according to me it is easier to tackle prostitution when it is practised under the wing of religion. No temple that consents to have *Devadasis* attached to it could be deemed justified in such action. All temples that have *Devadasis* attached to them must indeed be temples of a very low order. And it is easier to secure recognition for the truth of this proposition. No eloquence can vindicate *Devadasis* in a temple. The name of Hindu temple will not be of much avail. To say that such an institution might be allowed to exist because in a mysterious way it subserves some very useful purposes, is, I think, to make a statement which is clearly worthy of condemnation. My Honourable friend, Dr. Gour, has been abused for bringing in this measure. It has been said that his ignorance of the subject is gross, that it is easy for him to preach morality, and that morality is never established by legislation. I say this advocacy is participation virtually in the immorality involved in the institution. Any one who comes forward to justify this institution of *Devadasis* had better think twice before assuming this role, and before making bold to play this role in a House such as this.

It has been said by the Honourable Mr. Kamat that we should be circumspect and wary in our action, and that we must first consult the local Governments, and the Indian Associations. Why? Only because there is the larger evil of the prostitution of Indian, European, Syrian, Armenian and other girls, who are thus victimised, and, which in our present order of society we cannot effectively deal with. I have no doubt there is something to be said for the general institution of prostitution, on which the purity of the home in some measure depends. Man has got two principles within

him, the principle of virtue and the principle of vice, which need to be harmonized. As Lecky rightly says, the prostitute serves as a priestess of humanity. I would myself hesitate a good deal before ending the institution of prostitution. But prostitutes that are attached to a temple or a house of God must necessarily disappear. Any reasonable man, any man who lays any reasonable pretence to morality, must support Dr. Gour's measure. I therefore heartily support the measure that has been brought before the House by Dr. Gour.

The Honourable Dr. T. B. Sapru (Law Member): Sir, howsoever much my friends from Madras and Bombay may attack my Honourable friend, Dr. Gour, for what they have been pleased to describe as his ignorance of the customs of their part of the country or of the law obtaining in Madras and Bombay, I do not think that any one in this House, even a conservative die-hard, will deny that Dr. Gour has been actuated by the highest and loftiest purpose in moving this Resolution. (Hear, hear.) As one who in younger days was an ardent social reformer and who, with growing years, has not felt any diminution in that ardour in behalf of Social Reform, I do not hesitate to say without equivocation and without ambiguity that, in my personal capacity, I am entirely in sympathy with Dr. Gour's motion. At the same time, I very well appreciate and realise the anxiety of my friend, Mr. Rangachariar (*Mr. Rangachariar*: 'For what?') that false impressions should not be created with regard to the extent of the evil. I myself believe that no social reformer advances his cause by exaggerating the extent of the evil, but at the same time I would respectfully remind men who think or who hold that the last word on human wisdom or human morality was uttered by their ancestors hundreds of years ago, that it also serves no purpose to close their eyes to the evils as they exist. (Hear, hear.) Fortunately, or unfortunately, I myself have no personal experience of the temples in the South, and I confess that I have no such temptation.

Rao Bahadur T. Rangachariar: Without seeing them?

The Honourable Dr. T. B. Sapru: Therefore, if my Honourable friend, Mr. Rangachariar, will attack me on the same ground on which he attacked Dr. Gour, namely, that I am ignorant of his temples down in the South, well, I will plead guilty to that charge. But, at the same time, I do not think that the problem is one, the extent of which cannot be appreciated by an Indian living in India, moving in Indian society, who has been borne and bred up in Indian traditions (Hear, hear), although he may not have the good fortune or evil fortune of living in Madras or in Bombay. Now it is perfectly true that some times conservative people think that when discussions of this character take place in the public, outsiders who do not belong to the Indian society are apt to run away with the impression that this evil is the normal feature of Hindu life. Well, let me as an Indian and as a Hindu repudiate any such suggestion or any such impression most emphatically. Hindu Society could not have lived these thousands of years if its heart was rotten to the core or if the evil was so rampant as some unkindly critics make it out to be. But let us remember that what is to be found in certain parts of India at the present moment, howsoever it may be discreditable to our modern notions of morality and purity, is by no means very novel in the history of the world. I will just read out to the House a passage from

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a judgment of a very learned European Judge whose contributions to the Hindu Law are held in the highest respect everywhere in India. I am referring to a judgment of Sir Raymond West, not because it lays down the law beyond cavil; I am aware that so far as the precise legal issue in that case was concerned, there has been difference of opinion. But I will read a passage to you just to show some parallels on this particular point. Now Sir Raymond West said so far back as the year 1880 as follows:

'The universal dedication of women to one day of promiscuous licence, which Herodotus described as a law of Babylon, is repeated by Biblians several centuries later before the days of Lucian. It was connected with a mode of worship which has been generated in many places by the joint influence of sexual and religious emotion, and which made many ancient temples the chief centres of licentiousness. From Tyre, apparently, the worship of Astarte was conveyed to Corinth, where the temple of Aphrodite with its thousand devotees became the most celebrated home of wantonness. Herodotus was so accustomed to the employment of sacred precincts for what, to him, seemed impure uses, that he thinks it worthy of special record that the Egyptians and the Greeks alone abstain from turning them to such purposes. The sons of Eli copied, in their misconduct towards the female votaries who came to benefit by their ministrations the practices of the neighbouring nations. The rigorous laws of the Jews against unchastity are an evidence and source of their nobler type of character in comparison with the other peoples of Asia Minor though their lapses into sensual idolatry are often recorded and lamented by the Prophets.

'All Syria was at times given up to orgiastic excesses, the infection of which could hardly be escaped by those who were exposed to it. From this region, more than from any other, corruption flowed in upon the Roman; and if Juvenal's authority may be accepted, the temples at Rome were the favourite haunts of debauchery.'

Now, therefore, it may be urged by any Hindu that if things like these existed or flourished at one time in ancient India, ancient India was not a solitary example. But now the point is whether you will allow these relics of those far-off days to subsist or to survive under modern conditions, and that is the issue which I think Dr. Gour has put before the House to-day. There was one remark which fell from my friend, Mr. Kamat, and I ask the House to bear that in mind carefully. I am in perfect agreement with him when he says that so far as the particular problem of *Devadasis* is concerned, you must not attack it—or to put it the other way—you should attack it along with other branches of the evil. (*A Voice*: 'Why?') There are *Devadasis* in the South and in the West, but there are similar institutions of women and young girls who are dedicated to careers of vice not in connection with temples or in connection with any religious ceremony, but purely out of immoral motives to be found in other parts of the country. At this stage I will read to the House brief extracts from the reports of three Local Governments which were submitted to the Government of India some 10 years ago when the question was taken up. These extracts will show what really the extent of the evil is, or at any rate what the extent of the evil was found to be at that time when Local Governments were asked to make careful inquiries through local authorities in regard to this matter. The Government of Eastern Bengal and Assam, as it then was, reported as follows:

'The Lieutenant-Governor has consulted selected officers, and is assured that the practice of dedicating young girls to a life of prostitution in connection with the service of a temple is confined to two or three places in Assam; none of these are important, nor is the number of such girls considerable. All girls so dedicated are members of certain families which enjoy rent-free lands on condition of providing each a girl for the service of the temple. An endeavour is being made by the district officers to induce the temple authorities to put an end to the custom.'

The Government of Bengal reported as follows :

'Symbolic marriage does not prevail in the province of Bengal, and the institution of temple prostitutes does not exist at any of the large religious shrines in Gaya, Orissa, or elsewhere, with the exception of the temple of Jagannath at Puri. At this temple there are some 100 dancing girls, but their position both in theory and practice is somewhat peculiar. These girls are recruited in three different ways. Some are the daughters of families attached to the temple for the performance of certain services; the male members play music in the temple; while those of the female members who are not married are dedicated as dancing girls and are enjoined by the rules of the temple to lead clean lives of lifelong virginity, even marriage being considered a disability for the *Shesha* or service. Others are girls dedicated to the temple from religious motives by people not connected with the temple. For instance, when a girl is dangerously ill, the parent will dedicate her to Jagannath in the event of her recovery; or parents who have no children or who have lost a number of children in infancy, will in fulfilment of their vows devote their female offspring to the service of the deity. The children so dedicated pass out to the families attached to the temple and in due course become dancing girls. Others again are illegitimate daughters purchased from their mothers. Though this last is the commonest method of recruitment, it cannot be said that there is any regular traffic. The girls by the temple rules are expected to lead a life of strict morality, yet it is not denied that outside the temple they practise prostitution, but unlike the ordinary prostitutes and dancing girls of the town, they refuse to entertain Muhammadans, or persons of low class, or to dance in public.'

Then I come to Madras, the province of my friend opposite :

'As regards the extent of the evil, the large mass of opinion, both official and non-official, is to the effect that, so far as regards the enrolment of female children for a life of prostitution as servants in Hindu temples, there is a tendency to decline, due partly to the increasing disapproval of educated Hindu opinion, and partly to diminution in the comparative value of the *inams* attached to each service. The number of dancing girls actually doing service in temples has also probably undergone some diminution, but they still continue to exist in large numbers, and the practice of dedicating female children to temple service has by no means ceased.'

Then I come to Bombay :

'So far as has been ascertained, this practice does not prevail in the temples of Sind and Gujarat. In the Marathi-speaking Deccan, the practice does exist but to a small and as it seems diminishing extent. In the south of this Presidency, however, specially in Bijapur, Dharwar and Belgaum, the evil is extensive. It has been ascertained that on an average some 558 young girls are annually dedicated to the temples of this Presidency. Of these dedications, 523 occur in the aforesaid three districts.'

I will only add that so far as the Punjab and the United Provinces Governments were concerned, they said that there was no such custom to be found anywhere there. Now, that is the extent of the evil I will remind the House that in the year 1912, my friend Mr. (Now Sir) Maneckji Dadabhoj moved a Bill on this subject. In fact, the scope of the Bill which he moved was very much larger than the scope of the Resolution of my friend, Dr. Gour. About the same time, the late Mr. Mudholkar, also an ardent social reformer, gave notice of a similar Bill. Shortly before that, if my memory does not fail me, Mr. Mudge had given notice of a Bill with regard to the general question of social vice. So far as the two Bills of Mr. Dadabhoj, as he then was, and Mr. Mudholkar were concerned, what the Government of India did at that time was that they referred the whole question to the Local Governments and invited their opinions, and in pursuance of those opinions a Government Bill was introduced and it was referred to a Select Committee. The report of the Select Committee was again referred to Local Governments and opinions were invited. Unfortunately, there were disputes and controversies raised at that time, not with reference to the main issue, but with reference to certain subsidiary issues.

[Dr. T. B. Sapru.]

And then came the war. The legislation therefore could not be proceeded with during the last few years mainly because of the war and mainly because it was considered to be a controversial legislation. As you all know, the old Council disappeared and this Assembly has taken its place. I will only at this instant remind the House that even the orthodox Members of the Council at that time strongly supported the main issue, and I will at this stage just read a passage from the speech of that pillar of orthodoxy—I refer to Pandit Madan Mohan Malaviya. In speaking on this question, he said :

‘ I hope that not a man in the country will be able to put forward one single text which will justify a thing which is so irreligious and sinful as the dedication of minor girls in a position where they must be compelled to lead a life of sin and shame. My Lord, I hope that all sound men will be united in the desire to support the Government in any legislation which shall secure that no girls shall be led, induced or compelled to take to a life of shame, or placed in a position where she may be helplessly led to adopt it until she has attained to discretion; and so far as that is concerned, I hope and trust that the measure will receive the support of all right-thinking men throughout the country ’

Well, one of the main questions which was responsible at that time for controversy and which stood in the way of legislation was that relating to guardianship and rescue homes, and I will beg the House to remember that you cannot attack this problem without at the same time making up your mind as to what you are going to do with these girls whom you will rescue from a life of vice and immorality. (*An Honourable Member* : ‘ That is true. ’) Have you got any rescue homes or are you going to provide them, and what is going to be the machinery ? That is a question on which I think the real solution of the whole problem depends. At that time I remember very well one of the questions which was raised in the Council and the question which agitated the public mind was as to whether these girls should be handed over to persons who belonged to their own religious persuasion or whether they could be handed over to persons belonging to another religious persuasion. That was the main point of controversy at that time, and while I am not prepared to express for you or on my behalf any definite opinion on this question, I will beg the House to give its best consideration to this particular issue.

Well, the question has been solved in England by two statutes, one is the statute of 1885 and the other is the recent statute of 1908. I have been looking into the provisions of these two statutes, and although it may be that in every detail you may find it difficult to follow those statutes, yet I think that the principle which they have laid down is perfectly sound, and whatever may be your position, you will have to be guided by the principles of those statutes. But quite apart from the question of the statutes, I should think that even before 1885 in England there could be no room for doubt that even a mother who was living a life of immorality would not be entitled to the guardianship of her child. The Court of Chancery had laid it down repeatedly. Therefore, here in India where you have got to deal not with individual cases, but with a large class of cases of this character, I think you have got to make up your mind as to whether you are going to provide any rescue homes for these girls or not. These are questions which require very careful consideration. I have no doubt that Dr. Gour is prepared to give his best consideration to these matters. But as Mr. Rangachariar pointed out, and I think very rightly too, at the time when Mr. Dadabhoy and Mr. Mudholkar moved their Bills the constitution of the Council was radically different from the constitution of the Assembly to-day. At that time the non-official Members of the Council were

in a minority and naturally the Government constituted as it was at that time, felt itself called upon to proceed in a matter like this with the utmost caution. Even now I think, from the point of view of Government, caution is necessary. (Mr. Shahani: 'Not too much of it.') I quite agree. Therefore what strikes me as leading to a satisfactory solution of the problem for the time being is that my friend, Mr. Gour, should agree to the suggestion that there should be a fresh reference to the Local Governments so that the position during the last 10 or 12 years since the former reference was made may be re-surveyed and re-examined and fresh suggestions may be made now by the Local Councils which are practically Indian in their constitution. I do not think that this will mean really any obstacle to our work, because I hope we shall be able to get the reports from the Local Governments within the next few months, and in the light of those reports I have no doubt, and speaking for myself, I can say to Dr. Gour that I am in perfect sympathy with his suggestion, that Government will be prepared to undertake legislation on this matter. But they want fresh materials, fresh opinions and fresh advice from the Local Governments and Local Councils. At the same time, I want to make it absolutely clear that I am not insisting upon this suggestion of mine being accepted by this House. If the House gives a clear and unambiguous indication of its intention in regard to this matter, if it wants that the Government should be prepared, after its clear vote on this matter, to undertake legislation, well, I can assure the House that the Government will do all it can to meet the wishes of the House (Hear, hear consistently with religious susceptibilities and social requirements in the various parts of the country. Therefore, so far as I am concerned, I will leave the matter entirely in the hands of the House. I have suggested to Dr. Gour and to the House that nothing will be lost by really re-surveying the whole problem within the next few months and strengthening our position by fresh material and fresh evidence, but it is for the House to say whether it is prepared to accept the first suggestion or the second one, and I am content to leave the matter in the hands of the House.

Dr. H. S. Gour: I do not propose to take much time in replying to the critics who attacked my facts but have accepted my conclusion, because I am only anxious that they should vote on my conclusion with which they are in concurrence, whatever may be our differences as regards the facts. So far as the suggestion of the Honourable the Law Member is concerned, the Honourable the Law Member will remember that this question was first raised as far as 1868. This very question has been pressed upon the notice of the Central Government from time to time and on the last occasion when the attention of the Central Government was invited the Government of India introduced a Bill in September 1913 and it was referred to a Select Committee in March 1914. The Bill was taken into consideration on the 18th of March of that year and after a prolonged discussion this huge mountain of the Central Government produced a mouse, and it was a motion that the Bill be re-published in the Gazette of India and there the matter ended. My Honourable friend, the Law Member, ascribes the further arrest in the progress of that measure to the intervention of the War. But I beg to suggest to him that the real difficulty that confronted the Government in 1914 was not the war because the war had not broken out when the measure was shelved. A very large volume of opinion from the Provinces was then collected and I have been privileged to peruse a copy of

[Dr. H. S. Gour.]

those opinions from the Local Governments which were then invited by the Law Department of the Government of India.

My friend now appeals to me once more to describe the same circle, go to the Local Governments, collect their opinions, introduce a Bill, and that Bill will be talked out. I decline that invitation. I ask the Honourable the Law Member what fresh facts can be now collected, which were not collected by the Government 6 or 8 years ago. This is an old chronic question. All the facts that could be collected are already in the possession of the Honourable the Law Member. Make use of them and let us now go forward with a salutary measure which we are all agreed should be put in force in the interest of common morality. I am obliged to the Law Member for his sympathy, but I am afraid that his sympathy is not likely to be coupled with his vote, because he has told us in his own diplomatic language that now that the Assembly has got an elected majority the Assembly must decide for itself whether it is in favour of this Resolution or not. Well, Sir, the responsibility having been thrown upon this Assembly, the Assembly is prepared to shoulder it and I have no doubt that this Assembly will rise to the height of its responsibilities on this occasion and assert in unmistakable terms in the interests of the children of this country that it is anxious that no time should be lost in placing on the Statute-book a measure sufficiently strong and amply sufficient for the purpose of preventing this evil which has been rampant in this country. To my friend, Mr. Kamat, I say that the question of the suppression of general immorality is a question to which this House stands already committed. Only the other day the Honourable the Home Member brought forward a motion asking for the adherence of this Assembly to a Convention of the League of Nations, and this Assembly endorsed the Convention proposed by the League of Nations. If due effect is given to that Resolution of the Assembly, a great step forward shall have been made to minimise the evil of which my friend, Mr. Kamat, complains. But my friend, Mr. Kamat, has entirely misunderstood me when I pointed out that there was a reason why I have brought forward this Resolution. In suppressing general immorality and traffic in minor girls, the Government of India may pause and hesitate to deal with a question which is surrounded with what the Government of India considers a difficult question of religion, and it is for the purpose of removing that impediment from the way of the Government of India that I have brought forward this motion so as to set the Government of India free not only to legislate generally on the subject of the suppression of this vice, but also to suppress that particular vice which is associated with religious practices. I therefore think, Sir, that nothing will be gained and time will be lost in referring this Resolution once more to the Local Governments, and I appeal to the Honourable Mr. Rangachariar who has given notice of his amendment to withdraw it on the same ground—because he and I are at one and we must conjointly move this Assembly to suppress this evil. Nothing would be gained by once more deferring the execution of this motion by referring it to the Local Governments, and I therefore ask the House, Sir, to unanimously pass my Resolution. I have no doubt that when the Government take action they will as a matter of necessity refer to the Local Governments for advice and guidance. That will follow, as a matter of routine practice, but why should I cripple my Resolution with that condition and thereby entail delay which, I submit, is not justifiable in view of the long discussions which have already taken place in the old Imperial Council and the

opinions collected by the Government of India from all the responsible bodies and Local Governments which are at present in their possession. I therefore ask, Sir, that my motion as it stands be passed by the House.

Mr. President : The original question was :

' This Assembly recommends to the Governor General in Council to be so pleased as to enact a law prohibiting the wholesale traffic in minor girls for immoral purpose ostensibly intended as *Devadasis* but in reality used for indiscriminate immoral purposes.'

Since which an amendment has been moved as follows :

' Insert the words ' consult Local Governments and Indian Associations with a view to ' between the word ' to ' where it last occurs in the first line and the word ' enact ' in the second line.'

The question is that that amendment be made.

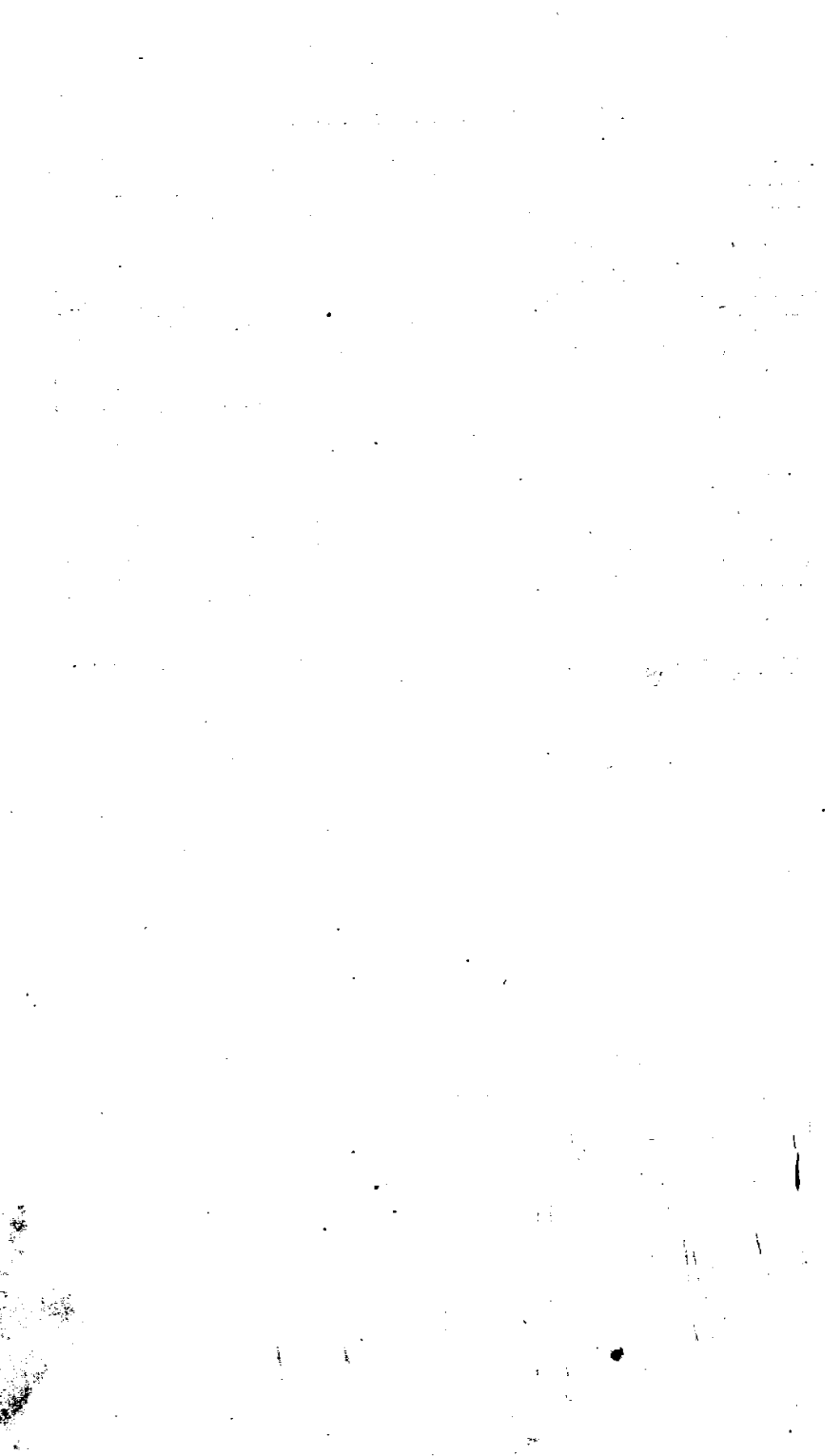
The motion was negatived.

Mr. President : The question is that the following Resolution be accepted :

' This Assembly recommends to the Governor General in Council to be so pleased as to enact a law prohibiting the wholesale traffic in minor girls for immoral purpose ostensibly intended as *Devadasis* but in reality used for indiscriminate immoral purposes.'

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 28th February, 1922.



LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 28th FEBRUARY, 1922

Vol. II—No. 37

OFFICIAL REPORT



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1922

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LEGISLATIVE ASSEMBLY.

Tuesday, 28th February, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

DISCRIMINATION BETWEEN INDIANS AND ANGLO-INDIANS ON RAILWAYS.

227. * **Mr. K. Ahmed** : With reference to the reply to Question No. 95 (a) and (b) and the supplementary question thereto on 24th of January, 1922, will the Government be pleased to give an indication of how long the matters will remain under consideration and what will be their future policy of removing the discriminations between Indians and Anglo-Indians ?

Colonel W. D. Waghorn : The Government are unable at present to add anything to the replies referred to.

Mr. K. Ahmed : A supplementary question with regard to Question No. 227 just answered—(not that it was really answered but that it will be answered later on). May I ask whether the discrimination between Indians and Anglo-Indians is one of the causes of the present strike ?

Colonel W. D. Waghorn : I think I have already told the Honourable Member that the cause of the strike was an alleged assault on an Indian.

Mr. K. Ahmed : You admit that, Sir ?

Colonel W. D. Waghorn : I do not admit it.

Mr. K. Ahmed : What is it due to, then ?

Colonel W. D. Waghorn : To an alleged assault.

Mr. K. Ahmed : But there must be some real cause on which we are entitled to be enlightened, I suppose, by the Railway authorities, and may I demand an explanation of what it is due to ?

Colonel W. D. Waghorn : I have nothing further to add.

Mr. K. Ahmed : That is not an answer, Sir. Do Railways exist in India on such anomalies as I have stated or do anomalies exist on Railways ?

Colonel W. D. Waghorn : I am afraid I do not quite understand what the Honourable Member is asking.

Mr. J. P. Cotelingam : It is a puzzle, Sir.

Mr. K. Ahmed: There must be, Sir, some definite answer to be given to my main question already put.

Mr. President: Question No. 228. Mr. Kabeer-ud-Din Ahmed.

INCREASE IN GOODS RATES ON RAILWAYS.

228. * **Mr. K. Ahmed:** Is it a fact that the classification of goods and rates charged on Railways under each classification is to be generally increased from 1st April, 1922 ?

Colonel W. D. Waghorn: The reply is in the affirmative.

AGREEMENT BETWEEN EAST INDIAN RAILWAY AND OUDH AND ROHILKHAND RAILWAY AS TO RATES BETWEEN HOWRAH AND STATIONS ON THE OUDH AND ROHILKHAND RAILWAY.

229. * **Mr. K. Ahmed:** Is the arrangement between the East Indian Railway and the Oudh and Rohilkhand Railway (referred to on page 150 of Mr. Ghose's Monograph on Indian Railway Rates) which required that the rates quoted between Howrah and Aligarh Junction, over the East Indian Railway, would be applicable from stations on the Oudh and Rohilkhand Railway short of Aligarh Junction, under the operation of the differential rule cancelled ?

Colonel W. D. Waghorn: The agreement between the Oudh and Rohilkhand and East Indian Railways referred to is still in force.

ROUTING OF GOODS TRAFFIC ON THE EAST INDIAN RAILWAY.

230. * **Mr. K. Ahmed:** Is not the routing of traffic referred to in item (1), paragraph 10, page 334 of the East Indian Railway Goods Tariff Pamphlet No. I, in force from 1st November, 1921, the same as referred to on page 150 of Mr. Ghose's Monograph and in accordance with the arrangement referred to therein ?

Colonel W. D. Waghorn: The reply is in the affirmative.

DISCUSSIONS IN THE ASSEMBLY ON THE ACWORTH COMMITTEE REPORT.

231. * **Mr. K. Ahmed:** Will the Government be pleased to state if in inviting discussions on the Acworth Committee Report, they will place the official views of the Government of India on that Report before the Assembly, and will the Members of the Assembly be given sufficient time to consider those views before the subject comes for discussion in the House ?

Colonel W. D. Waghorn: The Report of the Acworth Committee was published some months ago and it is always open to a Member to move Resolutions on questions arising out of that Report. Those of the recommendations which involve expenditure or require legislation must, of course, come before the Assembly. Beyond this the Government can say nothing at present except that they propose to establish a Central Advisory Council composed of Members of the Legislature and naturally that they will discuss with this Advisory Council important questions of policy arising out of the Report.

Mr. K. Ahmed: Will the Government be pleased to expedite the matter of placing the Report in this Assembly?

Colonel W. D. Waghorn: Yes, that is being done.

Rao Bahadur C. S. Subrahmanayam: A supplementary question, Sir. Is a fresh Committee going to be appointed to consider the Report?

Colonel W. D. Waghorn: It is proposed to appoint the members of the Finance Committee who have already sat and discussed the financial aspect of the Report.

Rao Bahadur C. S. Subrahmanayam: Would not Government see its way to revise the personnel of that Committee, seeing that this Committee is going to enter upon a wider sphere of work?

Colonel W. D. Waghorn: It is not proposed to form any other Committee. The Assembly will have it in their power to discuss any question in regard to the Report which may be brought up.

SUGGESTED REVISION OF INDIAN RAILWAYS ACT, IX OF 1890, WITH A VIEW TO STATE OWNERSHIP.

232. * **Mr. K. Ahmed:** Is the Indian Railways Act, IX of 1890, which was framed when the trunk lines like the Great Indian Peninsula, Bombay Baroda and Central India, Madras, were company-owned, to be revised so as to give India the full benefit of State ownership of the railways? If so, when?

Colonel W. D. Waghorn: It is probable that the Act will need revision in view of some of the recommendations in the Acworth Committee's Report, but I do not know what the Honourable Member means by his question whether the Act is to be revised in order to give India the full benefit of State ownership of the Railways. I can give no date.

Mr. K. Ahmed: In 1924 and 1925, the contracts of the Company-managed Railways, such as the East Indian Railway and the Great Indian Peninsula Railway, are going to expire. Will the Government, in view of the fact that the Acworth Committee has already observed that they should be State-managed concerns, be pleased to enlighten the Assembly as to whether they are going to do that and not to continue the contracts beyond 1924 and 1925, respectively?

Colonel W. D. Waghorn: The contracts for these lines automatically cease. The question as regards State or company ownership will be taken up by the Advisory Committee and will be referred to this Assembly, if necessary.

Mr. K. Ahmed: Thank you, Sir.

STATE OWNERSHIP OF RAILWAYS IN GERMANY AND BELGIUM.

233. * **Mr. K. Ahmed:** Are the Government aware that the railways of Germany and Belgium are owned and managed by the State?

Colonel W. D. Waghorn: The Government are happy to be able to give the Honourable Member the assurance he requires.

Mr. K. Ahmed : Is it the translation of the Code ?

Mr. President : It is Question No. 233.

Mr. K. Ahmed : Is it the German and Belgium Code or the Railway Act ?

Colonel W. D. Waghorn : I have nothing to add to the answer I have already given.

GERMAN AND BELGIUM RAILWAY ACTS.

234. * **Mr. K. Ahmed :** Will the Government be pleased to get the German and Belgium Railway Acts, together with their English translations for the benefit of the Indian Government and the Indian public ?

Colonel W. D. Waghorn : Inquiries will be made whether English translations of the Acts referred to are procurable. In the meantime, the Honourable Member is referred to the following publications, which are available in the Legislative Department Library :

(i) Grierson's collection of Regulations for the German Railways, 1888 and

(ii) Todd's Treatise on the Belgian Law containing a complete translation of the entire Code of Commerce and Code of Procedure London, 1905.

Mr. K. Ahmed : Is the Honourable Member quite sure that they will bring home the point at issue for which this question has been put ?

Colonel W. D. Waghorn : I do not quite understand what the Honourable Member means by the point at issue.

Mr. K. Ahmed : Will items (i) and (ii), that is, a description of the title of the books mentioned by the Honourable Member, satisfy the point in issue ?

Colonel W. D. Waghorn : That I will leave the Honourable Member to ascertain for himself.

LEASE IN PERPETUITY IN KARACHI.

235. * **Mr. W. M. Hussanally :** (a) Is it a fact that the Cantonment Authorities in Karachi have not as yet informed any of the landlords in the Cantonment that the titles to the lands held by them on the original tenure are considered doubtful and asked them if they are willing to execute leases in perpetuity for their original holdings ?

(b) Will Government be pleased to state what form of lease is referred to as 'lease in perpetuity' and how many such leases have been executed in Karachi.

(c) Will a copy of such lease be placed on the table ?

Sir Godfrey Fell : (a) The Government of India have no information on the subject but are inquiring. I will inform the Honourable Member of the result.

(b) In my reply to the Honourable Member's Question No. 65 on the 10th January, 1922, the expression 'leases in perpetuity' referred to leases in Form B under section 264, Cantonment Code. This is a form of lease for an indefinite term, to be executed in cases of extensions of existing sites, or where it is desired to regularise existing grants.

(c) The Honourable Member is referred to Form B, which is reproduced in Schedule VI of the Cantonment Code, 1912.

TRANSFER OF HOUSES IN KARACHI HELD ON ORIGINAL TENURE.

236. * **Mr. W. M. Hussanally**: (a) Is it a fact that the landlords of houses in the Cantonment of Karachi, who had bought houses held on the original tenure when applying for transfer of the said houses, were informed that their applications for transfer would be considered only when they agreed to sign leases on Form B? And is it a fact that they did sign the same in order to secure the transfer?

(b) If so, will Government be pleased to quote the authority under which leases on Form B were demanded from these landlords; and if any legislation was taken in the matter?

Sir Godfrey Fell: (a) and (b). The attention of the Honourable Member is invited to the reply given on the 10th January last to his unstarred Question No. 65.

HARDSHIPS OF PROPERTY OWNERS IN KARACHI CANTONMENT UNDER NEW LEASES ON FORM B.

237. * **Mr. W. M. Hussanally**: (a) Is it a fact that now existing owners of properties (which were originally held on old tenure) by virtue of rebuilding or on account of acquiring by transfer have been made to sign new leases on Form B and as such are given notices to vacate such houses when required for a military officer?

(b) Is it a fact that such action has already been taken in the Karachi Cantonment?

Sir Godfrey Fell: (a) In regard to the first part, Government have no information.

In regard to the second part, I would invite the attention of the Honourable Member to the reply given on the 22nd September 1921 to his unstarred Question No. 17.

(b) Government have no information on the subject.

ABSENCE OF NOTICE TO PROPERTY OWNERS IN KARACHI OF THE EFFECT OF NEW LEASES.

238. * **Mr. W. M. Hussanally**: (a) Will Government be pleased to state whether the Cantonment Authority in Karachi, before they got owners of houses held on original tenure to execute leases on Form B on account of transfer, sub-division and on rebuilding, informed them before getting fresh leases executed that in consequence of their executing such fresh leases they would forfeit the right of living in such houses by virtue of their

executing fresh leases and that they would not receive any protection from the House Accommodation Act? If not, why not?

(b) Under what authority were these statutory rights of living in one's own house taken away in this manner and was any legislation taken in the matter?

Sir Godfrey Fell: (a) and (b). The Government of India have no information. I would, however, point out that no owner can be compelled to execute a fresh lease in Form B; and if he agrees to do so, he must be presumed to be aware of the conditions of the lease before executing it. It cannot, however, be assumed that owners holding houses under old tenure are not liable to be required to vacate their houses.

AUTHORITY ON WHICH HOUSE OWNERS HAVE BEEN DISPOSSESSED IN KARACHI.

239. * **Mr. W. M. Hussanally:** (a) Is it a fact that the clauses in the annexure to lease Form B do not in any way lay down that the owner should vacate his premises if the same are required for a military officer, but that on the other hand the lease itself grants liberty and license to lessee TO HOLD AND ENJOY the land and ALL BUILDINGS erected thereon?

(b) Will Government state what clause of lease Form B, or annexure thereto, authorises the Cantonment Authority to call upon the owner to vacate his house when occupied by him?

(c) In how many instances have such landlords been made to vacate their houses in Karachi and other cantonments?

(d) Will Government order such landlords to be restored in the possession of such houses?

Sir Godfrey Fell: (a) and (b). Condition VI *et seq* of the lease in Form B gives Government the right to appropriate a house at any time for occupation by any military officer or civil officer.

(c) The Government of India have no information and do not consider that it would be in the public interest to spend the large amount of time and labour involved in obtaining a return of instances in which landlords have been made to vacate their houses in Karachi and other cantonments.

(d) No.

ILLEGALITY OF LEASES IN FORM B TAKEN ON OLD SITES.

240. * **Mr. W. M. Hussanally:** (a) Is it a fact that the Reform Committee have unanimously recommended the cancellation of all leases in Form B taken on old sites as having no force of law?

(b) Is it a fact that the said Committee have pronounced such leases as illegal, unfair and unreasonable?

(c) Will Government please state if they have issued any orders to the Cantonment Authority in question informing them that such leases are invalid and no action should be taken thereon? If not, do Government propose to issue any such orders?

Sir Godfrey Fell: (a) The Cantonment Reforms Committee do not appear to have made any such recommendation.

(b) They have expressed the opinion that the instructions contained in paragraphs 25 and 26 of the Cantonment Manual are illegal and bear harshly on house owners in cantonments.

(c) The Government of India have not issued any such orders; but they are considering this question.

PROVISION OF NEW OFFICE BUILDINGS FOR WESTERN COMMAND IN KARACHI.

241. * **Mr. W. M. Hussanally**: (a) Is it under contemplation to remove the Western Command now stationed at Karachi to another station? If so, to what place, for what reasons and when?

(b) If not, is it contemplated to build new offices for the Western Command in Karachi, and, if so, on what site and when?

Sir Godfrey Fell: (a) Certain proposals of a purely tentative character for the removal of the headquarters of the Western Command from Karachi have been put forward by the local military authorities. The Government of India have not yet taken them into consideration and are not able, therefore, to make any statement on the subject.

(b) If the headquarters are retained at Karachi, it will probably be necessary to erect new offices, but nothing is yet settled about the site nor can it be stated when building will commence.

PURCHASE OF PROPERTIES IN KARACHI CANTONMENT FOR WESTERN COMMAND.

242. * **Mr. W. M. Hussanally**: (a) Is it a fact that a few months ago the Army Commander, Western Command, invited proposals from various landlords in Karachi Cantonment regarding purchase of their properties by Government for bungalows for the staff officers attached to the Command?

(b) If so, will Government be pleased to state the result of the negotiation and whether the Government propose to acquire the said properties?

Sir Godfrey Fell: (a) and (b). The Government of India have no information on the subject.

SUGGESTED EXTENSION OF KARACHI CANTONMENT FOR LOCATION OF WESTERN COMMAND.

243. * **Mr. W. M. Hussanally**: (a) If the Western Command is to be permanently located at Karachi, is it not a fact that the present cantonment area will require considerable extension?

(b) If so, is there any proposal before Government to make over the present depôt lines, the Native Infantry lines, and the Artillery lines to the Civil Department for extension of Civil Lines and Sadar Bazar quarters of the city, and to extend the cantonment beyond European Infantry lines and join it to the Military Aerodrome at Drigh Road?

(c) If not, will Government consider that proposal?

Sir Godfrey Fell: (a) It is not possible to say whether, in the event contemplated, the cantonment will require expansion as a whole. Some

re-adjustment of civil and military areas will probably be necessary for this and other purposes as explained below.

(b) and (c). As indicated in my answer to the Honourable Member's question asked on the 19th September, 1921, No. 283, certain proposals are under consideration for the re-adjustment of civil and military areas to provide for the accommodation of the headquarters of the Western Command, if it is decided to retain them at Karachi, and for the expansion of the city. These proposals, however, have not yet reached a stage at which it is possible to give any detailed information regarding them.

UNSTARRED QUESTIONS AND ANSWERS.

COST TO GOVERNMENT RESULTING FROM POLITICAL AGITATION AND RIOTS.

273. **Rai Sahib Lakshmi Narayan Lal** : (1) What has been the direct cost of political agitation since January 1919 — (a) how much in 1919, (b) how much in 1920 and (c) how much in 1921 ?

(2) What is the total cost on account of the riots — (a) in the Punjab, (b) in Ahmedabad and Viramgaum, (c) in Bombay and (d) at Malegaon ?

(3) What is the total cost on account of the Moplah rising ?

(4) How much of these costs have been met by the Central Government and how much by each of the provinces concerned ?

The Honourable Sir William Vincent : (1) and (2). The Government have no information.

(3) An endeavour will be made to obtain the figures so far as the Central Government is concerned and they will be supplied to the Honourable Member in due course.

(4) An estimate of the expenditure incurred by the Central Government in dealing with political agitation since January 1919 could only be compiled with very great labour which Government are not prepared to undertake.

THEFTS ON RAILWAYS OF GOODS SENT AT OWNER'S RISK AND UNDER RAILWAY RISK RESPECTIVELY.

274. **Rai Sahib Lakshmi Narayan Lal** : (a) How many cases of theft have been reported during the year 1921 regarding goods sent under railway risk, and how many regarding goods sent at owner's risk in East Indian Railway Company, and in how many of these cases the offenders have been brought to book ?

(b) Do the officers and servants concerned take greater care and are they more responsible for the safety of the former than that of the latter kind of goods ?

(c) How many explanations, if any, have been called from them during the year 1921, regarding the fact of there being proportionately lesser number of thefts of the former kind of goods than those of the latter kind and what actions, if any, have been taken in respect thereof by their superior officers ?

Colonel W. D. Waghorn : (a) and (c). Extraction of the information required would involve a very great amount of time and labour which, I trust,

the Honourable Member will realise, would be quite incommensurate with the result to be obtained.

(b) The answer is in the negative.

POWERS OF THE GOVERNOR GENERAL TO CONVERT 'NON-VOTABLE' TO 'VOTABLE' HEADS OF EXPENDITURE.

Mr. F. McCarthy (Burma : European) : Sir, with your permission, I beg to ask a question of which I have given the Honourable the Finance Member private notice. The question is this :

'With reference to the Resolution of this Assembly on the 26th January last, is the Honourable the Finance Member in a position to inform the House if the Law Officers in England have given their opinion as to the powers of the Governor General under section 67-A of the Government of India Act to direct that 'non-votable' heads of expenditure may be submitted to the vote of the Legislative Assembly?'

The Honourable Sir Malcolm Hailey (Finance Member) : Sir, we have received by telegram a summary of the opinions of the Law Officers of the Crown. In their view, it is not competent for the Governor General to place on the vote subjects which are by the Statute reserved from that vote.

Mr. P. P. Ginwala (Burma : Non-European) : Have the Law Officers of the Crown stated the grounds on which they have given this opinion, and, if so, will the Honourable the Finance Member tell the House what those grounds are?

The Honourable Sir Malcolm Hailey : As I have said, we have received only a summary so far, but, in any case, the opinions of the Law Officers of the Crown are given subject to the condition that the actual text of those opinions is not published.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhammadan Urban) : Does the Government propose to take steps to give effect to the Resolution passed by this House?

The Honourable Sir Malcolm Hailey : That, Sir, would be a matter for consideration.

Mr. P. P. Ginwala : If the Governor General does not follow the advice of the Law Officers of the Crown, is he subject to any pains and penalties?

The Honourable Sir Malcolm Hailey : Not, so far as I am aware, under the Act.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I ask another supplementary question? Is the Government of India going to exercise their own discretion in the matter, or are they to abide by the decision or opinion of the Law Officers of the Crown?

The Honourable Sir Malcolm Hailey : If the Honourable Member will remember the terms of the Act, he will realise that the matter is not in the discretion of the Government of India but in the discretion of the Governor General.

Munshi Iswar Saran : Has the Law Officer of the Crown in India been consulted—the Law Member ?

The Honourable Sir Malcolm Hailey : The Law Member is not the Law Officer of the Crown.

Mr. P. P. Ginwala : Who is the Law Officer of the Crown in India ?

The Honourable Sir Malcolm Hailey : The Advocate General, Bengal.

Mr. P. P. Ginwala : Has his opinion been taken on this point ?

The Honourable Sir Malcolm Hailey : Not so far as I am aware. This is an English Statute.

Mr. P. P. Ginwala : Do I understand that the Law Officers of the Crown in India are unable to interpret an English Statute ?

The Honourable Sir Malcolm Hailey : I do not know if the Honourable Member wishes me to suggest any imputation against the ability (*Mr. Ginwala :* 'No imputation', of the Law Officers of the Crown in India, but, since the discretion lies with the Governor General, the Governor General has sought the advice of the Law Officers of the Crown in England.

Dr. H. S. Gour : Will the Honourable the Finance Member inform the House whether he has taken the opinion of so eminent a lawyer as the Law Member of the Governor General in Council, and, if so, will he lay that opinion on the table of the House ?

The Honourable Sir Malcolm Hailey : The Honourable Member is probably aware that the opinion of individual Members of the Executive Council are not quoted and are not published.

Dr. H. S. Gour : My question has not been answered. Has the opinion of the Law Member been taken ?

The Honourable Sir Malcolm Hailey : I am not prepared to say whether any individual Member of the Executive Council has been consulted on any question. If I were to give that information, it would follow by implication that I should have to say what opinion the Member in question had given.

Mr. P. P. Ginwala : Is it the usual practice of the Government to consult the Law Officers of the Crown in England rather than the Law Officers of the Crown in India with reference to the interpretation of Statutes peculiarly applicable to India ?

The Honourable Sir Malcolm Hailey : I have already pointed out that the discretion in this case lies by Statute with the Governor General, and the Governor General, in the exercise of the discretion, has desired that the Law Officers of the Crown in England should be consulted.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : May I know if the opinion of this Assembly and the debate in this Assembly were placed before the Law Officers of the Crown before their opinion was obtained ?

The Honourable Sir Malcolm Hailey : No, Sir. We were asking the Law Officers of the Crown to interpret a Statute and I do not imagine that

in interpreting the Statute, the opinion of the Assembly would weigh with the Law Officers of the Crown.

Mr. N. M. Samarth : Is it not, Sir, the usual practice to place before the Law Officers of the Crown a précis of the opinions for and against a particular view and ask them for their opinion ?

The Honourable Sir Malcolm Hailey : The procedure we followed in this case was to ask the Secretary of State to consult the Law Officers of the Crown. What exact information was placed before them by the Secretary of State I naturally cannot say.

Mr. P. P. Ginwala : Will the Governor General in Council have any objection to consult the Law Officers of the Crown in India on this point, apart from the Governor General ?

The Honourable Sir Malcolm Hailey : The opinion of the Governor General in Council is not binding on the Governor General. As I have pointed out to this House, the discretion is the individual discretion of the Governor General and it is he who has sought the opinion of the Law Officers of the Crown in England, and I may point out that he, himself a high legal authority, may perhaps be given the credit of taking the best opinion possible on this question.

Dr. H. S. Gour : Following the usual practice, was the case stated for the opinion of the Law Officers of the Crown ?

The Honourable Sir Malcolm Hailey : It was no doubt stated by the Secretary of State.

Dr. H. S. Gour : Is the Honourable Member prepared to assure us that the case was clearly stated to the Law Officers of the Crown ?

The Honourable Sir Malcolm Hailey : I imagine that the Law Officers of the Crown would give no decision unless on a case stated. That, I understand, is the usual practice.

Dr. H. S. Gour : Did the Government of India supply any materials for the statement of the case to be submitted to the Law Officers of the Crown ?

The Honourable Sir Malcolm Hailey : Yes, they did. They supplied a reference to the Act, a reference to the opinion of the Joint Committee, and, I think, a reference to the history of the case.

Dr. H. S. Gour : Was it pointed out by the Government of India that discussion on all subjects mentioned in section 67 A (3) (i) to (v) was open to the late Imperial Legislative Council, and that such discussion was ordinarily allowed to the late Imperial Legislative Council, and that if this section was construed in a narrow spirit the effect of the Reform Act would be to curtail the right of this Assembly to discuss matters which were open to discussion by the late Imperial Legislative Council ?

The Honourable Sir Malcolm Hailey : No. We did not convey to the Law Officers of the Crown the individual opinions now expressed by Dr. Gour.

Dr. H. S. Gour : Is it not a fact that the late Imperial Legislative Council were free to discuss the matters mentioned in section 67A (3) (i) to (v)? I ask the Honourable the Finance Member to enlighten the House.

The Honourable Sir Malcolm Hailey : That is possible. But we are now dealing with the question of voting, not discussion.

Dr. H. S. Gour : I am asking whether this power of discussion was not open to the late Imperial Legislative Council, and whether this power was not intimated to the Law Officers of the Crown with a view to draw their attention to the fact that that section could only deal with voting and not with discussion? I take it that the Honourable the Finance Member is not able to reply to this?

The Honourable Sir Malcolm Hailey : I have this reply to give to that, that we are dealing with the Government of India Act, 1919. We are not dealing with any previous Act and its implications on this matter. Naturally we referred only to the Government of India Act.

Dr. H. S. Gour : I think my question has not been replied to. I asked a plain question. Is it not a fact that under the old Act the old Imperial Legislative Council was free to discuss matters mentioned in section 67A (3) (i) to (v), and is it not a fact that that section could only deal with the power of the Governor General to allow the Assembly to vote upon those items and that the power of discussion could not in any way be curtailed by the present Reform Act?

The Honourable Sir Malcolm Hailey : As regards the former part of the Honourable Member's question, I can reply to it. That is a fact as stated by him. As regards the latter part of the Honourable Member's question, that is a matter of opinion.

Mr. P. P. Ginwala : With reference to an answer given to me just now, will the Honourable the Finance Member say whether his opinion that the Governor General in Council is not competent to advise the Governor General is based on any legal advice or on his own interpretation of the Government of India Act?

The Honourable Sir Malcolm Hailey : If the Honourable Member will read the Act, he would see that the Governor General has separate statutory powers from those of the Governor General in Council. It is the Governor General who has decided to take the advice of the Law Officers of the Crown in England and it seems to me that he has acted perfectly within his discretion in doing so.

Dr. H. S. Gour : May I ask if the Law Officers of the Crown have given any opinion on the two heads—the power of this Assembly to vote, subject to the general directions of the Governor General, and the power of this Assembly to discuss those items.

The Honourable Sir Malcolm Hailey : As soon as we receive the full opinion of the Law Officers of the Crown, I shall be able to give the Honourable Member, no doubt, somewhat more fully the purport of their opinion. At present I have only communicated to him what we have received, namely, a brief telegraphic summary. As the House took a great

interest in the matter, I thought that that communication should be made to it at the earliest possible moment.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadian Urban): May I ask the Honourable the Finance Member if there is any objection to give us a copy of that telegram?

The Honourable Sir Malcolm Hailey: I cannot communicate to the House telegrams from the Secretary of State without his permission.

Dr. H. S. Gour: Who pays for the opinion of the Law Officers of the Crown? Is it a votable item?

The Honourable Sir Malcolm Hailey: I am afraid I do not know. I will ascertain.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadian Rural): Has the Government any objection to consult our own Law Member in whom we have full confidence?

The Honourable Sir Malcolm Hailey: I have already pointed out that it is the Governor General who was seeking a legal opinion and not the Government of India.

Mr. N. M. Samarth: May I know who the Law Officers of the Crown are and how many men there are?

The Honourable Sir Malcolm Hailey: The Attorney General and the Solicitor General.

Mr. N. M. Samarth: Thank you.

Dr. H. S. Gour: May I ask whether these two Law Officers of the Crown are conversant with Indian law and procedure?

The Honourable Sir Malcolm Hailey: This is an English Statute and these distinguished lawyers are no doubt the best authorities in England on the interpretation of English Statutes.

Rao Bahadur T. Rangachariar: Is Dr. Gour aware that we engage the Attorney General in Indian cases?

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadian Rural): I formally move:

'That the Bill further to amend the Code of Civil Procedure, 1908 (Amendment of rule 4 (3), Order III), be taken into consideration.'

My Bill is a short and simple one. It simply aims at extending to the vakils and certain advocates the privilege of appearing without vakalatnama, which has hitherto been enjoyed by barristers and some advocates. Honourable Members will remember that, when I introduced the Bill on the 7th February, I explained my object briefly. The vakil bar, Honourable Members will be pleased to remember, has been able to produce eminent lawyers of the calibre of Dr. Rash Behari Ghosh, Sir Sunderlal, Sir Bashyam Iyengar,

[Lala Girdharilal Agarwala.]

Mr. Krishnaswami Aiyar, Pandit Ajodhia Nath and many others. It is not very clear on what grounds the privilege of appearing without vakalatnamas should be denied to a body that has produced eminent gentlemen of that kind : I understand that the Honourable the Law Member wants to move an amendment that the Bill be circulated for opinion. I have no objection to that. I simply want to point out that the Bill has already been considered by the Allahabad Vakils' Association to which I and the Law Member both belong. I have received certain opinions from the Oudh Bar Association and from another place, in which they complain that the scope of my Bill is not wide enough to include practitioners of both Courts. I think the Bill as drawn up does cover their case, but if better suggestions are available. I shall be only too glad to comply with them. I, therefore, move that the Bill be taken into consideration.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I entirely sympathise with the object which the Mover of this Resolution has in view, but I wonder if he has carefully examined the scope of the measure and the ultimate effect of his proposal, if accepted by the Assembly. He is probably aware that, according to an ancient practice, the fees which are paid to barristers who appear as advocates at the High Court in this country is *honorarium* and not *merces*, and it follows that they are under no contract of service or employment of any kind towards their clients. They are at liberty to appear or not to appear, and the result is that the client also is at liberty to pay them or not to pay them. If they can exact their fee in advance, that is a moral obligation which every barrister discharges, for he refunds the fee if he is unable to appear or make some suitable provision for appearance on his behalf. But, if the fee is not paid and the appearance has been made, no suit will lie for the recovery of the fees and in the Presidency High Courts a barrister is not free to act. He has to be instructed either by a vakil or attorney or solicitor and it is only upon instructions so received that he becomes entitled to appear in Courts. His power to compromise cases there is at least doubtful. It will thus appear that while the barrister may *prima facie* be said to be clothed with certain privileges, he suffers from a large number of disabilities which will become fastened on to the vakils if they were to assimilate their position to that of a barrister. Let me illustrate to my Honourable friend what I mean. Under the Legal Practitioners Act, Chapter VI, the High Court fixes certain fees and, if any agreement is entered into by a pleader with any person respecting the amount and manner of payment for the whole or any part of any past or future services, he has to comply with the provisions of section 28 of the Legal Practitioners Act, i.e., file the agreement. The subsequent sections 29, 30 and 31 define his rights and liabilities. I know, Sir, a very large number of vakils take advantage of the provisions of section 28 of the Legal Practitioners Act. But, if a vakil was to appear without any written authority, I doubt if he will be free to enter into such agreement as is contemplated by the Legal Practitioners Act. The real object of requiring a vakil to file his vakalatnama is to ascertain three facts, the name of his employer, the nature of his employment, and the powers which his employer gives him. Now, if he is not to file a vakalatnama and to appear in Court as barristers do, the vakil will be deprived of that salutary protection which his power-of-attorney gives him of identifying his employer, of ascertaining his own powers as regards compromise,

settlement of the dispute and the rest, and other matters, such as the employment of another pleader in the name of his employer, which is one of the conditions usually inserted in the vakalatnama, and other matters which the vakil sometimes gets inserted in the vakalatnama. I may point out that these are questions of some importance which I wonder if the Mover of the Resolution has given any thought to.

Lala Girdharilal Agarwala : I have.

Dr. H. S. Gour : He will also find that a barrister, when he is called to the Bar, pays a stamp duty of something equivalent to £150, and when he goes to the High Court, he is enrolled as an advocate on payment of Rs. 500. Converting the £150 at the usual rate, he really spends about Rs. 2,750 or thereabouts in stamp duty. A vakil does not spend the same amount. He has to pay Rs. 50 per annum for the renewal of his license. (Cries of 'No, no'.)

The Honourable Dr. T. B. Sapru (Law Member) : That is not so.

Dr. H. S. Gour : I stand corrected. He has to spend Rs. 500 upon enrolment as a vakil, and that is all that he has to spend upon his enrolment. In all future engagements in Court he has to file his vakalatnama upon which he affixes a stamp duty of Rs. 2 in the High Court. (*A Voice :* 'Not always'.) It is two rupees. (*A Voice :* 'Yes'). Some of my friends say : 'Not always' ; sometimes I suppose they do not affix any stamp at all. (*Laughter.*) That is by the way. Well, I submit that these are all questions which are interlocked and interlinked ; and, when the motion of the Honourable the Law Member goes before the public, not only members of the Vakils Association but members of the Bar throughout the country, including the Bar Libraries in Calcutta, Bombay and Madras, will, I hope, be consulted, with due advertance to the remarks I have made.

The Honourable Dr. T. B. Sapru : Sir, when my friend, Mr. Girdharilal Agarwala, moved his Bill, I thought it was a very innocent little Bill which could be disposed of by a reference to Local Governments or to the High Courts without raising any such questions as have been raised this morning by my friend, Dr. Gour. Well, I am quite sure, my vakil friends in this House appreciate his solicitude for the welfare of that branch of the profession. But I wonder if they will not, when they carefully think over his speech, say : 'Save us from a friend like Dr. Gour'. Well, Dr. Gour has referred to the immunity which barristers, members of the English Bar, enjoy from being sued for negligence, and also to what he called the disability which they suffer from as regards their fee. Any student who knows the history of the growth of the Bar will be able to tell him—and I am sure he knows it—that it is a relic of a very ancient tradition in England, due probably to the early clerical associations of the English Bar, and probably also traceable to the early history of the English Bar in Rome. But probably Dr. Gour will not be prepared to contradict me when I say that even in India, at least one Court,—and I am not sure whether another Court also—has definitely ruled that there is no reason why that rule of English practice, for which there may be very good reasons in England, should be followed blindly in India. Well, therefore, the question of the advantages and disadvantages of the privileges and the disabilities, which attach to his branch of the profession are to my mind absolutely irrelevant to the Bill which

[Dr. T. B. Sapru.]

has now been introduced by Mr. Girdharilal Agarwala. Anyhow, so far as the consideration of this Bill is concerned, I certainly think that it raises a question of great importance, affecting as it does one branch of the profession; and although, frankly speaking, I am in full sympathy with Mr. Girdharilal Agarwala's proposal, I do not commit myself to the drafting of that Bill, because I feel that there is considerable room for improvement in the drafting of this Bill. I also feel that, when you raise a question of this character, the importance of which can only be appreciated by professional men and not by outsiders, it is very desirable that those who are directly affected by it and those who are competent to express an opinion should be invited to express their opinions; and it was for that reason that I decided to give notice of the amendment which stands in my name, with the object that the opinions of the High Courts, the Bar Libraries, the Vakils' Associations and the profession as a whole may be invited on this particular subject. Speaking for myself, I have no reason to doubt that it will receive the unanimous support of that branch of the profession in the interest of which Mr. Girdharilal Agarwala has moved this Bill. Speaking again quite frankly, I should not feel surprised if that branch of the profession of which Dr. Gour is such an ardent champion, with all the instinct of monopoly offers opposition to this Bill. But I have no doubt whatsoever that the Judges of the High Courts, who are absolutely impartial persons in these matters and will hold the scales even between the one branch of the profession and the other branch of the profession, will be most competent to express unbiassed and impartial opinion on this matter.

It also certainly affects Provincial revenues, and, therefore, it is very necessary that the Local Governments should also have a chance of expressing their opinions. I have no doubt whatsoever that many Members of this Assembly who are not already committed to any strong opinion one way or the other will welcome a reference to the Local Governments and to the High Courts; and, as nothing will be lost by waiting for a few months, I hope that the amendment which I have the honour to move, namely :

'That the Bill be circulated for the purpose of eliciting opinion thereon'

will commend itself to the House. I have nothing more to say.

Munshi Iswar Saran (Cities of the United Provinces: Non-Muham-
madan Urban): Sir, I wish to support the Amendment which has been
moved by my Honourable friend, the Law Member. On behalf of the Vakil
Bar, I wish to offer our thanks to Dr. Gour for having drawn our attention to
the great dangers we are courting in accepting the motion of my friend, Mr.
Girdharilal Agarwala. If Mr. Agarwala's motion be accepted, we shall
then *not* know the name of our employer; we shall then *not* know the nature
of our employment; we shall then *not* know the scope of our employment.
Misguided, really, humanity is,—and more particularly the vakil humanity.
(*A Voice*: 'No, no'.) My Honourable friend, Mr. Bray, says: 'No, no'; he
would never have said this if he were a member of the English Bar. May I
ask Dr. Gour, Sir, if he has ever taken into consideration why a vakil, who has
never been to England, who has never been called to the English Bar, on being
made an advocate by the High Court, is not required to file a vakalatnama at
all? How that vakil, by simply being made an advocate, by the mere order of

the High Court, knows the name of the employer, the scope of his employment and the nature of his employment, I do not know. Sir, the truth is this. Dr. Gour, on behalf of the English Bar, wishes to retain this privilege in his hands. He had not the courage—and rightly—to say that the vakils were not entitled or qualified to enjoy this privilege. A few names of distinguished vakils have been mentioned by my friend, Mr. Agarwala; those names can easily be multiplied and there is absolutely no reason whatsoever, either in principle or in practice, why this distinction should be maintained between the two branches of the same profession. Let me tell Dr. Gour—and I hope he will not look upon it as a challenge, but even if he does I do not mind—that this as well as other distinctions will soon cease to exist.

Mr. P. P. Ginwala (Burma : Non-European) : Sir, I oppose alike the motion moved by my Honourable friend opposite, as well as the amendment moved by the Honourable the Law Member. But my opposition is not based on any such mercenary grounds as those on which my Honourable friend, Dr. Gour, has based his. Nor do I base my opposition on the ground that my learned friends of the other profession are exposed to those great perils from which the members of my profession are free. I put it on quite different grounds. We stand here, and we always proclaim from the housetops that we stand for provincial autonomy in all respects, and we cry for decentralization in every branch of the administration. But when we come to deal with the High Courts in the various provinces, this motion is brought forward to interfere with the powers which they already possess under the Code of Civil Procedure to legislate for themselves in respect of themselves or in respect of Courts subordinate to them. For, if you refer to Part X of the Code of Civil Procedure, you will find that every High Court has the power to modify the rules, which are contained in Schedule I of the Civil Procedure Code, and this is one of the rules and is included in that Schedule. If, therefore, any High Court is of the opinion that, with reference to itself, this rule ought to be changed, there is nothing to prevent that High Court from changing that rule. No ground has been made out, so far as I can see, for the initiation of this all-India Legislation in this Assembly. Every province through its High Court can legislate for itself. That, Sir, is the ground on which I oppose this motion. The Honourable the Law Member proposes that the opinions of Local Governments be invited. Why should we invite those opinions from the Local Governments? The Local Governments can themselves advise the local High Courts, and those Courts can then give such effect to this Resolution as they in their wisdom think that they ought to give. It would be a pity that this Assembly should interfere with any powers entrusted to the provinces, whether they be in respect of the Local Government or of the High Court. If my contention is wrong, then this House will be of course perfectly entitled to legislate for all India.

Further, you will see, Sir, that in clause 2, my learned friend wants to legislate for Bombay. What right has he to legislate for Bombay? The Bombay High Court is the best judge for considering whether a change of this description is required with reference to that Presidency. But if he wants the United Provinces High Court to alter the rules, the best course for him is to take action under Part X of the Civil Procedure Code and to suggest such modifications as he thinks ought to be made in the law.

On these grounds, Sir, I oppose both the main motion and the amendment.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division : Muham-
madan : Sir, this is entirely a legal matter and it is difficult for a lay man
to give an opinion on it. But as it is a very important question, having far-
reaching consequences, I beg to support the amendment moved by the
Honourable Dr. Sapru. The barristers may plead their own cause, and so
may the vakils. But as this Assembly consists of journalists, zamindars and
others as well, and as this is a very important question and refers to the
Provinces and the High Courts also I would ask the House to support the
amendment moved by the Honourable the Law Member, proposing that the
Local Governments and High Courts be consulted before this motion is
accepted by this House.

The Honourable Dr. T. B. Sapru : Sir, if I intervene now it is only
because of one legal difficulty—or so-called legal difficulty—which has been
raised by my friend opposite. Now, when I studied this Bill, that question,
I confess, was present to my mind. In the first place, I am not prepared to
concede that the question is beyond doubt as to whether the High Courts have
in this respect the power to make rules which would be inconsistent with the
provisions of Order 4, Rule 3. Section 122 of the Code of Civil Procedure
says :

‘The High Courts established under the Indian High Courts Act, 1861, may, from time
to time, after previous publication, make rules’

Now comes the important phrase :

‘. regulating their own procedure and the procedure of the civil courts subject to
their superintendence, and may by such rules annul alter or add to any of the rules in the
First Schedule.’

It is certainly arguable, and I do not wish to put it higher than that,
whether the statutory requirement that a vakil shall present a vakalatnama is
such that it can be covered by this word ‘procedure’.

Secondly, my Honourable friend opposite has not considered one very
serious difficulty which will arise if each High Court frames rules in that
behalf. A man practising in the Madras High Court may not require a
vakalatnama under the rules of the High Court there; but he has a right
also to appear under section 4 of the Legal Practitioners Act, in a subordinate
court, say, in the United Provinces, and the High Court of the United Provin-
ces may not have passed a rule to that effect; then what is his position? Is
he to be guided by the rules of practice of his own Court or the rule of practice
of the Court in the United Provinces ?

Munshi Iswar Saran : With permission, he can practise in another
Court.

The Honourable Dr. T. B. Sapru : As my Honourable friend
reminds me, with the permission of the High Court, my friend,
Mr. Bangachariar, can appear in the Allahabad High Court. Therefore,
in the interests of uniformity of practice, it is absolutely necessary to
my mind that whatever be the decision arrived at in regard to this matter,
it must be a decision which will cover all India. Piecemeal legislation of this
character, or piecemeal making of rules by various High Courts must, I submit
with all respect, be deprecated strongly. Therefore, whatever be the decision
of this House, I will respectfully submit to the House that it should not allow
itself to be affected by the point that has been raised by my friend opposite.

Mr. President : The original question was :

'That the Bill further to amend the Code of Civil Procedure, 1903 (Amendment of Rule 4 (3), Order III), be taken into consideration.'

Since which an amendment has been moved :

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

Lala Girdharilal Agarwala : Sir, I accept the amendment.

Mr. President : The question is that that amendment be made.

The motion was adopted.

THE LAND ACQUISITION (AMENDMENT) BILL.

J. Ramayya Pantulu Garu (Godavari cum Kistna : Non-Muhammadan Rural) : Sir, I beg to move :

'That the Bill further to amend the Land Acquisition Act, 1894 (which I introduced in this Assembly on 31st January), be circulated for the purpose of eliciting opinion thereon.'

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Maulvi Abul Kasem (Dacca Division : Muhammadan Rural) : Sir, I beg to move :

'That the Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of Section 4), be circulated for the purpose of eliciting opinion thereon.'

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I oppose this Resolution and I give my reasons for doing so. The Honourable Mover of the Resolution is under some misapprehension in introducing his Bill, worded as it is in clause 2. He wants an amendment of the definition of the word 'pleader', which after the amendment suggested by him would read as follows :

'Pleader' used with reference to any proceeding in any Court means a pleader authorised under any law for the time being in force to practise in such Court and which includes an advocate, a vakil, an attorney of a High Court and a mukhtar so authorised.'

His intention in asking this House to adopt his Resolution is to place mukhtars on the same footing as advocates, vakils and attorneys of a High Court. Now, Sir, it is a well-known fact that mukhtars possess a very much lower qualification than either advocates, vakils or attorneys. If my information is correct, persons who have passed the entrance examination of any University are entitled to appear for this mukhtar's examination and some of the High Courts have discontinued the examination for mukhtarships, finding that they have got a sufficient number of vakils to practise in the Courts subordinate thereto. It is a question whether we should not do away with this institution of mukhtars altogether. Mukhtars and revenue agents were created at a time when English education in this country was meagre, and the Government was naturally anxious to provide some legal assistance, though it was not of a very high order. But the establishment of the Universities in this country has entirely altered the situation. The law

[Dr. H. S. Gour.]

graduates are multiplying every year and in increasing numbers, and we know, as a matter of fact, that in district headquarters and tahsils there are more vakils than the work that is offered to them, the result being that the vakils all over the country are in excessive numbers and if we continue to allow the institution of mukhtars and revenue agents, their efficiency, which depends upon remunerative employment by their clients, would greatly suffer, and I do not wonder that it has already suffered. I therefore ask this House to consider the question of policy as to whether they are in favour of continuing this class of legal practitioners or placing an embargo upon that class. By accepting this Bill they would be committing themselves to the principle of allowing recruitment of mukhtars in future. If my information is correct, the present number of mukhtars in the United Provinces is 3,000 and the same number we have in Bihar and about 2,000 in Bengal. Now, I do not wish in the slightest degree to prejudicially injure the existing mukhtars, who are entitled to practise in the subordinate Courts. Their chief grievance is not that the mukhtar's examination should continue or that the Government should not take action to abolish mukhtars, but that their existing rights should be safeguarded and their appearance in Court should not depend upon the sanction of the Courts concerned. They complain that under the existing law they have to obtain the permission of the Court to appear before it and that detracts from their independence. It also creates a certain amount of uncertainty in their employment, because neither they nor their clients are sure whether the Court concerned will give the mukhtar the necessary permission to appear before it. If that be the sole object—and I understand it is the sole object—of the Mukhtars' Association, then I submit that this Bill does not serve that purpose. An amendment, a small Mukhtars' Bill, drafted *ad hoc* would entirely support the purpose which the Mukhtars' Association have in view. But, I submit, that if this Bill becomes law, it will entirely obliterate the distinction that exists at present between advocates, vakils, pleaders and mukhtars and for this reason. Under the Code of Criminal Procedure, every accused is of right entitled to be defended by a pleader, and section 4 clause (r) of the Criminal Procedure Code, as intended to be amended by the Bill of the Honourable Mover, would define a pleader to include a mukhtar. The position that would arise would then be something like this. Every mukhtar is a pleader within the meaning of the Code of Criminal Procedure. Every accused has a right to be defended by a pleader. Therefore every accused has a right to be defended by a mukhtar, and, as the Code of Criminal Procedure extends to the whole of British India, it follows that a mukhtar of the United Provinces would be entitled to appear throughout British India by reason of the fact that he is designated a pleader and a pleader has a right to defend every accused. Well, is that what the mukhtars desire? I think not. A mukhtar of the United Provinces at present has no right to appear in Bihar. A Bihar mukhtar has no right to appear in Bengal or the United Provinces. There are no mukhtars either in the Central Provinces, Bombay, and, if I mistake not, in Madras. This is an institution which is solely confined to the United Provinces, Bihar and Bengal. There are no mukhtars in the Central Provinces (*A Voice* : 'None in Madras') and there are no mukhtars in Madras. I submit, Sir, the effect of this would thus enlarge the rights of the mukhtars and place them on the higher pedestal of a pleader enabling and entitling them to practise in all the Courts by

reason of the special provisions of the Code of Criminal Procedure. That, I submit, is not the intention of the author of this Bill, and yet, whether he wishes it or not, that will be its ultimate result. I therefore think that, while I am in full sympathy with the preservation of the existing rights of the mukhtars already enrolled, I do not think these rights should be enlarged, or that we should create a loophole for the enlargement of their rights by the amendment of this clause in the Code of Criminal Procedure.

The Honourable Sir William Vincent (Home Member) : Sir, I wish to place very shortly, before this Assembly, the views of the Government on this Bill. There are so many competent lawyers in this Assembly, so many men who are better qualified, I dare say, than I am to deal with this matter, that I will not detain the Assembly for any length of time.

The position in regard to mukhtars in the provinces with which I am acquainted, is that they usually appear without any interference or permission, in criminal Courts—Magistrates' Courts—but only in some places are they allowed to appear before Sessions Courts. They certainly do not appear before the lowest Civil Courts. (*A Voice* : 'That has not been the practice'.) They do not appear before Revenue Courts ; and I am not sure whether they are entitled to appear outside districts within which they are enrolled. At present therefore they have very restricted privileges. I mention this because when he introduced the present measure, the Honourable Mover said that there was nothing really in the Bill. It was merely legalising the existing practice. Now, the last speaker, Dr. Gour, showed conclusively that that is not an accurate view ; and in fact the acceptance of the principle of this Bill would involve a material change in the existing law and in the existing practice ; and it is for this Assembly to consider whether that change is justified or not.

There is a good deal to be said on both sides. In my experience, I have known many very excellent mukhtars, men who could defend cases or prosecute cases quite as well and better than many junior pleaders, and even than some senior pleaders. On the other hand, it cannot be denied that there is a tendency amongst some of this class of mukhtars to descend to methods which prejudice the repute of the legal profession. I don't think this is very general, but there are such practitioners. You can see them about any mofussil Court, many of them out at heels, seeking for any kind of business, and often I am afraid touting for it, some even attempting to extract money out of the pleaders who are employed by their clients. At the same time, I feel that it would be a great mistake to restrict the operations of these mukhtars, for they are in truth and have well been called 'the poor man's lawyer'. (Hear hear.) When a man is up before a Magistrate's Court on a minor charge, he wants and seeks legal assistance, and often cannot afford to retain the services of a pleader. On the whole, I hope the opinion of this Assembly will be in favour of circulating this Bill for opinion, so that its provisions may be examined in greater detail than is possible here and now. In his view, the Government will not oppose the motion but leave it to the many eminent authorities in the Assembly to consider what line should be adopted.

J. Ramayya Pantulu Garu (Godavari *cum* Kistna : Non-Muhamadan Rural) : Sir, I beg to support the motion to publish this Bill for the

[J. Ramayya Pantulu Garu.]

purpose of eliciting public opinion. In my part of the country, the Madras Presidency, we have not got this class of mukhtars. Their work is generally done by a class of men whom we call 'private pleaders'. They do not hold any license or patta for practising. They practise with the permission of the Court before whom they appear, a permission which is given in each particular case. This system is, no doubt, doing some good in the case of poor people. The regular vakils or pleaders are generally attached to Civil Courts, but there are some Criminal Courts especially Courts of Second and Third Class Magistrates, which are located in places where there are no Civil Courts. In such cases, the parties have to get their pleaders from a distance, and that puts them to expense. As a class, the accused in criminal cases are poor people and they cannot afford to get well-paid pleaders from a distance. It is, therefore, the practice there for Magistrates of the Second and Third Class, especially to permit these private vakils to appear in cases. I think that the mukhtars in the provinces where they exist now should be permitted to practise only in the Court of Second and Third Class Magistrates. As a rule, First Class Magistrates Courts are located in places where Civil Courts are also located, and qualified pleaders are generally available to appear in those Courts. My opinion therefore is that mukhtars should be restricted to Second and Third Class Magistrates' Courts. The Bill, as drafted, extends, I understand, the privileges of the mukhtar class, which they are enjoying at present, but this should not be done. But these points can be gone into at a later stage, *i.e.*, when the Bill is referred to Select Committee, or when it comes for detailed consideration in this House. In the meantime, I support the motion that the Bill be circulated for public opinion.

Munshi Mahadeo Prasad (Benares and Gorakhpur Divisions: Non-Muhammadan Rural : Sir, I don't think that there is any danger in accepting the motion of Maulvi Abul Kasem. Mukhtars are a class of lawyers who are allowed to practise after passing an examination held by the High Courts, under their powers granted by their Letters Patent, and they give certificates which are renewed every year, which certificates define their powers to practise in the Courts, of the district. So any apprehension which has been raised by my learned friend, Dr. Gour, will not apply to the cases of these mukhtars. Further, when we have got the opinions of the persons concerned, also the opinions from the districts, as well as the opinions from the Bar Libraries and Mukhtars' Associations in different districts, we shall be able to consider the utility of this Bill. At present, it seems to me to be premature to oppose the Bill and not to send it round for eliciting the opinions of the Local Governments. I therefore beg to support the motion of Maulvi Abul Kasem on this point.

Khan Bahadur Maulvi Amjad Ali (Assam : Muhammadan) : Sir, in supporting the motion of my Honourable friend, I beg to submit a few remarks in this connection.

Sir, in my own province, I find that mukhtars appear not only before the Criminal Courts but sometimes they appear before the Court of Sessions, and they also sometimes appear before the Civil Courts. But in Civil Courts, in the districts which are permanently settled, mukhtars have no right to plead, but they can only appear. My friend, the Honourable Dr. Gour, has made certain observations which call for a reply. He is of opinion that the mukhtars being

of low education, are not entitled to be placed on the same footing as pleaders, barristers, vakils and so forth. Sir, there are mukhtars who are abler people sometimes than the pleaders. Not only that. They are abler than the barristers and vakils sometimes. It is not a matter of hearsay that mukhtars are sometimes found better than the vakils or barristers, but that is my personal experience. They are said to be ill-educated and therefore not entitled to the removal of the restriction, namely, their appearance before the Court being dependent on the sweet will of the presiding officer. This reason of the Honourable Dr. Gour, I think, does not hold water. Sir, barristers used to come from England before, not after passing even the Entrance or the Matriculation examination but after having read only up to second or third or sometimes fourth class.

Mr. Pyari Lal (Meerut Division : Non-Muhammadan Rural) : I rise to a point of order, Sir. This is not a discussion about the education of barristers. The question is a very simple one, namely, whether mukhtars should be allowed to appear in Criminal Courts with or without permission. We are not here for dissertation on the education of barristers.

Khan Bahadur Maulvi Amjad Ali : In the beginning of the observations made by my Honourable friend, Dr. Gour he said : 'These people do not receive liberal education. Sometimes they pass the Entrance examination and they hold a certificate.' This was the beginning of his remarks. In reply to that, Sir, I say with an amount of emphasis that the barrister—some barristers, I do not say all barristers having read only up to the second class, or sometimes third class or sometimes fourth class. (*A Voice*: 'Is it so now?') 'not now—used to go to England having money enough at their command and to pass the examination and come to India as barristers. Sir, there are some mukhtars in my country who can challenge any barrister—any junior barrister in the matter of conducting a prosecution or defence. I submit that the reason advanced by my friend Dr. Gour, in opposing the motion does not command itself to any consideration and therefore I submit that the mukhtars are entitled to the removal of the restriction which is imposed on them, namely, that they cannot appear without the distinct permission of the Court concerned, to plead a case. I, therefore, Sir, . . .

Dr. H. S. Gour : I have conceded that, but the point is how best to secure that purpose.

Khan Bahadur Maulvi Amjad Ali : You have given a very good certificate to barristers although you know that there are barristers who do not earn anything. I therefore submit, Sir, that the motion for circulating the Bill for eliciting opinion thereon should be accepted.

Chaudhri Shahab-ul-Din (East Central Punjab : Muhammadan) : Sir, the Bill on the very face of it appears to be a very salutary one. What it requires is a very simple change in the existing procedure. Under the law as it stands at present, a mukhtar can appear before a Criminal Court—of course I mean an inferior Court and not a superior Court—but with the permission of the Court and not without such permission. What the Bill aims at is that he may be made quite independent of the permission of the Court, and that he, like a pleader or barrister, may be given power to appear as of right to defend an accused person who may care to avail himself of his legal acumen. I do

[Chaudhri Sbahab-ud-Din.]

not see where the question of superior qualifications comes in. As Sir William Vincent, the Honourable the Home Member, has very rightly pointed out, legal intellect ought to be made use of by people who care to pay for it wherever they can get it. In the mofussil, people cannot engage big barristers, like Dr. Gour or big pleaders, who charge very high fees, but there is no reason why they should not engage mukhtars, who are available on the spot. In the mofussil, some magistrates and judges presiding over Criminal Courts are autocrats of the worst type and when these mukhtars are at their mercy for appearance in Courts, surely they cannot discharge their duties as independently and as freely as it is desirable in the interests of justice that they should. This is the change, I believe, the Honourable Maulvi Abul Kasem wants to introduce. It is not only a very wholesome and salutary, but a most desirable change. It is not only desirable but highly necessary in the interests of justice that legal practitioners in certain matters should give their advice and assistance to the Courts quite independently and that even for their very appearance, that is, for securing the privilege of giving that assistance, they should not depend upon the permission or sanction of the Court. This change, in my opinion, is such a harmless and at the same time a necessary change that this Assembly should certainly support it. The Bill in my opinion should be circulated for opinion to Local Governments and the legal profession, and considered after those opinions are received. With these words I support the Bill.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, it is the right of every accused to be defended by any person in whom he has confidence. The only limitation that could be placed to this right should be that a person whom the accused wants to employ for his defence is fully qualified and can put up his defence properly. Only such a man should be allowed to intervene and defend the accused. That could be the only limitation to allowing any person to defend any accused. Sir, I fail to understand my friend, Dr. Gour, when he wants such a right to be reserved for barristers and vakils only. Why should it be the monopoly only of the vakils or the barristers to defend the accused in Criminal Courts? Have not the mukhtars got similar intelligence to defend them? When ordinary man without any legal training or test could be appointed as Honorary Magistrates to sit in judgment over the accused, I fail to understand why should no other man be allowed to defend the accused before Criminal Courts?

As I have said, the only objection that could be raised would be the want of capacity in such persons. But the High Courts in the Provinces where mukhtars are allowed to practise have made rules and prescribed tests, and persons desiring to work as mukhtars have got to undergo a certain examination and have to qualify themselves before they can be allowed to practise as mukhtars. Once they have satisfied those tests, there is no reason why they should not be freely allowed to appear before a Criminal Court and defend an accused. If you like, you may make those tests stiffer than they are at present, but there should not be any obstacles placed in the way of the mukhtars appearing freely and indiscriminately before the Criminal Courts. After they have satisfied the tests, they should not be thrown at the mercy of every magistrate to permit or disallow the mukhtar to practise in his Court. Moreover, what is the motion before the House? The

Honourable Mover simply asks that the Bill may be sent for eliciting public opinion, and there can be no harm in sending this Bill for public opinion and for finding out the feelings of the public and the Courts in the different provinces. I, therefore, wholeheartedly support the motion that the Bill be circulated for opinion.

Mr. Pyari Lal : I may say from practical experience as a magistrate of some years standing that this provision of law that a mukhtar must obtain permission before he practises in any Court is more honoured in the breach than the observance (Hear, hear.) I have not known a single case within the last thirty years both as a legal practitioner and as a magistrate, where such permission has been refused. It is only in very rare cases that the presiding officer of the Court exercises that right of disallowance. As observed by the Honourable Sir William Vincent there are mukhtars and mukhtars. Some are very able men, no doubt, but others are deficient in their qualifications, and some are of a very objectionable character and it is only in the case of these objectionable characters that the magistrates have ever exercised that right. So the matter, after all, is a very simple one, whether they should be allowed to practise as a matter of course or subject to the permission of the presiding officer. Therefore, I think that the whole question may be sent for public opinion as desired by the Honourable Mover and it may then be decided. I am in favour of the motion that the Bill be circulated for eliciting public opinion.

Mr. T. A. H. Way (United Provinces : Nominated Official) : I rise to support this Bill, because mukhtars have been rightly described as the poor man's lawyer, and I consider that they should have the right of appearing, because very often in mofussil Courts mukhtars are the only form of legal advice and assistance which a poor man can get at a reasonable cost. (Hear, hear.) In first class Magistrates' Courts at the headquarters of the district, there is no danger that a man who is reasonably competent will be refused leave to appear for an accused because he is a mukhtar, but in mofussil Courts, such as Tahsildars' and Honorary Magistrates' Courts, there is some danger that the Court may be influenced by some personal consideration, and, in spite of the mukhtar being a competent man, may, for some other reason, quite apart from his competence, refuse him permission. Therefore, I consider that the mukhtar should have the right to appear without asking the permission of the Court.

Maulvi Abul Kasem : When I made my simple motion, I never anticipated that it would be followed by such an interesting debate as that which we have all heard this afternoon. Sir, the only objection raised has been by a distinguished lawyer, one of the foremost leaders of the English Bar, Dr. Gour, but, from the nature of the support given to this motion and the principle of the Bill by the other distinguished lawyers belonging to other sections of the legal profession, I have no doubt about its success in the long run. I do not think I will be justified in wasting the time of the House by giving a detailed reply to Dr. Gour's objections, as they have been already dealt with. Dr. Gour's main objection is that this Bill, as at present drafted, places the mukhtars in the same category as pleaders and he was good enough to say that it was not my intention, or at any rate it was not the intention of the Mukhtars' Association to ask for this change. I beg to submit, with due deference to Dr. Gour, that it was exactly my intention to place them

[Maulvi Abul Kasem.]

in the same category as pleaders, so far as the Criminal Courts were concerned. There is absolutely no reason why there should be any artificial distinction placed between one class of lawyers and another. It has been said that these mukhtars are all lawyers of inferior quality. The matter was quite irrelevant, but it has been introduced not only by Dr. Gour but by the Honourable the Leader of the House and they said that mukhtars are not allowed in certain cases to appear and they have to pass a very simple examination. But if you only go back a few years, you will find that the members of the English Bar had to pass no examination worth the name, and they believed themselves to be on the highest ladder of the legal profession. If examination or legal ability is to be the sole test I think the graduates of the Indian Universities in law should have a preferential claim to the members of the English Bar because they have to pass a very stiff examination. But that is altogether a different matter. I only submit that, if there is any defect in the wording of the Bill, it may be corrected at a later stage. I want justice to be done; and, what is more, the mukhtar is not only the poor man's lawyer, but for the money's worth we get better work from the mukhtar than from the pleaders and barristers practising in our Courts. (Laughter.) With these few words, I hope that the House will agree with this motion and that it will support me right through in the later stages of this Bill.

Mr. President: The question is :

‘That the Bill further to amend the Code of Criminal Procedure, 1898 (*Amendment of section 4*) be circulated for the purpose of eliciting opinion thereon.’

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I beg leave to introduce:

‘A Bill further to provide adequate safeguard against the indiscriminate use of sections 107 and 144 of the Code of Criminal Procedure, 1898, in dealing with political agitation.’

I need hardly remind the Honourable Members of this House of the sections, for they have become notorious since February last. There has been an infection of cases under these sections ever since February last all over the country, and even the lay public have become painfully aware of the existence of these sections. We in the profession, had to be aware of these sections when they were applied to the ordinary cases of disputes leading to a breach of the peace or to bad characters. When we had a discussion in March last about the attitude of the Government in respect of the political movement in the country whether they should embark upon using the extraordinary laws of the land, we, of this Assembly, had no objection to their using the ordinary law of the land and said so accordingly. When I was making a reference to that subject, the Honourable the Law Member interjected a remark whether I considered section 144 as an extraordinary law of the land. I replied: ‘It has been the law of the country all along’, but I seldom anticipated that that assent of mine would have led to the most extraordinary use of these two sections within the last one year. Public meetings have been suppressed and public speakers have been prohibited from speaking and every province has resorted to the use of those sections in a most extraordinary manner so that one wonders whether there was any reason

at all for the appointment of a Rowlatt Committee or for the Report of a Rowlatt Committee or for the enactment of a Rowlatt Act. If the Government of this country had these twin weapons in their hands all along, if they could have effectively used them as they are now using them in dealing with agitation in this country, what was the necessity for those repressive laws which the Honourable the Home Member took credit the other day for repealing in this House, because these sections were not used for these purposes, although these sections have been in existence from 1861 or thereabouts. This is a novel method of using these sections. Strictly speaking, I am not prepared to say that it is an illegal use of those sections in dealing either with public meetings or with public speakers. The language is so wide that it is capable of the construction that they can be used for such purposes, provided the circumstances contemplated in these two sections exist. That is why my proposal before this House does not take the shape, as Honourable Members would wish, of prohibiting the use of these sections either in dealing with political meetings or public meetings or public speakers. I wish to preserve the power of the Government and the power of the magistracy to deal even with public speakers and even with public meetings, if the necessity for it arises and if the circumstances which are enumerated in those sections really exist but at the same time, having regard to the tendency of the magistracy to misuse and abuse powers which are granted to them, especially when those powers are not liable to be controlled or appealed against; in their ardour for preserving the law-abiding subjects from the non-law-abiding subjects and preserving themselves, in some cases they are apt to abuse those sections. There have been instances, and glaring instances, of abuse of these sections. Section 107, as Honourable Members are aware, is intended for securing the keeping of the peace. It says :

'Whenever a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year.'

and clause (1) thereof says that the magistrate has the power to issue a warrant for the arrest of the person against whom he initiates proceedings under that section. Now there is a case where a Government was contemplating taking proceedings for prosecuting a public man under certain sections of the Penal Code. That gentleman happened to be travelling from Calcutta to Madras. For some reason or other, the warrant for his arrest was not available or was delayed or was being delayed. The man was actually in the train and the District Magistrate at the District Headquarters, which is an intervening station, issued a warrant for his arrest initiating proceedings under section 97, as if this man travelling by train from Howrah to Madras was going to commit a breach of the peace in Waltair. It may have been a beneficent use. We are not concerned with that. I stated that in their anxiety, over-anxiety, when they dream of non-co-operators anywhere and everywhere and when they see the hand of the non-co-operator all over, the magistracy in their zeal to protect the law-abiding citizens are apt to err and they have erred. Nobody can justify the use of that section in a case like that. Or again, take another instance where a Congress Committee hoists the Congress flag on its premises

[Rao Bahadur T. Rangachariar.]

and the magistrate walks along the street and gives the order under section 144 to pull down that flag. Who are the persons who are likely to commit a breach of the peace? Is it the magistrate who is going to commit a breach of the peace or are the law-abiding citizens going to commit a breach of the peace? Or again, take the case of a temperance worker, even if he be a non-co-operator. He goes to an auction sale where a toddy shop is being sold. He goes there to induce the bidders to desist from bidding. Section 144 is being used there. Now, who is going to commit the breach of the peace? Is it the law-abiding citizen who is bidding for the auction or is it the excise officer, who is holding the auction, who is going to commit a breach of the peace? I say, the object may be good, but you cannot do wrong to do good. You cannot justify wrong by saying: 'Oh, look at the result of it.' I think Government, as custodians of the law, and we in this Legislature, as persons responsible for the law, ought to see that wrong use is not made of the sections which are enacted in this House or which were enacted by our predecessors. I do not think it is necessary for me to dilate further, as I have stated already that I only want to provide a safeguard against the indiscriminate use of these sections in cases where one may suppose they were not intended to be used.

As these cases are not appealable cases—in fact orders under section 144 are not even revisable under the revisionary powers of the High Court, as Honourable Members are aware, my motion is therefore a modest measure, in that I provide that, when these sections are used against public speakers or for preventing public meetings or in cases like that, I provide that a report should be made at once within a week to the High Court stating the circumstances under which the order was passed; and I give power to the High Court to revise that order, directly they are satisfied that the order was made for purposes not contemplated by the section. There can, I think, be no reasonable objection to such a course. These being powers which are to be exercised on the spot, I leave the power in the hands of the Magistrate to exercise those powers, but the knowledge that his proceedings are liable to review *suo motu* by the highest Court in the land will make him pause and be careful and will lead to the right use of these sections. Even if the High Courts do not interfere, the fact that there is such a power, that action under these sections will be overlooked by the High Court, will lead to his being careful. I do not want to hamper the Executive just at present by suggesting that these sections should not be used at all for these purposes. While my proviso implies that these sections may be used in such cases, I substitute a safeguard against the abuse and misuse of these sections. That is the object of this Bill and I, therefore, Sir, ask leave to introduce the Bill.

The Honourable Sir William Vincent (Home Member) : Sir, I fancy many Members of this Assembly, if they have examined this Bill in any detail, will find themselves in some difficulty; I know that the minds of many have been exercised over the use of section 144—some people say 'misuse'; it is no part of my duty here to-day to defend it, although, as a matter of fact, it is the use of section 144 which has in many places rendered it possible to avoid the application of the more drastic provisions of the Seditious Meetings Act. I know, however, that there are many Members who take a different view on this point. But in any case, I submit that the method

which the Honourable Member has chosen of remedying what he believes to be an evil is one of the worst that could possibly have been selected and here I ask the attention of the House to the provisions of the Bill as drafted. The operative portion is contained in clause 2 :

'In all cases when action is taken under this section against political agitators or public speakers or for dealing with or suppressing political agitation and public meetings.'

Those are the first words in the clause. Now what is a 'political agitator', or can any Member of this Assembly tell me how to define 'political agitation'? Any question may become political; a question relating to religion, a question relating to race, a question relating to cow killing, a question relating to marriage or to education,—anything becomes political once feeling is roused about it. And how is any Magistrate or High Court going to say whether a man is a political agitator or not? Then, Sir, the last part of this clause lays down the procedure, which the Honourable Member proposes, to remedy what he calls an evil, namely, a reference to the High Court to confirm or set aside every order of the Magistrate under section 144 or section 107 in the particular case to which he refers. Does any Member of the Assembly think that the High Courts will welcome this additional duty? Is it not a part of the duty of the Executive authorities to maintain law and order, and are they not the only people who have the necessary information to deal with this? Let us consider for a moment the actual practice in regard to orders under section 144? A Magistrate receives information, say, that a Muhammadan is going to kill a cow in a certain house. Hindus object and an order is issued prohibiting the slaughter. The matter at once becomes an acute political question. What is the material on which action is taken? A police report; information received orally from a village, something seen by the Magistrate with his own eyes; but there is no evidence recorded in such case, no evidence is possible. On what material then is the High Court going to act in revision? Would not the Bill place the High Court in an impossible position if they are to deal satisfactorily with a matter of this kind?

Sir, when the Honourable Member goes on to say that section 107 has also been abused, then I join issue with him at once. It may be that, in an individual case, a warrant was issued without justification. I have not got the facts of that case and I am not going to discuss the action of the authorities, but, generally speaking, section 107 has not ever been used to a great extent so far as I am aware. Section 108 has been used a great deal, but I am not aware that there is any general complaint in this country that section 107 of the Code of Criminal Procedure has been misused for purposes of suppressing political agitation.

Rao Bahadur T. Rangachariar : It has been in Madras.

The Honourable Sir William Vincent : Well, if it has been misused, every man affected has a right now to go down to the High Court and get any improper order revised. What is the real cause of difficulty in these cases? It is that those to whom facilities are afforded for going to the Courts will not use them; they will not appear before any Court or defend themselves, or seek remedies provided to prevent injustice. Is there any reason why, in cases of that kind, it should be incumbent on the Magistrate to send every case to the High Court?

[Sir William Vincent.]

Now let me turn to section 144. There are, in point of fact already two methods by which improper orders under that section can be challenged. One has been tried successfully, I think, in a Court in Oudh, — I am not quite certain of the locality, but I think it was in Oudh. (*A Voice* — 'Yes'.) There an order under section 144 was challenged on the ground that it did not properly come within the provisions of that section and was set aside as *ultra vires*. I believe the same practice is followed in some other High Courts, but I am not sure of this. Similarly, any man who likes to challenge an order under section 144 can question the legality of that order if he is prosecuted for violating it. But the real fact is that those who have been prosecuted are unwilling to put in any defence at all.

Sir, in conclusion, may I say that, if it is proposed to restrict the use of section 144 in the manner proposed, I believe the results would be really dangerous to the public peace. I know I have been accused of this kind too much of law and order. I believe however that a time is shortly coming when this Assembly will take a different view of the importance of this question, but that is another story. The Honourable Member has assumed also that section 144 can only legitimately be used in cases of a breach of the peace.

That is not so. Section 144 may be used for many purposes. Lawyers in this Assembly must be perfectly well aware of the fact that it can be and often used to prevent obstruction, annoyance, injury or risk of obstruction, annoyance or injury or danger to human life or health. The disturbance of the public tranquillity is only one of the many objects for which section 144 may be used. But the point that I wish to emphasise now is that, whether the section has been misused or not, the proposals in this Bill are such that they cannot be conscientiously supported by any Member of this Assembly. If the Honourable Member had thought of some more suitable method of dealing with this particular difficulty, the position might have been different.

Mr. President : The question is :

'That leave be given to introduce a Bill further to provide adequate safeguard against the indiscriminate use of section 147 and 144 of the Code of Criminal Procedure, 1898, in dealing with political agitation.'

The Assembly then divided as follows :

AYES—26.

Abdul Quadir, Maulvi.
Abdul Rahim Khan, Mr.
Abul Kasem, Maulvi.
Agarwala, Lala G. L.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Asjad-ullah, Maulvi Miyan.
Ayyangar, Mr. M. G. M.
Bhargava, Pandit J. L.
Chaudhuri, Mr. J.
Ginwala, Mr. P. P.
Gouf, Dr. H. S.
Gulab Singh, Sardar.
Iswar Saran, Munshi.

Jatkar, Mr. B. H. R.
Mahadeo Prasad, Munshi.
Manmohandas Ramji, Mr.
Man Singh, Bhai.
Mitra, Mr. P. L.
Mudaliar, Mr. S.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Rastogi, Mr. M. K.
Schamnad, Mr. Mahmood.
Shahani, Mr. S. C.
Sohan Lal, Bakshi.
Subrahmanayam, Mr. G. S.
Subsposh, Mr. S. M. Z. A.

NOES—37.

Akram Hussain, Prince A. M. M.
 Amjad Ali, Maulvi.
 Bagde, Mr. K. G.
 Bradley-Birt, Mr. F. B.
 Bridge, Mr. G.
 Bryant, Mr. J. F.
 Carter, Sir Frank.
 Cotelingam, Mr. J. P.
 Crookshank, Sir Sydney.
 Dentith, Mr. A. W.
 Faridoonji, Mr. R.
 Gajjan Singh, Sardar Bahadur.
 Habibullah, Nawab Khwaja.
 Hullah, Mr. J.
 Kabraji, Mr. J. K. N.
 Kamat, Mr. B. S.
 Keith, Mr. W. J.
 Lindsay, Mr. Darcy.
 McCarthy, Mr. F.

Muhammad Hussain, Mr. T.
 Muhammad Ismail, Mr. S.
 Nabi Hadi, Mr. S. M.
 Nayar, Mr. K. M.
 Percival, Mr. P. E.
 Pyari Lal, Mr.
 Ramayya Pantulu, Mr. J.
 Rao, Mr. C. Krishnaswami.
 Renouf, Mr. W. C.
 Samarth, Mr. N. M.
 Sapru, the Honourable Dr. T. B.
 Sarfaraz Hussain Khan, Mr.
 Sarvadhikary, Sir Deva Prasad.
 Shahab-ud-Din, Chaudhri.
 Singh, Babu B. P.
 Sinha, Babu Ambika Prasad.
 Vincent, the Honourable Sir William.
 Way, Mr. T. A. H.

The motion was negatived.

THE HINDU COPARCENER'S LIABILITY BILL.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I move for-leave to introduce :

‘ A Bill to define the liability of a Hindu Coparcener.’

It is not intended to define anything beyond the liability of a Hindu Coparcener for the debts incurred by the manager of the father. There has been a very sharp conflict of cases upon this subject. That conflict existed before their Lordships of the Privy Council decided what is now known as Sahu Ram's case, 39 Allahabad, page 437. In deciding that case, their Lordships pointed out that there was a certain conflict of decisions in the various Courts in India, and therefore they thought it well that the point should be settled. And then they proceeded to enunciate what they considered to be the right rule on the subject of the antecedent debt of the father.

After the decision of that case, a further conflict between the various High Courts in India has arisen, and while the Madras and Patna High Courts have, in considered full Bench cases, decided that Sahu Ram's case was never intended to over-rule the pre-existing law, the Courts in Allahabad and Oudh have taken a different view and literally followed the dictum of Lord Shaw as reported in that judgment. It is absolutely necessary, Sir, that we should be clear as to what is the law applicable to Hindu coparcenary families. People have to deal with Hindu families, advance money, take by way of security mortgages of coparcenary estate and the public are entitled to know with a degree of certainty as to what is the law applicable to coparcenary families. It is the intention of my Bill to define their liability. I have also taken advantage of the existence of this necessity to add certain provisions which are of an ancillary character. These will be found sufficiently explained in the notes on clauses appended to the Bill. I do not propose to go into greater detail on the subject of each clause, because I do.

[Dr. H. S. Gour.]

not think that at this stage I should be justified in doing so. I ask for leave to introduce my Bill.

The motion was adopted.

Dr. H. S. Gour: Sir, I now introduce the Bill.

THE MARRIED WOMEN'S PROPERTY (AMENDMENT) BILL.

Mr. B. S. Kamat (Bombay Central Division : Non-Muhammadan Rural) : Sir, I beg to move for leave to introduce :

'A Bill further to amend the Married Women's Property Act, 1874.'

The object of this amending Bill is to remove certain doubts which have arisen regarding the interpretation of certain sections of the Married Women's Property Act affecting payment of insurance money in the case of insurance effected by a man for the benefit of his wife or wife and children so far as it relates to Hindus, Muhammadans, Sikhs, Jains and Buddhists. Section 6 of the Married Women's Property Act deals with the question of insurance policies and that section provides that, when a man effects any policy of insurance for the benefit of his wife or wife and children, and so expresses his desire on the face of that policy, the amount of that policy shall be an amount absolutely beyond the control of the husband, or the creditors of the husband, and shall not form part of his estate; in other words, the amount of the insurance will be specifically ear-marked for the benefit of the wife or wife and children as the case may be. That is a section of the Married Women's Property Act which gives absolute protection to the wives. There is another section of the Married Women's Property Act, section No. 2, which excludes, according to the interpretation of some people, the operation of the Married Women's Property Act so far as widows or relations of Hindus, Muhammadans, etc., are concerned. The result of different interpretations is that there has been a conflict of High Court decisions in the three Presidencies of Bombay, Madras and Calcutta. In Bombay the Bombay High Court has held that the Married Women's Property Act does not apply to insurances effected by Hindus, Muhammadans, etc. The case which bears on this subject is *Shankar versus Umabai*, 1913, I. L. R., 37, Bom. 471. There, it was held that the Married Women's Property Act does not apply to Hindus. The facts were these. A Hindu husband effected an insurance specifically for the benefit of his wife and so expressed his desire by an assignment on the policy. After his death, one of his creditors came in the way and claimed that the benefit of the Married Women's Property Act could not be given to the widow of a Hindu inasmuch as under the Hindu joint family system, insurance came under earnings, that insurance money could not be treated as a trust in the hands of the insurance company for the benefit solely of the wife, but it formed part of the general estate of the Hindu. After the wife had gone to the High Court for a declaration in her favour, the ruling of the Bombay High Court has been that the Act does not apply to Hindu widows. This is so far as Bombay. I now come to a ruling of the Madras High Court. Then again there is a similar case, *Balamba versus Krishnayya* (I. L. R. 37, Madras 483) decided about the same time. 1914. In that case, the Madras High Court has held entirely the opposite view

regarding the interpretation of section 2 and section 6 of the Married Women's Property Act. In the Madras case of the same nature, it was, I think, either the wife or the daughter who claimed that the provision made by the Hindu husband was specifically for her benefit, that the amount of the Policy of insurance was a trust in the hands of the insurance company and no creditor had any right whatsoever to interfere in that particular Policy money so far as her interest was concerned. This case went up through all the stages of appeal, first appeal, second appeal, and so on; as there was a difference of opinion, I believe, amongst the judges of the High Court, ultimately, the case went before the ~~full Bench~~. The full Bench, after very close study of the case and the facts bearing on the case, and after perhaps very learned arguments on both sides, came to the conclusion that section 2, which, according to some Courts, excludes Hindus from the operation of Married Women's Property Act, was not so exclusive, with the result that the Madras High Court has held that the Married Women's Property Act does give protection to women, and does apply even to Hindu widows. In the Calcutta High Court, on the other hand, the view of the Bombay High Court prevails, so that between the Bombay High Court, the Madras High Court and the Calcutta High Court, we have entirely two different states of things. In Bombay, insurance companies find it extremely difficult to hand over the insurance money to the claimant in contested claims. Fortunately, owing to the legal acumen and ingenuity of our law-interpreters in the South, the Madras High Court has given a ruling in favour of Hindu widows. This is the state of things which I wish to remedy by this amending Bill. I think it will be admitted, firstly, that there should be a uniformity of law so far as the payment of insurance money is concerned in Bombay, Madras and Calcutta, and that there should be no impediment in the way of insurance companies on this point.

Secondly, I believe that it will also be admitted that it is but just and equitable that Hindu widows or widows of Hindus, Muhammadans and others should have a clear claim to the provision made by their husbands specifically for them without any interference from Creditors or Co-parceners. I might mention that in the olden days, when the framers of Hindu Law framed their law, there were no Insurance Companies; but now that we have Insurance Companies, it is only just and proper that Hindu widows should be protected from creditors in the same manner as other women are protected under the Married Women's Property Act. It is, therefore, proposed to amend that Act by a simple clause like this:

'Notwithstanding anything contained in section 2, this section shall apply, and shall be deemed to have always applied, to Hindus, Muhammadans, Budhists, Sikhs and Jains.'

I might only mention that the Madras High Court has given a favourable ruling in this connection after having examined that section very carefully, and the stand they have taken with regard to it is that, under certain wording of section 2 of the Married Women's Property Act, although it is supposed to be an excluding section, the important words therein are 'married woman.'

The clause there reads:

'Nothing contained in the Married Women's Property Act applies to any *married woman* who, at the time of her marriage, professes the Hindu religion'

The section, it is contended, does apply, as the insurance was effected by *men* not by *women*. On these grounds, I wish the House to give me leave to

[Mr. B. S. Kamat.]

amend the Married Women's Property Act according to the decision of the Madras High Court, and so make the benefits of insurance policies applicable to all communities.

The motion was adopted.

Mr. B. S. Kamat : I beg to introduce the Bill.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

Rai Bahadur Bakshi Sohan Lal (Jullundur Division : Non-Muhammadan) : Sir, I beg to move for leave to introduce :

A Bill further to amend the Indian Penal Code (*amendment of section 375*).

A copy of the Bill, together with a Statement of Objects and Reasons, is laid on the table of the Honourable Members of this Assembly, and I need not repeat the same or advance any lengthy arguments in support of this Bill or of the amendment which is meant to raise, in the case of the offence of rape, as defined in section 375, the age of consent of the female from 12 to 14 years.

According to *Sushrut*, the well-known book of the medical science in the Ayurveda, and other books on that subject, the physical faculties of a female do not fully develop for consummation until she completes sixteen years of age. The very high rate of fatality amongst the high classes in this country of newly-born children and of young married wives is due to sexual intercourse and pregnancy of the girl before she reaches the age of puberty or full development of her physical organs. The result of such consummation before bodily development not only weakens the health of the girl but often produces children who are weak and sickly, and in a large number of cases cannot resist any illness of an ordinary type, or any inclemency of weather or climate. Thus some of them die immediately after birth or during their infancy. If they live at all, they are always in need of medical attendance, medical advice or medical treatment, to linger on their lives; or in other words they are born more to minister to the medical profession than themselves and their families or their country. Neither can they be good soldiers nor good civilians, neither good outdoor workers, nor good indoor workers; neither can they be fit to attack an enemy nor defend themselves against attacks of an enemy, or against the raid of thieves or dacoits. In a few words, his birth is very often the cause of ruining the health, strength and prosperity of his parents without resulting in a corresponding benefit to society. The husband, in the majority of cases, becomes confined to his room for the purpose of arranging or superintending the nursing and medical treatment of his young wife or of his children, if any, and has very often to absent himself from his professional duties, and eventually has to arrange for his re-marriage several times during his lifetime, on account of the successive deaths of his young wives or on account of his wife bearing children who are not long-lived.

Under these conditions, I respectfully recommend to the House to grant me leave to introduce this Bill in the Assembly.

The Honourable Sir William Vincent (Home Member): The Government have no intention of opposing this motion, but the Bill is of so important a character that I think Members of the House ought to be fully cognisant of the effect of the measure before they accede to the present proposal. At present the offence of rape is when the girl is a consenting party, confined to the case of sexual connection with a girl under twelve years of age. Intercourse with a girl under that age is rape, whether she consents or not and this applies also in the case of married girls. Many of us, my friend, Sir Deva Prasad amongst them will remember what an outcry there was when the Age of Consent Bill was passed in 1891. We were told that the foundations of the Hindu religion were shaken by the action of the Government. If that was so then, it seems to me that the Honourable Mover is about still further to shake them in seeking to raise the age of consent, not only in the case of unmarried girls, but of married girls also, to 14 years. Further, this Bill is in some respects more severe even than the English law; but I will deal with that point later. I understand that in many parts of the country it is the custom that consummation of marriage takes place as soon as the wife attains puberty.

I speak very much subject to correction in a matter of this kind. It is also a fact, I believe, that some girls do attain puberty before they are 14 years of age. (*An Honourable Member*: 'Very often.') I have comparatively little knowledge of the subject, but I will take the Honourable Member's word for it. If so, there may be some difficulty about this custom of early consummation of marriage. There is some danger in the amendment now proposed of the exception to section 375 of the Indian Penal Code interfering with this custom to which I have referred. Sir, I am not aware how far custom in this matter has changed since 1891, when the Bill was passed, or how far the public would welcome such an advance as is now contemplated. I remember that Sir Romesh Chandra Mitter, speaking in 1891 on the Age of Consent Bill, said:

'It seems to me that legislation upon subjects like these must wait until public opinion is sufficiently educated.'

Members of this Assembly are possibly in a better position than I am to judge whether public opinion is at present sufficiently educated to welcome a radical change of this character.

There is another point to which I referred just now when I said that the Bill prescribes a more severe penalty for intercourse with girls of a certain age than is provided by the English law. I think I am right in saying that, under the English law, although it is always a penal offence to have connection with a girl under 16 years of age, yet after 13 years of age the punishment awarded is much smaller than it is in the case of girls under 13 years of age. I believe that intercourse with a girl under 13 years of age, even with her own consent, is felony and intercourse with a girl over 13 years of age but under 16 years of age is a misdemeanour punishable with two years' rigorous imprisonment, or something of the kind. This is also a matter which this House will have to consider later—that is however a matter of detail—but the question will also arise whether it is necessary to punish a man for having intercourse with his wife even if she is under the age of 14 with a sentence of transportation for life or ten years' rigorous imprisonment which is the maximum now provided. That is what the Bill proposes to do.

[Sir William Vincent.]

Sir, the Bill is not one that affects the English community very much, because in very few cases amongst us do girls marry at such a young age. But the facts I have mentioned are matters which I thought I ought to place before the Assembly for careful consideration, so that they might realise what the Bill means. My own personal view is—though this is a matter for the Assembly to decide—that Members might do well to allow this motion for leave to introduce, and wait until the motion for circulation comes on when the points which I have adverted to here—and they are very important—can be debated more fully.

Mr. President: The question is :

‘That leave be given to introduce a Bill further to amend the Indian Penal Code (*Amendment of section 375*).’

The motion was adopted.

Rai Bahadur Bakshi Sohan Lal: Sir, I beg to introduce the Bill.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 1st March, 1922.

