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THE
COUNCIL OF STATE DEBATES

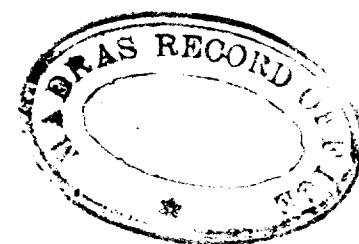
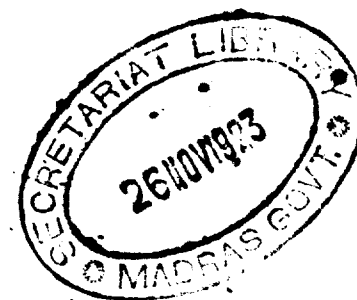
(Official Report)

VOLUME III

THIRD SESSION

OF THE

COUNCIL OF STATE, 1922



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1922



THE
COUNCIL OF STATE DEBATES
(OFFICIAL REPORT OF THE THIRD SESSION)

VOLUME III.

THIRD SESSION, 1922.

COUNCIL OF STATE.

Tuesday, 5th September, 1922.

The Council met in the Assembly Chamber at a Quarter to Eleven of the Clock, being the first day of the third Session of this Council, pursuant to S. 63D (2) of the Government of India Act, and the Honourable the President (the Honourable Sir Alexander Phillips Muddiman, Kt., C.S.I., C.I.E.) took the Chair.

MEMBERS SWORN :

The Honourable Raja Vanganad Vasudeva Raja Avargal, Valiya Nambidi of Kollengode, C.I.E. (Madras : Nominated Non-Official) ; the Honourable Mr. John Perronet Thompson, C.S.I. (Officiating Political Secretary) ; the Honourable Mr. Egbert Laurie Lucas Hammond, C.B.E. (Bihar and Orissa : Nominated Official) ; the Honourable Sir Leslie Creery Miller, Kt. (Madras : Nominated Non-Official).

INAUGURATION OF THE THIRD SESSION OF THE COUNCIL OF
STATE AND LEGISLATIVE ASSEMBLY.

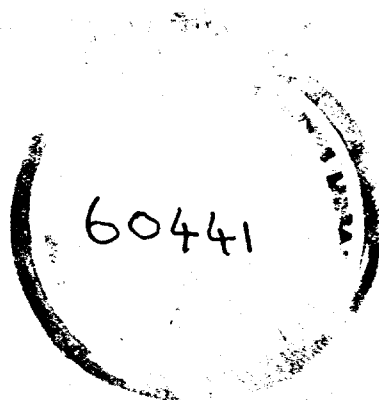
His Excellency the Viceroy with the Presidents of the Council of State and Legislative Assembly having arrived in procession, His Excellency took his seat on the dais.

H. E. the VICEROY : Once again it is my pleasant task to welcome you, the Members of the Indian Legislature, to the labours of a new Session.



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[H. E. the Viceroy.]

Since I last addressed you, many events of importance to India have occurred. Foremost among these is enshrined in our thoughts—the visit to India of His Royal Highness the Prince of Wales. A year ago in my address to you, I predicted that we might with confidence count on a welcome from India to His Royal Highness, characteristic of the traditional loyalty and devotion of the Indian people to the Royal House, and this confidence found a warm echo in your debates and activities.

It is a source of deep gratification to us now that His Royal Highness has come and gone to feel that our predictions have been justified. In spite of organised attempts to mar the reception on the part of a section of the community, all classes in British India and the Ruling States threw themselves with enthusiasm into the privileged task of welcoming His Royal Highness. His Royal Highness has moved among us, and his visit has demonstrated the loyalty of India to His Majesty the King-Emperor. His Royal Highness captivated us by his great personal charm; he inspired us by his high sense of public duty and by his keen interest in all classes of His Majesty's subjects and in all our activities and problems. We are fortunate indeed in that the great traditions of the British Crown will, in the fulness of time, be continued by him who came to us to know India and to be known by her and who left India with an abiding interest in her welfare.

In the domain of external affairs, the subject uppermost in our minds is the proposed revision of the Treaty of Sevres. I can now add little to the statement I made at Peshawar in April last, save to assure you that every stage in the developments is followed by my Government with keen and watchful interest, and whatever action we can with propriety adopt to lay before the British Government the reasonable aspirations of the Moslems of India regarding these developments, we have taken and shall not fail to take.

It is gratifying to observe that the activities of my Government have not been without effect upon the Moslem population of India who have readily acknowledged and appreciated that my Government have done their utmost to impress the Indian-Muhammadan view upon His Majesty's Government. At this moment negotiations are proceeding with the object of arriving at a solution of this difficult and delicate problem, and it is therefore undesirable for me to discuss the situation. I will only remind you that, as already stated by His Majesty's Government, the representations will be fully considered and due weight will be attached to them by His Majesty's Government in so far as these are compatible with justice, their obligations to their Allies and the adequate safeguarding of minorities. It is most earnestly to be hoped that these efforts of His Majesty's Government and their Allies will shortly result in the complete restoration of peace to the Near East.

I am glad to inform you that cordial relations subsist with all the Powers on our borders. Since I last addressed you a Treaty has been concluded between His Majesty's Government and Afghanistan, and I feel confident that the bonds of friendship between Afghanistan and ourselves will be maintained and grow in strength.

There is peace on our tribal frontier except in Waziristan; and even there I had hoped that the results achieved would enable me to announce to you the winning stage in long protracted operations. Owing to the gallantry of our troops, substantial progress has already been made in the very difficult conditions well known to all who are acquainted with this frontier. But while some of the Wazir and Mahsud tribal sections have entered into satisfactory engagements with us, we have still to secure that complete tribal unanimity and co-operation which alone can effectively maintain peace. Our object in Waziristan is to ensure the security of life, honour and property of those who are entitled to our protection, whilst keeping our expenditure within the narrowest limits commensurate with our purpose.

In dealing with external affairs and our borders, I may refer to the position of Indians in the Dominions and Colonies overseas. The Standing Emigration Committee is now advising the Government of India on all Emigration matters of major importance. Our policy is embodied in the new Emigration Act which received my assent last March. At present emigration of unskilled labour is illegal, except to Ceylon, the Straits Settlements and the Federated Malay States to which the new Act will only apply next March. Deputations from Ceylon and Malaya are with us discussing the details of the proposals which, on the advice of the Committee, we have placed before their Governments, and the Government of the Straits Settlements are embodying in their local legislation the provisions which we are advised to secure in that Colony. I desire to acknowledge the cordial spirit in which Colonial Governments are co-operating with my Government to make conditions of Indian emigration free from all reasonable objection.

The important aspects of the Right Honourable Sastri's mission were referred to by me in a speech I made on the eve of his departure. We have every reason to be gratified by the impression which he has made and by the warm reception extended to him. Mr. Sastri has already been successful in obtaining the removal of some minor disabilities affecting domiciled Indians, and we trust that in course of time on larger questions also, on which ministers cannot immediately extend promises in advance of the mandate of their electorates, the atmosphere of friendly feeling towards India created by his visit may conduce towards the realisation of our reasonable expectations.

My Government have been in correspondence with the Government of the Union of South Africa regarding the recommendations of the Asiatic Inquiry Commission. We have not been able as yet to reach an agreement in principle, but we are still engaged in attempts to arrive at a better understanding. The Union Government by their recent action in suspending the operation of two Ordinances in Natal, have given proof of their desire that most careful and impartial inquiries should be made before any step is taken which is likely to affect the position of Indians in any part of the Union.

In reference to repatriation from Natal, my Government have made careful investigation. No case has been brought to their notice in which repatriation has been other than entirely voluntary.

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The Report of the Deputation to British Guiana has not yet been received. We have the summary of the recommendations of the Fiji Deputation, and their Report will be taken into consideration by my Government as soon as it reaches us. The condition of the sugar industry in those islands gives us cause for apprehension that Indians in Fiji may no longer be able to earn a living wage, and the Government of India are engaged in arranging at the cost of that Colony for facilities for repatriation of all Indians who desire to return.

Conversations are proceeding between the Colonial Office and the India Office regarding the position of Indians in Kenya. The Government of India are carefully watching developments, and I trust a satisfactory settlement of the difficult questions involved may soon be reached.

I note your anxiety in watching the fortunes of our Indian brethren overseas. Let me assure you that my Government have been and will be unremitting in asserting their rights and urging their cause in all parts of the Empire. If I do not say more upon this occasion, I hope you will understand that it is not because I am unmindful of the vast importance of the subject. I shall be in a better position to address you more fully when the result of the pending discussions has been reached and can be announced.

When we turn to matters nearer home, a subject of first importance to us is finance. I need not go into the story of our deficit, but you may be assured that my Government is making every effort to bring about the equalisation of expenditure to revenue. The first step is retrenchment. I have explained to a deputation which addressed me the measures adopted by my Government to attain this object and I feel that they will command confidence. We must now await the recommendations which the Retrenchment Committee will place before us. The results of our loan operations have been encouraging. You will have seen that our Sterling Loan realised 12½ million pounds and our Rupee Loan 46 crores, of which 43 were new money. By the mercy of Providence good harvests have mitigated our grave anxieties on account of the enormous rise of the price of food grains prevailing when I last addressed you. A fall in prices has now occurred, sharper than even the previous rise. This year's monsoon has been, on the whole, favourable and I trust that we may look with hope for a continuance of plentiful stocks and lower prices of the first necessities of life, and that this improvement may conduce to remove economic discontent—so often the root cause of political malaise.

There is a matter to which I may refer as being of special interest to this Legislature. We are making an addition to our machinery. Rules have been framed for the appointment of further Standing Committees of the Indian Legislature to various Departments of the Government of India and for the definition of their functions and their procedure. The duties of the Committees will be of an advisory nature, and I trust that the Departments will find the Committees of real assistance and that the members of the Committees on their part will gain a wider insight into the problems of the administration, and that experience will demonstrate the benefits to be derived from the continuance of this system.

Last year I warned you that you could not expect to garner so rich a harvest of achievement every Session, but with your subsequent record before me, I doubt the correctness of my prediction. Time will only permit me to chronicle a few of your most important achievements; but the list, even with this limit, refutes the malice of those who belittle the reformed constitution and decry the efforts of those who, like you, believe that only through constitutional methods can the aspirations of the Indian people be fulfilled.

The Press Act of 1910 has been repealed. In this connection I pointed out last year that the repeal of the Act might necessitate the consideration of the form of protection to be given to the Princes against seditious attacks upon them in newspapers published in British India. In the meantime the Local Governments have been consulted, and this question has been closely examined and has been the subject of correspondence between my Government and the Secretary of State. We have decided that we are bound by agreements and in honour to afford to the Princes the same measure of protection as they previously enjoyed under the Press Act which is the only protection available to them; and a Bill to secure this object will be brought before you in the present Session. This protection to the Princes was first given by the Act of 1910. It is not suggested that it has been abused, and the only reason for its repeal is because in British India we have decided to dispense with the special remedies under the Press Act and to rely upon the general law which is not applicable to the Princes.

The Report of the Committee appointed to examine certain laws conferring extraordinary powers on the Executive has resulted in the repeal of 23 Acts and Regulations supplementing the ordinary criminal law. The Acts repealed include the Defence of India Act, 1915, the Statute known as the Rowlatt Act and part of the Criminal Law (Amendment) Act of 1908. I congratulate you on passing into law last winter Session the Amending Factories Act—a very important piece of social legislation.

You have an arduous programme of legislation before you. Among important measures I may mention a Bill to amend the provisions of the Criminal Procedure Code, which has been under discussion for some years; the voluminous matter collected has been examined by a Joint Committee, whose report will be before you shortly. Another Bill is that abolishing transportation as a form of punishment. The Indian Mines Act, which is designed to make improvements in the provisions to secure the safety, welfare and efficiency of mineworkers will also come before you. Last year I foreshadowed two other measures destined to benefit the labouring classes of the country. Legislation for workmen's compensation has been advocated by the leading association of employers and employees and the majority of the Local Governments. The proposals have been examined by a Committee, the majority of whose recommendations will be laid before you in the form of a Bill. We hope also to place our considered decisions regarding protection and legal status of trades-unions before you.

Interest naturally centres round the deliberations of the Fiscal Commission. This Commission opened its inquiries in November last and concluded them in July. I believe that the members were unable

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to come to a unanimous decision, and the preparation of the minority note has delayed the submission of the report to Government. It is hoped, however, that copies of the full report will shortly be in the hands of members of the Legislature.

I turn now to Railways. It is only a year since we received the report of Sir William Acworth's Committee. The Assembly took the most important decision regarding railways which has been arrived at for many years in setting aside a sum of 150 crores for the next quinquennium for use on rehabilitation. Railway administrations are now able to look ahead and plan an ordered programme of capital expenditure. The proposal that railway finance should be separated from general finance has not been found at present possible by the Committee which examined the point, but the matter has still to come before the Legislatures. The question of the reorganisation of the Railway Board is under examination. A Central Advisory Board consisting of members of the Legislatures—a different composition from that advocated by the Acworth Committee, but one better suited to our needs and conditions—has been established. It has begun work and will examine many questions connected with railways which must come before you. The question of a Rates Tribunal will soon be ready for the preliminary scrutiny of this Board. We are full conscious of the importance of the Acworth Committee's report, and are pressing the issues raised by it to a conclusion.

You will be interested to learn that since last September considerable progress has been made with the development of the Territorial Force. In addition to the University Training Corps, twenty provincial battalions have been constituted and the numbers enrolled total more than 10,000. Some units have undergone their first training with satisfactory results. General Burnett-Stuart, who conducted the recent operations in Malabar, commented in his farewell order to the Madras District on the good start made by the battalions in that Presidency. While it is too early to judge of the military value of the force, the first steps are certainly encouraging.

Indian candidates continue to be selected for the Royal Military College, Sandhurst, but I regret to say that my Government have cause for anxiety in that so few candidates possessing the necessary qualifications have come forward for selection. In these circumstances, I am gratified to know that the College designed to train Indian boys who aspire to enter Sandhurst has now been established at Dehra Dun. The College was formally opened by His Royal Highness the Prince of Wales last March, and I have subsequently visited it. There are 37 boys under tuition, accommodation for larger numbers is being provided, and the report on the first term's work of the College is decidedly satisfactory.

Air Vice Marshal Sir John Salmond is at present in India to examine and report to my Government upon the Air Force and whether economies in defence expenditure can be effected by increased use of the Air Force in co-operation with our Army for the external and internal protection of India. He has completed his inquiries and has submitted his report which will require most careful study.

I shall not to-day follow the more conventional course of referring in greater detail either to the work accomplished by the Legislature and the Government Departments during the last twelve months or to the proposals to be laid before you by the Government during this Session. I prefer to use this opportunity to consider with you matters of wider import to India and her future, which I know are seriously engaging your thoughts and forming the subject of your discussions. When considering the observations I am about to address to you, I would ask you to keep in mind that I came to India immediately after the initiation of the Reformed Constitution and that I was consequently entrusted with additional responsibilities which had not been laid upon my predecessors. A solemn declaration of policy had been made by His Majesty's Government, the necessary legislation had been passed, and, be it observed, not by one political party, but with the assent of all political parties in England, and the formal ceremonies of the inauguration of the new Legislature had been performed by His Royal Highness the Duke of Connaught on behalf of His Majesty. I came charged with the task of helping to guide India along the road of constitutional progress to the ultimate realisation of her aims in accordance with the declaration of 1917 and His Majesty's proclamation, and under the special directions of His Majesty the King-Emperor contained in the Instrument of Instructions issued to me with my Warrant of Appointment as appears from the following paragraph :

“ For above all things it is Our will and pleasure that the plans laid by Our Parliament for the progressive realisation of responsible government in British India as an integral part of Our Empire may come to fruition, to the end that British India may attain its due place among Our Dominions. Therefore, We do charge Our said Governor General by the means aforesaid and by all other means which may to him seem fit to guide the course of Our subjects in India whose governance We have committed to his charge so that, subject on the one hand always to the determination of Our Parliament, and, on the other hand, to the co-operation of those on whom new opportunities of service have been conferred, progress towards such realisation may ever advance to the benefit of all Our subjects in India.”

That policy remains unchanged, and if any shadow of doubt upon this subject lingered in the minds of any one it should be removed by the statement the Prime Minister recently authorised me to make and which I communicated to the deputation that waited upon me a short time ago. The Prime Minister speaks with the highest authority, for not only is he Prime Minister and the head of His Majesty's Government, and responsible for its policy, but he is the Prime Minister who presided over the Councils of His Majesty's Government when the declaration of 1917 was made and was responsible to Parliament when the Government of India Act, 1919, was introduced and passed.

It is now nearly eighteen months since I arrived in India and assumed the responsibility of my high office, and I need not say that I have watched with a keen and deep interest the progress made by this Legislature and the Legislative Councils in the Local Governments. Almost from the first moment of my arrival I observed that agitation was proceeding with a view to obtaining an immediate or almost immediate extension of the powers given under the new Constitution, which had then been but a few months in operation. As time progressed I learnt that there was an element of doubt, and even suspicion,

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regarding the intentions of His Majesty's Government to fulfil the promises they had made. It seemed difficult to understand that doubt should be entertained regarding promises solemnly made and deliberately expressed in formal documents. I have searched for grounds for these doubts and suspicions and have failed to find any reasonable basis for them. There is no promise that has been broken; there is no pledge that has been violated either by His Majesty's Government or my Government. Within the short period that has elapsed both His Majesty's Government and the Government of India have acted in accordance with the promises and pledges given. Why then is there this doubt? I cannot but think that in the natural desire of India for progress attention has been too much concentrated upon the promises to India, while perhaps insufficient regard has been paid to the language both of the declaration and the preamble to the Statute. It is there stated that the goal is the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible government within the Empire. Advance is to be by stages. The time and manner of advance are to be judged by the British Parliament. Their judgment is to depend on the co-operation of the people of India and the development of their sense of responsibility. This is the foundation upon which the future progress of India is to be built. The eventual completion of the structure will take place when the British Parliament is satisfied respecting the essential considerations above-stated. I am putting the position very plainly to you. I feel it is right that I should. You will remember, I trust, that I am speaking in the interests of India of which I am the present custodian subject always to responsibility to His Majesty's Government and the British Parliament. Be assured that I am not the less in sympathy with the national aspirations of India because I survey the situation as I necessarily must, with a knowledge that India's future progress depends both as to time and manner of advance upon the good-will of the British Parliament.

Gentlemen, you have reason to be satisfied with the success you have already achieved in this Legislature during the short period of its existence. In the language recently used by the Prime Minister "there has been a very considerable measure of success" and very able and distinguished Indians have contributed to achieve this result. But this is only one part—although a very important part—of the picture. There is another aspect which I am sure presents itself to your minds at this moment, and I would ask you whether the events in India of the last eighteen months can fairly and reasonably be regarded as assisting the efforts you have made towards realisation of your aims, and whether indeed these events have not proved a hindrance and an obstruction to the progress of India? We have seen the Legislatures and all co-operating in constitutional progress doing their utmost to march forward. I wish this were the whole story; but facts must be faced, and we cannot ignore that a section of the people of India have spared no effort, not only to withhold their own co-operation, but to hinder and intimidate others. They have not stopped short of violence, they have not hesitated to foster antagonism to settled government, to stir up racial hatred and to lead the way back to chaos and

anarchy. The acts of this section during His Royal Highness' visit are too well known to you to require recapitulation; here in India we know that they do not represent the real views of the Indian people. But can you wonder that they created a deplorable impression upon the British people throughout the Empire notwithstanding the devotion and loyalty of the great majority of the people of India? The mischief was deliberately done, and in spite of the solemn warning I ventured to give of its inevitable effect upon the British people and the British Parliament.

I have said enough of the past: I now turn to the future. I look with confidence to you for help. If we are to secure the progress we all desire, we must create the atmosphere in which it can develop. There must be respect for law and order and support for constituted authority and for established government. Malign influences which mislead the uneducated masses into excess must be combated. We must see that the objects we are striving to achieve are understood and make appeal to the intelligence of the masses and command their sympathy. We must convince them of the sincerity of our purpose: We must make them feel assured that the first motive of all our actions is their ultimate well-being. You must attempt to diffuse that clearer vision with which you have been gifted. You must help others to share in that wider outlook and in those opportunities for material welfare which you enjoy. Defensive tactics alone will not suffice—We must lead and guide—upwards and onwards.

The task is not easy. It requires application; it calls for patience; but it is one which I am confident that your efforts can bring to a successful issue. It is a task in which you may rely on the fullest support of my Government and of the Civil Services, who, in the face of much misrepresentation and hostility, have freely and unsparingly co-operated to work the reformed constitution and continue to labour for its success. They are ready to help you, and they also look for your help.

You hear around you propaganda against the Reforms; your rights are assailed by misrepresentations; your privileges and prospects are attacked; your achievements are belittled; your aims are vilified. Last year I urged you to counter-action. I impressed on you that the electorate required education. I have the same advice to repeat to you now; but I repeat it with more force and insistence. For another year has passed and a new election is within sight, and I make my earnest appeal to you in the interests of India so dear to your hearts to lend your influence and authority to help India forward to the attainment of her ultimate aims, to continue the advance which will secure to her, in the fullest degree, the great place that awaits her within the Empire.

The Council then adjourned till Eleven of the Clock on Wednesday, the 6th September, 1922.

COUNCIL OF STATE.

Wednesday, the 6th September, 1922.

The Council met in the Council Chamber at Eleven o' the Clock. The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

BORROWING BY INDIAN GOVERNMENT.

1. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state :

- (a) if they are aware that during the consideration of the financial resolution the Under Secretary of State for India observed in the House of Commons on 30th March last that " the Indian Government was free to borrow in India without an Act of Parliament, but could only borrow in the United Kingdom to such an extent as was authorised by the House of Commons,"
- (b) if similar authority from the House of Commons is necessary to enable self-governing Dominions of the Empire to borrow in the United Kingdom, and
- (c) do the Government of India propose to endeavour to secure similar exemption in their case ?

The HONOURABLE MR. E. M. COOK : (a) Yes.

(b) No.

(c) If the statutory restrictions were abolished, the loans would automatically cease to be trustee securities under the Trustee Act, and this would greatly lessen their value from the investor's point of view. In order to keep them in the category of trustee stocks, we should have to secure legislation in the United Kingdom on the lines of the Colonial Stock Act of 1900. This Act requires the observance by the borrowing colony of certain conditions, a copy of which I shall be happy to supply to the Honourable Member, if he so desires. The Government consider that the present time is not opportune for asking the Home Government to undertake legislation of the kind.

APPOINTMENT OF FRENCH TRADE COMMISSIONER.

2. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state :

- (a) if the following paragraph which appeared in the issue of 17th May last of ' Contract Journal ' published in London is correct :—
' A French Trade Commissioner has been appointed for India with headquarters in Calcutta, in the person of M. M. Garreau-Dombasle ' ;
- (b) if the Government of India have any Trade Commissioner representing the interest of this country in France ?

ACETONE FACTORY AT NASIK ROAD.

7. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state the circumstances under which the buildings of the Acetone factory at Nasik Road were handed over to the Government of Bombay ?

The HONOURABLE MR. H. A. F. LINDSAY : The cessation of the War naturally reduced the demand for acetone, and it was an uneconomical proposition to continue manufacture. It was consequently decided to close the factory and get rid of it at the best price obtainable. The factory was accordingly sold to the Government of Bombay for use as a distillery, for a sum of Rs. 17½ lakhs.

PURCHASES FOR INDIAN RAILWAYS.

8. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to say—

- (a) if their attention has been drawn to a statement made generally in the English press and particularly in the London "Times" of 16th June 1922 in regard to purchases for Indian Railways that :—"The Sheffield Chamber of Commerce is said to be bringing pressure to bear on the India Office urging that British firms are entitled to some special consideration even in face of slightly higher prices";
- (b) if a deputation from the Sheffield Chamber did wait on the Secretary of State to make the above representation and what reply, if any, was given by the Secretary of State ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) Yes.

(b) The matter is under correspondence with the Secretary of State, and on receipt of a further communication from him a reply will be made to this part of the Honourable Member's question.

DUTY ON MOTOR SPIRIT.

9. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state :

- (a) if the duty of six annas per imperial gallon levied (under Act II of 1917 as amended by Act III of 1919) on Motor spirit produced at the different manufactories in British India is levied alike on all Motor spirit (1) consumed in India, and (2) exported from India to other countries, or only on such Motor spirit as is consumed in India ;
- (b) if such duty is not levied on Motor spirit exported to other countries the reason for such exemption ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The duty is not levied on motor spirit exported by the owner of a manufactory in British India direct by sea to any country outside India.

(b) Excise duties being duties on consumption, a refund of excise duty is granted in the case of all commodities subject to such duties in order to enable these goods, when exported, to compete on equal terms with similar goods of foreign origin in foreign markets. In imposing an excise duty on motor spirit the Government of India followed this general principle.

STATISTICS OF MARRIAGES UNDER THE CIVIL MARRIAGE ACT, 1872.

10. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to lay on the table a statement showing :

- (a) the number of marriages solemnized under the Civil Marriage Act of 1872 in each province, since its enactment,
- (b) the respective communities of the men who have married under the Act,
- (c) the respective communities of the women who have married under the Act,
- (d) in the case of the Hindus, the caste of the men and the women who have married under the Act ?

The HONOURABLE MR. S. P. O'DONNELL : It is assumed that the Honourable Member refers to marriages solemnized under the Special Marriage Act, 1872. The subject is a provincial one and Government do not think they would be justified in imposing on local Governments the labour and trouble involved in obtaining the complete information asked for. I lay on the table however a statement showing the number of marriages registered under the Act during the period from 1911 to 1920 in each province. It will be seen that the total number of marriages under the Act for the ten years from 1911 to 1920 was 608.

Statement showing the number of marriages registered under the Special Marriage Act, 1872 (Act III of 1872) during the period from 1911 to 1920 inclusive.

Year.	Madras Pre- sidency.	Bombay Pre- sidency.	Bengal Pre- sidency.	United Pro- vinces.	Burma Pro- vince.	Bihar and Orissa Pro- vince.	Central Pro- vinces.	Assam Pro- vince.	Cooch Pro- vince.	Delhi Pro- vince.	North-West Frontier Province.
1911-12	...	...	37	...	...	...	...	1	...	...	...
1911	4	3	...	1	...	...	...	1	...	...	...
1912-13	...	...	6	...	...	...	...	...	...	...	...
1912	7	2	...	...	1	...	...	...	...	...	...
1913-14	...	...	35	...	...	7	...	4	...	...	...
1913	9	3	...	...	...	...	...	3	...	...	...
1914-15	...	...	36	...	...	9	...	...	...	...	...
1914	9	6	...	1	1	...	1	4	...	...	...
1915-16	...	...	...	...	...	8	...	...	...	...	...
1915	4	2	35	...	...	...	2	4	...	...	...
1916-17	...	...	...	...	...	4	...	...	...	...	...
1916	8	5	44	...	1	...	...	3	...	...	...
1917-18	...	...	...	...	...	6	...	...	...	...	...
1917	4	12	32	...	...	...	...	3	...	...	...
1918-19	...	...	...	...	...	10	...	...	...	...	...
1918	8	14	43	...	1	...	2	...	...	...	...
1919-20	...	...	...	...	...	7	...	...	...	...	...
1919	9	13	35	1	1	...	...	...	...	...	...
1920-21	...	...	...	...	...	9	...	...	...	...	...
1920	12	17	28	...	1	...	...	...	...	...	...
Total	74	77	361	3	6	68	5	24	...	...	...

POSTAL RATES.

11. The HONOURABLE LALA SUKHBIR SINHA : Will Government be pleased to state the financial results till now of the increased postal rates especially of the half anna post card and one anna envelope ?

The HONOURABLE MR. B. N. SARMA : It has not been possible to keep special statistics to show accurately the financial results of the increase in the price of postcards and the postage on letters. There has been a slight decrease in the gross sale of ordinary stamps for postal, telegraph and revenue purposes during April, May and June, 1922, compared with

the corresponding months of the year 1921, as will appear from the following figures :—

			1921. Rs.	1922. Rs.
April	..	..	64,23,000	49,13,000
May	..	..	65,23,000	64,29,000
June	..	..	55,31,000	56,31,000
			<u>1,84,77,000</u>	<u>1,69,73,000</u>

The separate figures for July 1922 are not yet available, but the total sales of stamps, including service stamps, in that month were Rs. 65,52,000 against Rs. 60,80,000 for July 1921.

The above figures comprise the value of stamps sold for revenue, postal and telegraph purposes and do not give an accurate idea as to the financial effect of the increase in postage rates upon postal revenue. The Act came into force only from the 24th April, and the decrease in April must be largely due to other causes such as trade depression. It may be mentioned also that the figures for 1922-23 would be increased by about 2 lakhs a month were it not for the use of Cash Register machines in the Central Telegraph Offices at Calcutta and Bombay, as these machines dispense with the use of stamps on telegrams.

An estimate prepared on a 3 days' count in August 1922 shows that, on postcards and letters alone, in spite of a reduction of about 26 per cent. in number, the Post Office is now earning an additional revenue amounting to about 1½ lakhs weekly as compared with the revenue earned from letters and postcards during August 1921.

INCOME TAX PAYERS.

12. The HONOURABLE LALA SUKHBIR SINHA : What was the total number in each province of the income-tax payers who filed their accounts under the Income-tax Act ? How many of them were taken as correct for the assessment of income-tax and how many were rejected and assessment was made by the assessing officer according to his own information ?

The HONOURABLE MR. E. M. COOK : I am afraid it is not possible to furnish the information asked for by the Honourable Member. To obtain it, it would be necessary to examine the file of every assessee in every Income-tax Office in India and I do not think the matter is of sufficient importance to justify the trouble involved.

GOVERNMENT LOANS.

13 The HONOURABLE LALA SUKHBIR SINHA : (a) How much fresh loan Government proposes to take within this year and how is it proposed to spend it ?

(b) What is the total amount of National Loan till last March standing against the Government of India ?

(c) When the deficit was only about ten crores of rupees why a much larger loan is going to be taken ?

The HONOURABLE MR. E. M. COOK : (a) A £12½ million sterling loan was raised in June last. It is not possible to say at present whether any further sterling loan will be issued before the close of the current year.

The rupee loan issued this year was for an unlimited amount and the total subscriptions to the loan up to date amount to nearly Rs. 46½ crores. The proceeds of these loans will be mainly devoted to Railway capital expenditure and the grant of advances to meet the capital requirements of Provincial Governments as well as their overdrafts on revenue account ; but a portion will be utilised for funding short term debt and meeting the Central Government's revenue deficit of the year.

(b) The total amount of sterling debt outstanding on the 31st March last was £205 millions and the total rupee debt Rs. 308 crores including Rs. 4 crores of Post Office Cash Certificates. In addition Government had outstanding Rs. 112 crores of Treasury Bills, of which 54 crores were held by the public, and the remainder in the Paper Currency Reserve.

(c) As stated in reply to the first part of the question, the loan is required mainly for purposes other than that of meeting the revenue deficit of the year.

LANDS FOR SUGAR FACTORIES.

14. The HONOURABLE LALA SUKHBIR SINHA : Is Government aware that in September last the Honourable Sardar Jogendra Singh moved a resolution in the Council of State that Government should acquire lands for sugar factories but the resolution was negatived on the ground that it was not the business of Government to acquire private lands for a private company ?

The HONOURABLE MR. B. N. SARMA : The Honourable Member is referred to the Proceedings of the Council of State on the 22nd September 1921 for any information which he may require on this subject.

The Resolution moved by the Honourable Sardar Jogendra Singh was passed by the Council in an amended form and the Government are not prepared to draw the broad and general inference which the Honourable Member suggests in his question.

The HONOURABLE LALA SUKHBIR SINHA : Sir, may I ask a supplementary question to question No. 14 ?

The HONOURABLE THE PRESIDENT : If it arises out of the answer.

The HONOURABLE LALA SUKHBIR SINHA : Will the Government be pleased to inquire from the United Provinces Government why they have acquired a big plot of ground in Mozzufnagar for a private company who will sell it to private individuals for building private shops ?

The HONOURABLE MR. B. N. SARMA : That does not arise out of the question and it relates to another question which has been disallowed.

WAGON-SUPPLY.

15. The HONOURABLE LALA SUKHBIR SINHA : Is Government aware that there is a general complaint about the supply of wagons for the carriage of goods, that the supply of them is often stopped, that such stoppage gives a chance to the Railway staff to make money, and that the goods stocked at the station suffer very much ?

The HONOURABLE MR. H. A. F. LINDSAY : Government are aware that the supply of wagons is not always equal to the demand and that restrictions have at times to be imposed on traffic. The remedy lies in

the provision of additional wagons and of better facilities for their movement. As the Honourable Member is doubtless aware these matters are receiving close attention.

CARRIAGE OF PASSENGERS IN WAGONS.

16. The HONOURABLE LALA SUKHBIR SINHA : (a) Is Government aware that wagons are still used for the carrying of passengers and that on the recent Somawati Mawas fair at Hardwar, of which the Railway authorities had sufficient previous notice, wagons were as a matter of fact used ?

(b) Why carriages were not borrowed from other lines ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) Government are aware of the fact that covered ventilated wagons were used for the conveyance of passengers from Hardwar to Saharanpur—a distance of 50 miles—during the Somawati Mawas fair.

(b) The explanation is that the Oudh and Rohilkhand Railway had four other melas to provide for and that had they not used wagons they could not have cleared in 3 days the large number of returning pilgrims who were waiting for trains at Hardwar. The North Western Railway and East Indian Railway were unable to lend coaching stock.

LIQUOR ADVERTISEMENTS IN BOOKS OF POSTAGE STAMPS.

17. The HONOURABLE LALA SUKHBIR SINHA : (a) Is the attention of the Government drawn to the advertisement of liquors in the books of postage stamps ?

(b) Do Government think it proper to permit the advertisement of liquors in publications of post office ?

The HONOURABLE MR. B. N. SARMA : The attention of Government has been drawn to the advertisements. The matter is under consideration.

INDIAN ENGINEERS ON RAILWAYS.

18. The HONOURABLE LALA SUKHBIR SINHA : (i) Will the Government be pleased to state the numbers of Indian Engineers taken annually during the last five years on each of the following Railways :

Great Indian Peninsula,
East Indian,
Bombay, Baroda and Central India,
South Indian ?

(ii) What has been the percentage of recruitment of Indian Engineers to that of Europeans during the last five years and are all those Indians, who were recruited, still in service ? If not, why ? How many out of them have left service on each line and why ? Did they leave service of their own accord or were their services dispensed with by the authorities ; if the latter, why ?

(iii) Are the emoluments of Indian and European Engineers the same ; if not, why, when they have to do exactly the same sort of work ? Are the annual increments in their pay governed by the same rules ? If not, what is the difference and the reason for it ?

(iv) Is it true that the authorities of the above Railways are generally

averse to taking Indians on their lines and if some are appointed by their Home Boards, they try to get rid of them, instead of encouraging them ?

The HONOURABLE MR. H. A. F. LINDSAY : (i) and (ii) The information is being called for and will be furnished to the Honourable Member.

(iii) I would refer the Honourable Member to the reply to Dr. Gour's question appearing as No. 159* in the Legislative Assembly Debates on the 16th January 1922.

(iv) I am not aware of any such attitude on the part of Boards of Directors or their officers in this country.

SALE OF SALT.

19. The HONOURABLE LALA SUKHBIR SINHA : Will Government be pleased to lay on the table a copy of rules of the new system adopted for the sale of salt by means of agents and to state whether it has had any good result on the price of salt and whether Government has fixed any rate for the sale of salt by these agents, and what are the advantages of the new system when compared with the old one ?

The HONOURABLE MR. H. A. F. LINDSAY : I shall make over to the Honourable Member a copy of the Notification No. 80, dated the 1st July 1921, issued by the Commissioner, Northern India Salt Revenue, publishing the rules containing *inter alia* the instructions for fixing the rate for the sale of salt under the agency system in Northern India. As regards the result of the new system on the price of salt and its advantages when compared with the old system the Honourable Member is referred to the answers given in reply to questions Nos. 696† and 308‡ asked by Mr. J. C. Chaudhuri and Sardar Gulab Singh at the meetings of the Legislative Assembly on the 28th* March 1921 and the 20th† March 1922, respectively.

RAILWAY REFRESHMENT ROOM AT NASIK ROAD.

20. The HONOURABLE MR. LALUBHAI SAMALDAS : Are Government aware that there is no refreshment room at Nasik Road Railway Station ? In view of the growing importance of the Station, will they consider the advisability of opening one ?

The HONOURABLE MR. H. A. F. LINDSAY : Government are aware that there is no refreshment room for 1st and 2nd class passengers at Nasik Road Railway Station. Restaurant cars are run on Mail and Express trains over this portion of the Railway, and the administration which has been consulted doubts the necessity of providing a 1st and 2nd class refreshment room at this station.

BRANCH LINE FROM NASIK.

21. The HONOURABLE MR. LALUBHAI SAMALDAS : Will Government be pleased to state whether it is contemplated to construct a branch railway line between the Nasik Road Station and the city of Nasik ?

The HONOURABLE MR. H. A. F. LINDSAY : The reply is in the negative.

* Vide page 1590 of Volume II, Part II.

† Vide page 1681 of Volume I, Part II.

‡ Vide page 3393 of Volume II, Part III.

PURCHASE OF INDIAN STORES.

22. The HONOURABLE MR. LALUBHAI SAMALDAS : (a) Will Government be pleased to obtain from the Secretary of State for India and lay on the Council table an authorised report of the interview between the Indian High Commissioner and a "Number of members of Parliament who are interested in placing orders for Indian Stores," referred to in the Reuter's telegram published in the Bombay Dailies on 28th July?

(b) Will Government be pleased to say if they have received any communication from the Secretary of State for India on the subject after the interview and, if so, will they be pleased to put a copy of it on the Council table?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The Government of India have received from the High Commissioner and from the India Office copies of the minutes of the proceedings of the meeting of the Members of Parliament with the High Commissioner to which the Honourable Member refers. They have been informed by the High Commissioner, however, that at the outset of the proceedings it was agreed that the minutes should not be made public and that the discussion proceeded on that basis. In the circumstances the Government of India regret that they are not able to lay a copy of the minutes of the proceedings on the table.

(b) The Government of India have received no communication from the Secretary of State on the subject.

WIRELESS STATION FOR WORKING SOUTH AFRICA, INDIA AND AUSTRALIA.

23 The HONOURABLE MR. LALUBHAI SAMALDAS : Will Government be pleased to say whether the information conveyed in the following telegram of Reuter's dated London, July 29th, is correct :—

"Reuter understands that the Post Office is negotiating for the construction of a wireless station for working directly with South Africa, India and Australia. The initial cost is estimated at a million sterling, and the yearly maintenance at half a million."

and, if so, will they be pleased to say what will be India's share in the (1) initial cost, and (2) the yearly maintenance?

The HONOURABLE MR. B. N. SARMA : The news contained in the Reuter's telegram cited regarding the construction of the British Wireless Station appears to be substantially correct. The sums mentioned in the telegram apparently relate to the cost not of the British Station only, but of the scheme as a whole which is contemplated by His Majesty's Government for the establishment of the Imperial Wireless Chain between South Africa, India, Australia and the United Kingdom. Under this scheme the Indian Station is estimated to cost £185,000, inclusive, to erect and £43,000 per annum to maintain and work.

WIRELESS CONNECTION WITH ENGLAND.

24. The HONOURABLE MR. LALUBHAI SAMALDAS : Will Government be pleased to say whether they had received any proposal from a Company or an individual for connecting India by wireless with England, and, if so, will they be pleased to inform the Council of the terms of the said proposal?

The HONOURABLE MR. B. N. SARMA : The Government of India have received an application from the Indian Agent of the Marconi Wireless Company for a license to establish direct Wireless Telegraphic communication between India and the United Kingdom. The application, which was stated in very general terms, included an offer to register a company in India and to erect and work the station on behalf of the Government of India as a link in the Imperial Wireless Chain. The Government of India have also received two offers direct from the Marconi Wireless Telegraph Company, but they do not feel justified in announcing the terms of the proposals made which are of a confidential nature.

ALLEGED PAYMENT OF ROUBLES FOR FOSTERING REVOLUTION.

25. The HONOURABLE MR. LALUBHAI SAMALDAS : Will Government be pleased to say whether there is any truth in the report of Reuters' telegram of 15th June that Zinavieff, President of the 3rd Internationale, stated at a meeting of the Central Committee of Russian Communists that seven million gold roubles were paid to Gandhi's adherents in India for the purpose of fostering a revolutionary spirit?

The HONOURABLE MR. S. P. O'DONNELL : Government have no information as to the accuracy of the statement wired by Reuter.

RAILWAY FREIGHTS.

26. The HONOURABLE SIR DINSHAW WADIA : Will the Government be pleased to place before the Council the present rate of railway freights for articles, enumerated in the following tables, marked A and B, carried to and fro by Indian railways on their respective railway lines, say, for a distance of (a) 10 miles, (b) 25 miles, (c) 50 miles, (d) 100 miles, and (e) 100 miles and upwards?

A.	B.
<i>Imported raw materials and manufactures.</i>	<i>Indian raw materials and manufactures.</i>
1. Raw Cotton.	1. Raw Cotton.
2. Raw Silk.	2. Raw Jute.
3. Raw Wool.	3. Raw Silk.
4. Raw Flax.	4. Raw Wool.
5. Cotton Piece-goods.	5. Cotton Piece-goods.
6. Cotton Yarn.	6. Cotton Yarn.
7. Flax Manufactures.	7. Flax Manufactures.
8. Silk Manufactures.	8. Silk Manufactures.
9. Woolen Manufactures.	9. Jute Manufactures.
10. Salt.	10. Salt.
11. Sugar.	11. Raw Sugar (<i>Gur</i>).
12. Tea.	12. Refined Sugar.
13. Raw Tobacco.	13. Raw Tobacco.
14. Cigarettes.	14. Cigars.
15. Leather Manufacture.	15. Cigarettes.
16. Iron.	16. Tea.
17. Steel.	17. Rice.
18. Other metals.	18. Wheat.
19. Mill Machinery and Mill work.	19. Groundnuts.

A.

Imported raw materials and manufactures.

20. Glassware.
21. Hardware.
22. Earthenware.
23. Mineral Oils.
24. Printing Paper.
25. Timber.
26. Cement.
27. Bricks and Tiles.
28. Coal Tar Dyes.

B.

Indian raw materials and manufactures.

20. Coal and Coke.
21. Cement, bricks, tiles, etc.
22. Iron.
23. Steel.
24. Raw Hides and Skins.
25. Mineral Oils.
26. Seeds.
27. Printing Paper.
28. Fodder.
29. Manure.

The HONOURABLE MR. H. A. F. LINDSAY : The information required by the Honourable Member may be obtained by reference to the General Classification of Goods published by the Indian Railway Conference Association, and to the printed Goods Tariffs of the different railway administrations.

VIZAGAPATAM HARBOUR.

27. The HONOURABLE KHAN BAHADUR SIR AHMEDTHAMBY MARICAIR : (a) Are Government aware that the harbour at Vizagapatam, if improved according to the plan and estimates prepared by the Engineer-in-Chief of the Bengal-Nagpur Railway, will turn out to be an excellent and advantageous one affording good facilities in all directions for sea and rail-borne traffic ?

(b) Is it a fact that the scheme is to be worked by the Bengal-Nagpur Railway by floating a public company for the required capital, and have Government approved this course ?

(c) In view of the advantages to be derived by improving Vizagapatam harbour, will Government be pleased to state what action they propose to take to hasten the commencement of the work of construction ?

The HONOURABLE MR. H. A. F. LINDSAY : (a), (b) and (c) The whole scheme for the development of the Vizagapatam Harbour is under investigation and a final decision in the matter has not yet been arrived at.

INCOME-TAX DEPARTMENT.

28. The HONOURABLE SIR MANECKJI DADABHOY : (a) Will Government be pleased to state what amount of additional expenditure, if any, is entailed by the centralisation of the Income-tax Department and the abolition of the provincial departments ?

(b) In this connection, will Government be pleased to lay on the table a statement showing the new posts created with their respective emoluments in the different provinces throughout India ?

The HONOURABLE MR. E. M. COOK : (a) I regret that it is not possible to answer the Honourable Member's question. In the first place until quite recently, with few exceptions, the work of assessing and collecting income-tax was almost entirely performed by the ordinary revenue staff. It is impossible to calculate what proportion of the cost of the revenue staff represented the cost of the work that they did in connec-

tion with income-tax. The expenditure formerly shown in the budgets under the head "Income-tax" represented merely the cost of the special establishments employed to supplement the work of the land revenue staff. Even at the present time it is impossible to calculate the cost of assessing and collecting income-tax, because the special department is only being organised gradually. For some provinces, (such as Bombay and Burma, with the exception of the headquarter cities) schemes for the re-organisation of the special department have not yet been sanctioned. In other provinces, (such as Madras and Bengal) though complete schemes have been sanctioned, the special establishment is only being organised in the Presidency-towns, and elsewhere the work is still done by the revenue staff.

(b) I refer the Honourable Member to pages 8-14 of the Demands for Grants, 1922-23.

RAILWAY AND REVENUE EXPENDITURE.

29. The HONOURABLE SIR MANECKJI DADABHOY : (a) Will Government be pleased to lay on the table a statement showing the total amount of annual contribution for each railway in each of the last five years charged to the general revenues in terms of the contract by which the Secretary of State has guaranteed a fixed annual return upon the capital of some of the railways known as Light Railways ?

(b) Is it a fact that on some of these railways the working expenses amount to over 90 per cent. of the gross earnings while on similar railways constructed under District Board guarantee in the same part of the country they never exceed 65 or 70 per cent. of the earnings ?

(c) Do Government propose to take any action to enforce reduction in the working expenses ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The Honourable Member is referred to the History of Indian Railways corrected up to 31st March 1921, a copy of which is available in the Library of the Indian Legislature. This will give the requisite information in respect of the years 1917-18 to 1920-21. The figures for 1921-22 are as under :

Guaranteed Payments.			Rs.
Ahmadpur Katwa Railway	..	..	85,971
Burdwan Katwa Railway	..	..	29,238
Bankura Damoodar River Railway	..	..	1,22,720

(b) The answer is in the affirmative. But such a comparison is of little use as the conditions of traffic and of working cannot be held to be similar.

(c) The programme of revenue expenditure on the branch lines guaranteed by the Secretary of State is scrutinised by Government before being sanctioned and the attention of the Branch Line Companies concerned will be drawn to the desirability of reducing working expenses as far as possible.

RANIGUNJ-CALCUTTA CANAL.

30. The HONOURABLE SIR MANECKJI DADABHOY : Will Government be pleased to lay on the table all papers relating to Lord Mayo's

scheme of a canal from Ranigunj to Calcutta for the transport of coal to the port of Calcutta from the coal-fields of Bengal ?

The HONOURABLE MR. B. N. SARMA : The papers relating to the scheme of a canal from Ranigunj to Calcutta for the transport of coal, form part of the Proceedings of the Government of India, and cannot therefore be laid on the table. A précis of the scheme is, however, placed on the table for the Hon'ble Member's information.

Precis of the scheme of a canal from Ranigunj to Calcutta for the transport of coal.

In June 1866, representatives of certain coal companies proposed the construction of a canal to connect the coal fields of Ranigunj with the river Hooghly and in support of their proposal they urged that the inability of the East Indian Railway Company to meet the requirements of the public, and more especially of the rapidly increasing coal trade, had become so patent that considerable difficulties were apprehended for the coal interest. The cost of the canal was roughly estimated at a crore of rupees by the promoters of the scheme and they asked the Government to grant to them the sole right of constructing the canal.

2. In forwarding the proposals to the Government of India, the Government of Bengal suggested the advisability of combining irrigation with navigation, but for several reasons it was decided in consultation with the Secretary of State to assume State control of the project.

In March 1867, instructions were conveyed to the Government of Bengal for the preparation of plans and estimates which were submitted in December 1868. The project as designed was estimated at that time to cost Rs. 50½ lakhs. The works comprised a weir 10 feet high across the Damodar river opposite to Ranigunj, and a canal taking off from left flank of the weir. The canal which was to be about 100 miles in length was designed to serve the double purpose of irrigation and navigation.

3. After careful consideration of the project the Government of India in March 1869, authorised the immediate prosecution of the necessary preliminary measures for commencing the weir and headworks of the canal, but called for more complete and detailed information on various points connected with the project before sanctioning the further prosecution of the works. In April 1870 in furnishing the additional information called for, the Government of Bengal submitted a revised project which was estimated to cost Rs. 60,00,000.

In regard to irrigation, the Government of India considered that there were not sufficient grounds to warrant that the receipts would cover the interest on capital outlay, while the revenue from navigation, was also a very doubtful figure. The Secretary of State agreed with the Government of India in thinking that the project could not be immediately proceeded with without risk of serious financial loss and that it would be wiser to wait until observations of the Irrigation and Navigation Works in operation in the Midnapore and Cuttack Districts should have afforded better means of judging what would be the probable effect of similar works in the country between Ranigunj and Calcutta.

FRONTIER POPULATION.

31. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Will the Government kindly state what is the present total estimated male population of (i) tribal areas, and (ii) settled districts of the Frontier Province ?

(b) How many of the males in each of these two areas are estimated to be armed ?

The HONOURABLE MR. J. P. THOMPSON : (a) The Honourable Member is referred to the Census returns of 1921.

(b) It is estimated that there are about 4,30,000 men in tribal areas who are capable of bearing arms. The tribesmen are believed to possess 172,500 breech-loading rifles and carbines and about 50,000 Muzzle Loading weapons. In the administered districts the border villagers have been

supplied with 18,065 rifles for self-protection. No information is available as to the number of arms held on license in the North West Frontier Province but the information has been called for and will be furnished to the Hon'ble Member when received.

ARMS FACTORIES.

32. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Will the Government kindly state how many factories for the manufacture of arms exist in the tribal areas ? Can they give the names of the places where these factories exist ?

(b) Is it a fact that some Indians work as artisans in these factories ? If so, will they kindly inform this Council what is the total number of workers in these factories and how many of them are Indians ?

(c) Do not the Government consider it desirable to control in some way these factories ? If so, will they explain their policy in connection with these factories ?

The HONOURABLE MR. J. P. THOMPSON : Supplementary information has been called for and a full answer to questions (a) and (b) will be furnished in due course, together with an explanation in reply to question (c).

FRONTIER RAIDS.

33. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly explain whether in case of raids, kidnapping and dacoities in settled districts committed by trans-border people, relations of people, belonging to suspected tribes, and living in settled districts, are proceeded against by the local civil officers ? To what extent does Government follow the system of keeping hostages of different tribes in the settled districts for compelling good behaviour on the part of these tribes ? Do not the Government consider it an effective method for checking offences on the part of tribal people ?

The HONOURABLE MR. J. P. THOMPSON : A Circular recently issued by the Honourable the Chief Commissioner, North-West Frontier Province, on the subject of kidnapping of British subjects, is laid on the table. It will be seen that the Chief Commissioner has laid very great stress on the importance of the arrest of relatives or fellow-tribesmen of the offenders.

It is not the practice of Government to keep hostages from among members of trans-border tribes in British territory in anticipation of tribal misconduct. Such a practice is not regarded as likely to prove an effective method for checking offences. The holding of hostages can only act as a deterrent if Government is prepared to put them to death or inflict other punishment upon them in the event of the misconduct of the tribe they represent, and either course would be opposed to the public conscience. To detain hostages therefore would be to burden the public funds with the cost of their maintenance, without deriving any corresponding advantage.

RULES FOR THE GUIDANCE OF POLITICAL OFFICERS IN THE EVENT OF BRITISH SUBJECTS BEING KIDNAPPED TO INDEPENDENT TERRITORY.

(i) Cases of kidnapping should be reported by telegram to the Chief Commissioner with the least possible delay. The telegram should be followed up in due course by a detailed report showing the steps taken to secure satisfaction for the wronged parties.

(ii) An immediate local inquiry should be made, on the occurrence of such cases, either by the Deputy Commissioner personally or through a trusted subordinate. Investigation should never be regarded as a routine matter to be carried out as soon as the pressure of other work permits.

(iii) In the course of such inquiry particular attention should be paid to discovering whether there are any local abettors of the offenders. Should this be found to be the case, they, or their relatives if the abettors themselves have absconded, should be arrested. The relations of the kidnapped person are often in a position to tell who is the accomplice of the raiders, and who are the relations of the accomplice if the latter is an outlaw.

(iv) It should be considered whether the village as a whole has taken all reasonable steps to prevent the commission of the offence. If it be proved that the village has shown negligence the imposition of a fine under section 22, Frontier Crimes Regulation, should be recommended.

(v) The duty of reporting such offences promptly should be impressed on all headmen. Such reports should include any information available as to the identity of the offenders and the route taken by them, and should be made to the nearest police or frontier constabulary post, whence it should be passed on at once to the Deputy Commissioner, Superintendent of Police and District Officer, Frontier Constabulary.

(vi) On receipt of such information, if in sufficiently good time to render such a course possible, the Deputy Commissioner will make arrangements for the pursuit of the gang and for the holding of positions where there is a likelihood of intercepting it.

(vii) All information as to the identity of the raiders and the route taken by them should be communicated promptly by Deputy Commissioners for necessary action on the lines indicated in these rules to the other Political Officers concerned.

(viii) The baramta is an effective weapon by which to secure the release of kidnapped persons and should be resorted to promptly and automatically by Political Agents. Most effective, if this is possible, is the sectional baramta; if the actual section concerned cannot be touched, action should invariably be taken against other sections through which pressure may be brought to bear on the guilty parties. Tribal responsibility must be enforced and the tribe as a whole must be taught by bitter experience that kidnapping leads to tribal inconvenience.

(ix) The baramta should also be employed freely by Deputy Commissioners*, but as its effectiveness is in direct ratio to the knowledge possessed of the tribesmen concerned, the Political Agent responsible for the tribe should ordinarily be consulted. If, however, delay will lead to the loss of a valuable opportunity the Deputy Commissioner should make the arrests and inform the Political Agent concerned that he has done so. In such cases the Deputy Commissioner need not pause for any delicate consideration of a political nature. Such questions can be settled at leisure.

(x) Political Agents should issue a warning to the tribes under their control indicating the measures prescribed in these rules.

(xi) The armament of British villages near the border should be generously increased, both by the issue of licenses to keep private arms and of Government rifles for village defence. Where more arms of the latter description are required for distribution in their districts, Deputy Commissioners should not hesitate to make application to the Chief Commissioner for them.

(xii) The relatives of kidnapped persons should be discouraged from paying ransom on the ground that by so doing they give an impetus to the very series of outrages against which it is desired to guard. At the same time such discouragement cannot be effective unless Government can show that it is able to secure the release of captives without ransom.

(xiii) In order to impress upon our fellow subjects Government's lively sense of their sufferings in this matter, and its determination to assist them the names of all kidnapped persons (other than women) should be prominently displayed on a board outside the Deputy Commissioner's office until the day when the captive is released. With the same object all possible publicity should be given to action taken by Government to secure the release of captives.

(xiv) The activity of officers, British and Indian in carrying out these instructions and stamping out this reproach to the Administration will be specially noted. All assistance accorded by private individuals should be suitably and promptly

*Attention is invited to the provisions of Section 21, F. C. R.

rewarded, application being made, if necessary, to the Chief Commissioner for the funds required.

(xv) Any criticism on the working of these rules and any suggestion for their improvement should be communicated to the Chief Commissioner.

FRONTIER COMMITTEE'S REPORT.

34. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state whether they have decided to place the Report of the Frontier Committee on the table of this Council? Will they consider the desirability of placing this Report in the hands of the members of the Indian Legislature in the earlier days of the September Session of the Legislature? By what time is the Government expected to have considered the Frontier Committee Report, and when is the decision of the Government on the Report likely to be published?

The HONOURABLE MR. J. P. THOMPSON : The Report will be placed on the Table in due course, but it is not likely to be ready before the end of this month. Government are not at present in a position to say how long it will take them to consider the Report or when it will be possible to publish such orders as may be passed on it.

ACWORTH COMMITTEE REPORT.

35. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to state if any recommendations of the Acworth Committee on Indian Railways have so far been given effect to and, if so, what these recommendations are, and in what definite shape they have been given effect to?

The HONOURABLE MR. H. A. F. LINDSAY : As the Honourable Member knows, proposals of the Acworth Committee regarding Finance have already been examined by a special committee of the Legislature. A Central Advisory Council has also been constituted though not quite on the lines proposed by the Committee, and this Council has lately considered the recommendations of the Committee in regard to the future management of Railways with special reference to the East Indian Railway and Great Indian Peninsula Railway. It has also considered the question of Local Advisory Councils and it is hoped soon to place before it the question of establishing a Rates Tribunal.

STATE-OWNED INDIAN RAILWAYS.

36. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Have the Government arrived at any decision in the matter of the transfer of the control of the leading State-owned lines of Indian Railways from the hands of Companies directly to those of the State?

The HONOURABLE MR. H. A. F. LINDSAY : The answer is in the negative.

TRANSPORT AND COMMUNICATIONS DEPARTMENT.

37. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Is it intended, as suggested by the Acworth Committee, to introduce a new portfolio for Transport and Communications in the Executive Council of the Governor General? If so, will it involve any

reshuffling of the existing portfolios of the Government ? And if so, on what lines is this readjustment of work likely to be based ?

The HONOURABLE MR. H. A. F. LINDSAY : It has been decided that action on the suggestion referred to must be deferred, pending the report of the Retrenchment Committee.

FISCAL COMMITTEE'S REPORT.

38. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to state the time when the report of the Fiscal Committee may be published in India, and if it is the intention of the Government to place its chief recommendations before a joint committee of the Council of State and the Indian Legislative Assembly before any action is taken upon them ?

The HONOURABLE MR. H. A. F. LINDSAY : The Government of India propose to publish the Report of the Fiscal Commission as soon it is received by them. They have been in communication with the President of the Commission, the Honourable Sir Ibrahim Rahimtoola, on the subject. He has explained that though the Report has been signed by all the members, five members signed it expressly subject to dissent, and that till their dissenting minutes are incorporated, the Report does not become complete and ready for presentation.

As at present advised, the Government of India do not contemplate appointing a Committee to consider another Committee's report.

The HONOURABLE SIR ALEXANDER MURRAY : Sir, may I ask on what date the Report was signed, and what is the actual reason for the delay in submitting it ?

The HONOURABLE MR. H. A. F. LINDSAY : The Report was signed on the 6th July. The answer that I have given explains the reason for the delay. The Minority Report has not yet been received, but has been promised in a few days' time.

CALCUTTA HIGH COURT.

39. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Is there any proposal before the Government of India to transfer the control of the High Court of Calcutta from the Government of India to the Government of Bengal, and, if so, will the Government be pleased to consult the leading public associations of Bengal before any decision is arrived at on this matter ?

The HONOURABLE MR. S. P. O'DONNELL : The Government did consider some time ago the question, but decided then not to proceed further with it for the present.

MR. SASTRI'S MISSION.

40. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to state the total cost of the Right Honourable Srinivasa Sastri's mission to Australia and New Zealand, and lay on the table the net results of his mission in that part of the British Empire ?

The HONOURABLE MR. B. N. SARMA : I am unable to state the total cost of the mission of the Right Honourable Srinivasa Sastri to Australia and New Zealand as the expenditure incurred has not yet been reported

to the Government of India, but I may mention that the Governments both of Australia and New Zealand kindly requested Mr. Sastri to consider himself as their guest during his stay in those Dominions.

The following are the immediate results of Mr. Sastri's mission. The Queensland Government have approved regulations exempting all British subjects of any native race of India who were lawfully domiciled in Queensland at the commencement of the Banana Industry Preservation Act, 1921, and who have continuously remained so domiciled from the operation of the Act which made it almost impossible for Indians, unless specially exempted, to engage in the banana industry. In South Australia, the Government have decided to remove the only disability from which Indians suffer in that colony by amending their Irrigation and Reclaimed Lands Act, 1914, which disqualified all Asiatics from acquiring lands dealt with in the Act and to make it applicable to alien Asiatics only. The Commonwealth Government have given an assurance that steps will be taken at an early date to enable Indians in Australia to participate in the benefits of old age pensions equally with other citizens in the Commonwealth. The Universities in Australia, with the exception of the University of Brisbane in which accommodation is very limited, have expressed their willingness to admit a limited number of Indian students in accordance with their ability to accommodate them and to consider any schemes prepared by the Indian Universities for the inter-change of lecturers for short periods. As regards the franchise, the Governments of the Commonwealth and Western Australia have promised sympathetic consideration, while the State of Queensland, the only other State in which the right is not possessed by Indians, awaits the lead of the Commonwealth Government.

Apart from these achievements Mr. Sastri has been conspicuously successful in removing ignorance and prejudices concerning Indians and in creating an atmosphere favourable to their claims. In this connection a letter addressed to Mr. Sastri by the Premier of Australia on the eve of the former's departure from Australia is laid on the table.

Copy of letter from the Right Honourable W. M. Hughes, Premier of Australia, to the Right Honourable Srinivasa Sastri.

On the eve of your departure from Australia I desire to set out the position of the Commonwealth Government in regard to the representations you have made. First let me say how pleased we are that you have been able to accept our invitation to visit Australia and see for yourself our country and its people. Your visit has been one of Imperial significance and has afforded the people of Australia an opportunity of realising something of the vastness and complexity as well as the splendour of our Empire. Your presence here has been of itself an education to many amongst us. You have by your speeches and your presence lifted the curtain of prejudice and want of knowledge and revealed to us some thing of India as it really is. By those admirable speeches of yours you have educated public opinion inside and outside Parliament, made that possible which before your visit was impossible and you have brought those reforms covered or suggested by the resolutions of the 1918 and 1921 Conferences within the range of practical politics. By your eloquence and by your logic you have made out such a case for those of your countrymen lawfully domiciled within the Commonwealth as will, I believe, secure in the Commonwealth and State legislatures the support necessary to make the amendments of the law that you ask for. I cannot of course speak on behalf of the States, but for the Commonwealth I can at least say this, that the Leaders of all Parties have, as you are aware, expressed publicly their admiration of the manner in which you have stated your case and their appreciation of its merits. This question of the disabilities under which your countrymen suffer is no Party one. As you have very justly pointed out

it has a wide Imperial application: It is from this high plane that you have asked us to look at it, and I have no doubt that the Leaders of the other Parties in the Federal Parliament will do so. Certainly I shall. As to your request that your fellow countrymen resident in Australia shall participate in the full benefits of old age pensions, my Government will at a very early date take such steps as will place them on a footing of equality with all other citizens of the Commonwealth. Here again let me assure you that this course is made immediately possible by your visit and your advocacy. In regard to the Franchise, although I am not able to speak on this subject with such assurance, and such finality as on the old age pension question, I do not hesitate to repeat in the plainest possible terms that you have brought within the range of practical politics a reform which but for your visit would have been most improbable if not impossible of achievement, and you will I hope succeed in your interview with Mr. Charlton Leader of the Labour Party and with Dr. Earle Page, Leader of the Country Party, in inducing them to co-operate with the Government in order that those of your fellow countrymen who are still denied the Franchise shall receive it. I can only conclude by again assuring you that your brilliant advocacy on behalf of your country has borne good fruit. If there are any temporary delays in the realisation of the aspirations you have so ably voiced do not be impatient. You have achieved wonders and in my opinion removed for all time those prejudices and misunderstandings which formerly prevented the admission of your countrymen resident in Australia to the enjoyment of the full rights of citizenship.

HIGH COMMISSIONER FOR INDIA.

41. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to state the total cost of the establishment in London of the High Commissioner for India for the years 1920-21 and 1921-22, and the names of the members of the staff in that establishment who now draw a salary of more than £300 a year ?

The HONOURABLE MR. H. A. F. LINDSAY : The High Commissioner's Office has been in existence since the 1st October 1920. The total actual cost of his establishment (including departmental expenses) was £131,400 for the period 1st October 1920 to 31st March 1921 and £175,024 for the period 1st April 1921 to 31st March 1922.

Sixty-eight members of the staff drew in December 1921 a salary of more than £300 a year. The trouble and expense involved in collecting and supplying a list of the names of these officers would be out of all proportion to the value of the information, and Government regret therefore that they are unable to furnish this information.

COST OF RAISINA.

42. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to state the amount of money that will still be required to complete the new capital at Raisina, and the number of years which will be required for its completion ?

The HONOURABLE MR. B. N. SARMA : (i) Computed with effect from the 1st April 1923, it is estimated that according to the Schedule of works provided for in the Revised Project Estimate a further sum of Rs. 484 lakhs gross will be required to complete the New Capital at Delhi.

(ii) The number of years required to complete the work depends very largely on the amount allotted from year to year. If, as it is hoped, it will be possible to set aside annually the amounts which the engineers can usefully spend, this would ordinarily enable the work to be completed in 1926.

PRESS PIECE-WORKERS.

43. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Would Government be pleased to state the time when the Report of the Committee, appointed to consider the grievances of the piece-workers in Government Presses and which commenced its sittings in January last, is expected to be published ?

The HONOURABLE MR. H. A. F. LINDSAY : The report of the Piece-workers' Committee has been published, and copies have been distributed to Members of the Legislature.

PRESS COMPASSIONATE FUND.

44. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : (a) Do Government maintain a fund called the Compassionate Fund in the interest of the employees of Government presses ?

(b) If the answer to the above question be in the affirmative, will Government be pleased to state :—

- (i) the year when the fund was inaugurated
- (ii) the source of its income ;
- (iii) total amount of the fund up to March last ;
- (iv) the Bank or Banks in which it is deposited ; and
- (v) the number of piece-work employees benefited by this fund up to March last, and the extent to which such benefits have been extended to them, individually and collectively ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) There is no fund called the "Compassionate Fund" maintained specially by Government for their press employees. Press Fine Funds have, however, been instituted with effect from the beginning of the current financial year, the assets of which will be applied to the relief of distress among press-workmen and their families.

(b) (i) A fine fund for each Government of India press was inaugurated with effect from 1st April 1922.

(ii) Fines recovered from press employees other than pye fines and fines levied for bad work which involves loss to Government.

(iii) Nil.

(iv) The assets of the fund are deposited monthly in the Post Office Savings Bank.

(v) This does not arise in view of the answer to sub-question (i) above.

COST OF PRESS STAFF.

45. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Would Government be pleased to state the establishment costs of the salaried staff and piece-workers of its presses respectively for the years 1919 and 1921, at Delhi, Simla and Calcutta ?

The HONOURABLE MR. H. A. F. LINDSAY : The establishment cost of the salaried staff and piece-workers in the Delhi, Simla and Calcutta

presses for the years 1919-20 and 1921-22 is as follows —

		1919-20. Rs.	1921-22. Rs.
DELHI.			
Salaried staff	...	1,18,552	1,54,834
Piece-workers	...	1,57,023	1,78,520
SIMLA.			
Salaried staff	...	1,24,575	1,94,831
Piece-workers	...	92,654	1,28,522
CALCUTTA.			
Salaried staff	...	3,58,182	4,68,070
Piece-workers	...	4,37,806	5,66,441

The above figures do not include the cost of the Books (Publication) Branch in Calcutta ; this branch is entirely separate from the ordinary press work.

REDUCTION OF PRESS STAFF.

46. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : (a) Is it a fact that out of 438 piece-work compositors in the Government of India Press, Calcutta, the services of 172 men (i.e., 39 per cent.) have been dispensed with on the score of paucity of work ?

(b) If answer to the above question be in the affirmative, will the Government be pleased to state if any similar reductions have also been effected in the Lino and Mono Sections and salaried staff of the above establishment in Calcutta, and, if so, to what percentage of its actual strength ?

(c) To what extent have Government orders to private printing establishments been reduced owing to this paucity of work in the Calcutta Press ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The statement is incorrect ; at no time that can be traced was the number of piece-work compositors in the Calcutta press 438, nor have the services of 172 men been dispensed with on account of the paucity of work. Seventy-five piece-work compositors, however, out of a total of 482 hands were discharged in May 1922, partly on account of the reduction in the amount of work required to be done at the press and partly on account of the installation of new machinery.

(b) No reductions have been made in the Lino and Mono sections ; these have been enlarged on account of the installation of new machinery. In this part of the question the reference to "salaried hands of the above establishment" is not clear, but if the Honourable Member means salaried hands outside the Lino and Mono sections, the answer is that 7 per cent. of the Reading Branch, 4½ per cent. of the section-holders, 3½ per cent. of the proof pressmen and 3 per cent. of the coolies have also been discharged ; in addition to these, 14 copy-holders have been served with notice of discharge with effect from the 31st August 1922. Payment of overtime to salaried hands has ceased, and if some modification can be made in the recently introduced leave rules, which necessitate the retention of a large leave reserve, the number of salaried hands will be further reduced.

(c) The work which is given on contract to private printing presses, e.g., stock books and forms, is of a nature which cannot conveniently

be dealt with in the Government presses ; except for reduced print orders due to the decreased demand for such books and forms, no other specific reductions are possible.

COST OF MONOTYPE STAFF.

47. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will Government be pleased to make a statement as to the establishment cost of the Monotype and Mono Miscellaneous sections of the Government Press in Calcutta and the volume of work done by them, estimated in terms of money, for the years 1910 and 1920, respectively, and the cost incurred by Government and the volume of work done, estimated in terms of money, annually by the hand-compositors of its presses respectively for the same period ?

The HONOURABLE MR. H. A. F. LINDSAY : The following statement gives the information required so far as it is available. Statistics of the year 1920-21, however, are vitiated by the strike of piece-workers which took place during that year. Salaried hands were paid full rates during the strike period, while outturn of piece-work was stopped for a prolonged period.

	1910-11.		1920-21.	
	Hand composing.	Mono.	Hand composing.	Mono.
	Rs.	Rs.	Rs.	Rs.
Value of composition at piece rates deduced from number of ens set up.	Not available.	22,505	1,82,133	34,737
Total cost of establishment concerned	4,53,028	34,917	3,08,518	44,733

EARNINGS OF PIECE WORKERS.

48. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : With reference to an assurance given by the Honourable Mr. Lindsay in the Council of State on the 26th September 1921, will Government be pleased to state the actual collective monthly earnings of the piece-workers in the Government Presses, class by class, twelve months previous to the introduction of the new scale in July 1920, and their earnings month by month for the year 1921 ?

The HONOURABLE MR. H. A. F. LINDSAY : The Honourable Member is referred to the statement at page 14 of the report of the Piece-workers' Committee which shows the average, not the collective, monthly earnings ; it is hoped that this information will meet the purposes of the Honourable Member.

PRINTING OF CENSUS FIGURES.

49. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Is it a fact :—

- (1) that the printing of census figures of India, including the Provinces, for 1911, was done by hand-composition ?

(2) that the printing of the same for the year 1921 was done in Monotype machines ?

(3) If answers to the above questions be in the affirmative, will the Government be pleased to state the costs of printing incurred by it for the above in the years 1911 and 1921, respectively ?

The HONOURABLE MR. H. A. F. LINDSAY : (1) The census figures of India in 1911 were printed both by hand and machine composition.

(2) The census figures of 1921 are being printed both by hand and machine composition.

(3) The detailed figures for 1911 are no longer available, the records having been destroyed, and the work connected with the 1921 census is still in progress. It may be mentioned, however, that applying the conditions and rates obtaining in 1911 to five representative pages of the 1911 census report, the cost of mono setting would amount to Rs. 20-3-4, while the cost of handsetting would amount to Rs. 23-12-5. In 1921 the cost of 12 representative pages in the mono machine works out at Rs. 42-14-0 ; if set by hand, they would cost Rs. 59-3-3.

PAYMENT TO PIECE-WORKERS.

50. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : (a) Is it a fact that Government had promised payment, according to class rates, to piece-workers, for periods in normal working hours during which they have to remain idle ?

(b) If so, will Government be pleased to state in how many cases the men of the Calcutta Press have been given such waiting charges since 1920 ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) Yes.

(b) The total amount paid since 1920 in the Calcutta Press is Rs. 151-7-11 : the total is made up of a large number of small payments.

COMPOSITORS AND BINDERS.

51. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will Government be pleased to show the highest and lowest class-rates of Compositors and Binders, respectively, in the Government Presses before and after the introduction of the new scale in July 1920 ?

The HONOURABLE MR. H. A. F. LINDSAY : The rates are as follows :—

	Before July 1920.		After July 1920.	
	Highest.	Lowest.	Highest	Lowest.
<i>Calcutta Press—</i>				
Compositors ...	Rs. A. P. 0 4 0	Rs. A. P. 0 1 0	Rs. A. P. 0 7 5	Rs. A. P. 0 1 5
Binders ...	0 1 9	0 0 7	0 6 7	0 1 0
<i>Delhi Press—</i>				
Compositors ..	0 4 3	0 1 0	0 7 0	0 1 5
Binders (Warehouse) ...	0 1 9	0 0 4	0 3 0	0 1 0
<i>Simla Press—</i>				
Compositors ...	0 4 0	0 1 0	0 8 0	0 2 7
Binders ...	(Salaried hands.)			

PAYMENT TO LALCHAND AND SONS.

52. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : (a) Will Government be pleased to refer to the statement made by the Controller of Printing, Stationery and Stamps, India, in forwarding to Government the annual statistical returns showing the working of the Government of India Presses, to the effect that, during 1920-21, the payments for "outside printing" to Messrs. Lalchand and Sons were less than the payments for 1919-20 by Rs. 2,62,208 ?

(b) Will Government be pleased to explain this statement with reference to the statement laid on the table of this House by the Honourable Mr. Lindsay in reply to Question No. 159 of the 26th September 1921, showing that the total amount paid to Messrs. Lalchand and Sons during 1919-20 was Rs. 1,36,005 ?

(c) What amount was paid to Messrs. Lalchand and Sons during 1920-21 for printing orders placed with them ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) and (b). The figure Rs. 2,62,208 is correct. The figure given by me refers to payments for the actual operations of composing, plate-casting and printing alone. The total amount paid to the contractor in the year 1919-20 was Rs. 9,78,718, which includes also the cost of warehouse and binding work, banding, tag-labels, telegraph rolls, storage, distribution and contingencies.

(c) The total amount paid to Messrs. Lal Chand and Sons in 1920-21 was Rs. 7,16,510, of which Rs. 1,56,550 represents payment for the items referred to in my answer of the 26th September 1921.*

CLASSIFICATION OF PIECE-WORKERS.

53. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : (a) Is it a fact that the promotion of piece-workers in Government Presses, from one class to another, depends on their capacity of earning a certain fixed amount of money monthly every year ?

(b) Will the Government kindly state if there has been a re-classification of the piece-workers in the Calcutta Press in the light of the 40 per cent. increment given to them in 1921 ?

(c) Have a very large section of the piece-work compositors of the Government of India Press, Calcutta, been losers by another classification effected in August 1922, as compared to the classes attained by the men by the classification of 1921 ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) Yes.

(b) Yes.

(c) Under the ordinary rules governing the classification of piece-workers, 18 compositors have recently been reduced in class, but the work connected with the annual re-classification has not yet been completed.

INDIANISATION OF CIVIL SERVICE.

54. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : (a) Has the attention of the Government been drawn to a statement of the "Morning Post" of London to the effect that the Government of India have invited the opinion of the Local Governments in the matter of the further Indianisation of the Civil Service, suggesting the elimination or the reduction of the European element from it ?

(b) If any such circular has been issued, or opinion invited in the matter, will the Government be pleased to lay on the table a copy of the

* Vide page 368 of Volume II.

same, together with all correspondence that has transpired on the subject between the Central Government and the various local Administrations on the one hand, and between the Secretary of State for India and the Government of India on the other ?

The HONOURABLE MR. S. P. O'DONNELL : (a) Government have seen the statement referred to.

(b) The letter referred to has already appeared in the columns of the Press. The Government are not prepared to lay on the table any of the other papers referred to by the Hon'ble Member.

INTERVIEW OF LEGISLATIVE COUNCIL MEMBERS BY GOVERNMENT SERVANTS.

55. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to state if the Home Department or the Railway Board or any other Department of the Government of India have issued any circular or notice intimating to employees in their Departments that they will be severely dealt with, under "Conduct Rules," if they interview any members of the Legislative Councils for the purpose of ventilating their grievances ? If so, will the Government be pleased to lay on the table a copy of the circular or notice in question and the date of its issue ?

The HONOURABLE MR. S. P. O'DONNELL : It will be seen from the copy of the orders in question which I lay on the table that Government servants have been informed that communications to Members of the Legislature which involve a breach of rule 17 of the Government Servants' Conduct Rules will be severely dealt with.

Office Memorandum No. F-369-Public, dated 8th June 1922.

From—The Government of India, Home Department,
To—All Departments of the Government of India (including the Financial Adviser, Military Finance) and the Office of the Private Secretary to the Viceroy and Military Secretary to the Viceroy.

Cases have come to the notice of the Government of India in which members of the Secretariat establishments have approached Members of the Legislatures with a view to having their individual grievances made the subject of interpellations in the Chambers. Apart from the fact that the questions involved are rarely, if ever, of public importance, the practice usually entails the disclosure to non-official persons of information which has been obtained from official sources or has come into the possession of the member of the Secretariat in the course of his official duties ; and any such disclosure is a breach of rule 17 of the Government Servants' Conduct Rules. The undersigned is therefore directed to request that the attention of the office establishment in the Foreign and Political Department, etc., may be drawn to the provisions of this rule and that they may be warned that any communication to a Member of the Legislature which involves an infringement thereof will be severely dealt with. It is further requested that the substance of this Memorandum may be communicated to the offices subordinate to the Foreign and Political Department, etc., if any, for information and necessary action.

POLITICAL PRISONERS.

56. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : (a) Will the Government be pleased to state if it is a fact that persons convicted for political opinions and mischievous political activities are variously treated in the jails of the different provinces of India ?

(b) If the reply to the above be in the affirmative, do the Government intend to take action to put their treatment under some common and uniform rules in all the provinces of India and to bring Indian

jail practice in the matter of the treatment of such prisoners into line, as far as may be, with the practice in force in England ?

The HONOURABLE MR. S. P. O'DONNELL : (a) The rules passed under section 60 of the Prisons Act have not been uniform in all provinces.

(b) The Government of India have recently addressed all Local Governments on the subject of the treatment of persons convicted of offences in connection with political movements and have indicated the principles which they desire to see followed in this matter.

REVENUE OF GOVERNMENT DEPARTMENTS.

57. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to state the amounts, item by item, by which the actual receipts have fallen short of the budget estimates under the following heads for the period from April 1922 to July 1922 :—

- (a) Customs ;
- (b) Railways ;
- (c) Irrigation ;
- (d) Income-tax ; and
- (e) Postage stamps ?

The HONOURABLE MR. E. M. COOK : The budget estimates are framed for the year as a whole, and it is not possible therefore to compare actual receipts with budget estimates for any period less than the complete 12 months. I shall, however, at a subsequent meeting, be giving certain information regarding the progress of revenue in the current year, in reply to a question of which the Honourable Mr. Sethna has given notice.

AERIAL MAIL SERVICE.

58. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : (a) Has any scheme been submitted to the Government of India for the establishment of an Aerial Mail Service between London, on the one end, and Calcutta, or Bombay or Karachi, on the other ?

(b) If the answer to the above be in the affirmative, will the Government be pleased to lay on the table the main details of the scheme and the decision of the Government on it ?

The HONOURABLE MR. B. N. SARMA : (a) The answer is in the negative.

(b) The question does not therefore arise.

POSTAL DEPARTMENT RECEIPTS.

59. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to state—

- (a) the total receipts in the Postal Department from the date of the operation of the new rates of postage stamps up to the end of July last and also the amounts of the total receipts under the same head for the corresponding periods of the years 1919, 1920 and 1921 ;
- (b) the amount of receipts under the head of Railways for the period April to July last and the corresponding periods of 1919, 1920 and 1921 ?

The HONOURABLE MR. E. M. COOK : (a) I regret that I have not yet been able to obtain the figures regarding the revenue from the new postal rates ; I will send them to the Honourable Member as soon as received.

(b) The figures are :—

	Lakhs.
1919.—April to July	26.40
1920.—April to July	27.20
1921.—April to July	28.97
1922.—April to July	30.46

The figures for the first three years include the receipts on account of freight tax which was merged in the goods rates with effect from the 1st April 1922.

INDIAN CIVIL SERVICE ALLOWANCES AND PENSIONS.

60. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to state the various kinds of allowances and pensions now being paid to the members of the Indian Civil Service and the collective amount paid under these heads, and make a statement as to how the scale of their salary and allowances in the different departments of service has been modified during the last two years ?

The HONOURABLE MR. S. P. O'DONNELL : As regards pensions, I will give the Honourable Member a copy of the Home Department Resolution No. 1918, dated the 20th November 1919, which contains the information required.

As to pay and allowances, the Honourable Member is referred to the statement printed on pages 320-334 of the Legislative Assembly Debates, Volume II—No. 4, showing the pay of the various important services in 1917 and 1921, which will perhaps serve his purpose. There has been no general modification in the scale of pay and allowances of the Indian Civil Service within the last two years, except slight modifications* in the scale of overseas pay which were made for the reasons given in paragraph 5 of the Finance Department Resolution No. 1559-E.A., dated the 16th August 1921, a copy of which will also be supplied to the Honourable Member.

The HONOURABLE SIR ARTHUR FROMM : May I, Sir, with your permission, ask a supplementary question arising out of question No. 38, if the Honourable Mr. Lindsay has no objection ?

The HONOURABLE THE PRESIDENT : I would point out that a supplementary question must be put after the question to which it is supplementary has been answered. To allow a supplementary question to be put at the end of question time would be a rather dangerous precedent, and I think I must refuse to allow the Honourable Member's request.

* Substitution of Rs. 200 for Rs. 150 in the 7th year of service and of Rs. 250 for Rs. 200 in the 10th and 11th years of service.

ADJOURNMENT OF HOUSE.

The HONOURABLE THE PRESIDENT : I have received from the Honourable Mr. Sethna a motion for the adjournment of the House to discuss a matter of public interest. I think the matter is clearly blocked by the rule against anticipation, and I understand that the Honourable Member wishes to withdraw his motion.

The HONOURABLE MR. PIIIROZE SETHNA : I do, Sir.

The HONOURABLE THE PRESIDENT : That then is disposed of.

NOMINATION OF PANEL OF CHAIRMEN.

The Honourable the President then read a message from His Excellency the Governor General regarding nomination of panel of Chairmen. The message ran as follows :—

"In pursuance of the provisions of sub-section (2) of section 63-A of the Government of India Act, I, Rufus Daniel, Earl of Reading, hereby nominate the following Members of the Council of State to be on the Panel of Chairmen of the said Council of State :

In the first place, the Honourable Sir Alexander Robertson Murray ; in the second place, the Honourable Sir Maneckji Byramjee Dadabhai ; in the third place, the Honourable Sir Dinshaw Edulji Wacha ; and lastly, the Honourable Sir Zulfiqar Ali Khan.

(Sd.) READING,

Viceroy and Governor General."

The HONOURABLE THE PRESIDENT : I understand information has been received regarding Bills assented to by the Governor General.

BILLS ASSENTED TO BY GOVERNOR GENERAL.

The SECRETARY OF THE COUNCIL : Sir, information has been received that His Excellency has been pleased to grant his assent to the following Bills :—

The Ranchi Mental Hospital Act, 1922.
The Press Law Repeal and Amendment Act, 1922.
The Indian Ports (Amendment) Act, 1922.

STATEMENT LAID ON THE TABLE.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : Sir, I lay on the table the information promised in reply to a question* by the Honourable Mr. Lalubhai Samaldas on the 17th January, 1922, regarding the number of colleges and recognised schools which have disaffiliated themselves from Universities (other than the Calcutta University), and the number of students in such institutions at the time of disaffiliation.

* Vide page 548 of Volume II, Part II.

Province.	No. of Colleges.	No. of Schools.	No. of Students.	REMARKS.
Madras	Nil.	Nil.	Nil.	*Of this number 5 schools with 2,608 students dis-affiliated on account of being nationalised. No college or school under the control of the Board of Intermediate and Secondary Education at Dacca disaffiliated itself from the Board.
Bombay	1	26*	4,923	
Bengal	...	...	...	
United Provinces	Nil.	Nil.	Nil.	
Punjab	1	5	2,374	Thirteen schools with 2,446 pupils were converted into National Schools. † In addition 1 school was 'nationalised' two months after recognition by the Patna University. Roll number figures not available.
Burma	Nil.	Nil.	Nil.	
Bihar and Orissa	Nil.	5†	1,407	
Central Provinces	Nil.	1	197	
Assam	Nil.	Nil.	Nil.	
Coorg	...	Nil.	Nil.	
Delhi	1	Nil.	Nil.	
North-West Frontier Province	Nil.	Nil.	Nil.	
Administered Areas	Nil.	Nil.	Nil.	

HINDU CEREMONIAL EMOLUMENTS BILL.

The SECRETARY OF THE COUNCIL : Sir, in accordance with rule 25 of the Indian Legislative Rules I lay on the table a Bill to amend the law relating to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies, which was passed by the Legislative Assembly at its meeting of the 28th March, 1922.

RESOLUTION RE REDUCTION OF MEMBERS OF GOVERNOR'S EXECUTIVE COUNCIL.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhamadan) : Sir, I beg to move :

"That this Council recommends to the Governor General in Council that representation should be sent to the Secretary of State urging, in view of the serious financial condition of India, and the consequent necessity for retrenchment in expenditure, that the number of members of a Governor's Executive Council should, in no province, exceed two, and that every Governor of a Governor's province should be advised not to appoint more than two ministers to administer transferred subjects."

The object of my Resolution, Sir, is to suggest a direction in which retrenchment, so urgently necessary in the present days of financial stringency both in the Central and Provincial Governments, could be effected without impairing the efficiency of the administration. My Resolution aims at a reduction in the number of Executive Councillors and Ministers in some provinces in this country. This Council will remember that at its very first Session in Delhi, in answer to a question by my Honourable friend Raja Pramada Nath Ray, the Honourable the Home Member, Sir William Vincent, placed a statement on the table on the 14th February 1921. According to that statement, in eight provinces in India the reformed constitution under the Government of India Act of 1919 had been introduced and in three out of the eight, the number of Executive Councillors was increased from three to four and the responsible part of government entrusted to representatives of the people was made over to three Members called Ministers.

This was, Sir, in regard to the provinces of Bombay, Bengal and Madras. In one of the Provinces, namely, Bihar and Orissa, there were three Executive Members of Council and two Ministers; the Council may remember that on the very same day that Raja Pramada Nath Ray's question was answered the Honourable the Home Member also replied to a question from me as to why the recommendation made in the Parliamentary Joint Committee's report, that an equality should be maintained in the number of European and Indian Members of Council, was not carried out in that Province. The Honourable Sir William Vincent's reply was to the effect that there were in Bihar and Orissa three Executive Members of Council, two Europeans and one Indian, and that if to bring about an equality in the numbers of Europeans and Indians, one extra Indian Executive Councillor were appointed, there would have been not enough work for the four; on the other hand, if the number of European Executive Councillors was reduced from two to one, then Sir William contended that the European element in the Executive Council of the Government of Bihar and

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Orissa would be reduced to a very low percentage, an answer with which I believe the Council was not satisfied. But some weeks later in another place Government gave an assurance of some kind according to which when the period of office of the two European Executive Members of Council in Bihar and Orissa terminates, there will only be appointed one European Member and not two—which of course is satisfactory. The reason why the Honourable Sir William Vincent said the European element would be reduced to a low percentage was because at that time the Governor of the Province was also an Indian.

The Council will therefore see that my Resolution affects principally three Provinces, and only partially Bihar and Orissa. In regard to the four other Provinces, namely, the United Provinces, Punjab, Assam and the Central Provinces, there have been appointed only two Executive Members of Council and two Ministers in each. Now, during the days of autocracy before the Reform constitution came into existence, these three Provinces, namely, Bombay, Bengal and Madras, had beside the Governor only three Executive Councillors. Therefore the first effect of the Reform constitution on these provinces has been to increase very considerably the number of the Executive and consequently the expenditure involved in their salaries, etc.

I know, Sir, that the Reform constitution has brought about in its train very considerable additional work for carrying out the government of the country. The Reform constitution, by its general spirit no less than by the partial transfer of responsibility to the representatives of the people, has undoubtedly added to the work. However much democracy may be hedged in by qualifications and limitations, yet the fact cannot be denied that the introduction of the element of democracy must create new duties, must lead to new methods of discharging administrative functions and add greatly to the weight of the responsibilities resting upon the shoulders of the Government.

But, whilst conceding all this and making due allowance, I think it is a perfectly legitimate question to ask if, in the three Provinces I have named, the work has increased to such an enormous extent as to justify having as many as 8 Members in the Executive Government of Bombay, Bengal and Madras, and as many as 6 in Bihar and Orissa, including the Governor. I think I am right in saying that the work has by no means increased to such an extent as to justify this increase in the numbers and the consequent expenditure. In these days when we are trying to retrench in every direction, when the Provinces are almost verging on bankruptcy, the continuance of so many additional officers in the Executive Government is tantamount to culpable extravagance.

Sir, not even the authors of the Reform scheme, nor the Joint Parliamentary Committee, ever contemplated that the number of Executive Members of Government should be as many as 8. Here is what Mr. Montagu, the late Secretary of State for India, and Lord Chelmsford, the late Viceroy, say in their historic joint report. They observe :

"We propose that in each Province the Executive Government shall consist of two parts. One part would comprise the Head of the Province and an Executive Council of two Members. The other part of the Government would consist of one Member or more than one Member according to the number and importance of the transferred subjects, chosen by the Governor from the elected Members of the Legislative Council. They would be known as Ministers."

Again, the Joint Parliamentary Committee observed in their Report :

"The Committee is of opinion that the normal strength of an Executive Council especially in the small Provinces, need not exceed two members. They have not, however, reduced the existing statutory maximum of four, but if in any case if the Council includes two members with service qualifications, neither of whom is by birth an Indian, they think it should also include two unofficial Indian members."

This, however, is not so much a matter of the opinion of Mr. Montagu or Lord Chelmsford or of those members who formed the Parliamentary Joint Committee. The case lies in a nutshell. Has the work increased to such an extent as would warrant the appointment, as I said, of 8 Members in these Provinces, and 6 in Bihar and Orissa ? If for nothing else, in view of the present financial stringency, these Governments should reconsider the position, and that as soon as possible.

In this connection I propose to mention a fact which to my mind is almost decisive, and it is this—that in the United Provinces, although it is so large a Province, the work of administration is carried on by only two Executive Councillors and two Ministers, and it has never been urged in that Province either by the Executive Members concerned or by the Legislative Council that the work is beyond these four men. If therefore in so large a Province as the United Provinces four men are enough to carry on the work, it stands to reason that we should inquire as to why there ought to be as many as the number I quoted in the Provinces I have named. The United Provinces is one of the largest provinces in this country. Its population is 4,80,00,000,—larger than that of the British Isles. Mr. Lionel Curtis, in one of his many studies on Indian questions, has said in one place in regard to the United Provinces that it is socially the most central and the most complex province in India. In that study he has quoted the opinion of Sir Alfred Lyall that the United Provinces are "the heart of India."

That being so, as I say, the question does require to be very carefully considered why Bombay, Bengal and Madras should have three additional members.

In addition to the United Provinces I will quote another instance. I said just now that the reformed constitution had been introduced in only eight provinces. It is also proposed to extend it to Burma. But before doing so a committee was appointed to make recommendations. That committee was presided over by the President of the other House and in its personnel were various members of both Houses. I mention this fact to show that the committee consisted of men who were perfectly conversant with the conditions prevailing in the different provinces since the reformed constitution came into existence ; and in spite of their first-hand knowledge and although Burma is a large province and a very important province, the recommendation which this committee has made is to have only two Executive Members of Council.

So far, Sir, my recommendation to reduce the number of Councillors and Ministers is based on the argument that the work is not heavy enough

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for as many as have been appointed in the places I have named. But I think that the case in regard to the reduction of Ministers is quite irresistible, particularly in view of the fact that our finances, or rather their finances, do not permit of such very heavy expenditure. If we were in normal times such a luxury might have been permissible. But when the case is absolutely otherwise, then it is high time that these appointments should be reduced. It is unnecessary for me to dwell at any great length on the subject of the financial condition in this country at the present moment. It is a subject to which every one interested in the affairs of India pays the very greatest attention from His Excellency the Viceroy downwards. Even as recently as yesterday His Excellency Lord Reading referred to retrenchment that has been necessary in this country in every direction. Some weeks ago His Excellency the Viceroy replying to a deputation of the Associated Chambers of Commerce observed in regard to the financial position of the country that it was 'serious.' Surely, Sir, it is very serious, and it is because it is very serious that the matter must be fully considered. The country is thankful to the Secretary of State for appointing what is known as the Incheape Retrenchment Committee. Let us hope that the recommendations which this committee will make will bring about very considerable reductions. But I am sure that the recommendations which it can possibly make will not go very far if the question of military expenditure is not tackled by it. The references to the Incheape Retrenchment Committee are of course only in regard to the central government and not in regard to the provinces. It is not as if the provinces themselves were not alive to the situation. For example, the Central Provinces and Bengal have already appointed their retrenchment committees and other provinces as, for example, Bombay, during the discussion of its last budget of its own accord reduced the figure on the expenditure side by as much as Rs. 60 lakhs.

The complaint is heard, Sir, on occasions that in trying to bring about retrenchment perhaps those who want to apply the shears begin from the bottom and not from the top; that very often some poor peon or clerk is dismissed and it may be—I do not say it is—that many holding sinecures higher up are left as they are. If an instance is wanted, my Resolution points out that in these three provinces there is a considerable expenditure in regard to the three highest men in the provinces, and they should consider whether that number should be reduced or not. Each Councillor or Minister is paid Rs. 64,000 a year; therefore if the number was reduced by three, it means straightaway a saving of Rs. 1,92,000. But it is not that figure alone. There are many other incidental expenses attaching to these salaries; as for example, these members must have, I suppose, their shorthand typists, their clerk or clerks whose salaries and whose travelling expenses, as also the travelling expenses of the members themselves, must amount to a very tidy figure, perhaps nearly as much as a further Rs. 1,92,000.

Now, Sir, I have explained the position as best I can; but it is very necessary that I should also explain the constitutional aspect of the case. The Government of India Act of 1919 lays down in section 47 that Executive Councillors to be appointed in a Governor's province will be

appointed by His Majesty the King. He appoints as many as the Secretary of State himself decides. The Secretary of State fixes the number and he is restricted to a maximum of 4. Consequently, if my Resolution is accepted, the most that we could do will be to submit a representation to the Secretary of State that he should consider the advisability of a reduction in the manner indicated. In the same Act in section 52 it is also laid down that it is open to the Governor in a Governor's province to appoint as many Ministers as he likes; he may appoint one, he may appoint two, he may appoint three or even more; and even if the Government of India think that so many men are not wanted the Government of India, so far as I can read the Act, cannot lay down any rules which would prevent a Governor from carrying out his own wishes. Therefore, Sir, in regard to Ministers as well, all that my Resolution can urge is that the Government of India should advise the different Governors of the different provinces to meet the wishes of the country.

Sir, I do not think I have anything more to add. I shall conclude by saying that if the Government see their way to accept this Resolution they will prove to demonstration that the Government of India at any rate lose no opportunity in trying to restore our finances and the provincial finances to as healthy and sound a position as they were some years ago.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I am in entire agreement with my Honourable friend, Mr. Phiroze Sethna, so far as his observations relate to the topheaviness of the Provincial Governments. I have my whole-hearted sympathy with what he has said in this connection and I think he has made out a very clear case for economy and retrenchment.

My Honourable friend also rightly alluded to the constitutional aspect of the case. With reference to this I propose to say a couple of words only. I do not wish to repeat what my Honourable friend has already said. He has pointed out the scope of sections 47 and 52 of the Government of India Act. In view of his exposition of the Statute, I would ask this Council whether it is fair, whether it is just to the provinces, that a Resolution of this kind should be moved in this Council. In my opinion every Provincial Government must work out its destiny and must decide for itself whether its expenditure is large and within what limits it should be controlled.

The Provincial Governments have ample powers: even the spirit of the new Reforms, which have been given to the Provincial Governments, seek to make them as autonomous as possible. Would it be fair, then, that we should discuss the question in this Council as to the requirements of Provincial Governments, when they have not moved in the matter. I think the Provinces have very able representatives; they have in their Councils men who are as much solicitous for retrenchment and economy as the Members of the Indian Legislature, and I think we can safely leave this matter to them, so far as their recommendation for the appointment of members of the Executive Council is concerned. The appointment of Ministers is, within the Statute, the privilege of the Governor and he alone is entitled to determine the number of Ministers necessary, and I think it would be in consonance with the traditions of our

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Legislature, in consonance with justice and equity and all fairness, that we should leave our brother colleagues in the Provincial Councils to take up and determine all these questions.

The HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : So far as the Provincial question is concerned, I do not think that need seriously perturb the equanimity of members of this Council. I find, Sir, that after all there is no such question involved in the discussion of this Resolution as has been given the name of a constitutional question. The Government of India Act clearly provides that the members of the Executive Council are "to be appointed by His Majesty by Warrant under the Royal Sign-manual, and shall be such a number not exceeding four, as the Secretary of State in Council directs." The appointments being made by the King-Emperor, I do not think it is the exclusive privilege of a Governor to be consulted in a question like that. So far as the section goes, I believe it means that appointments can be made direct on the advice of the Secretary of State. I therefore do not think it is correct to say that, in considering a question of this character, we should take Provincial prejudices into consideration. If this Resolution really raises a question which concerns all India, then I believe it is but meet and proper that this Council should put on record its considered opinion as to how far it is necessary that, in certain provinces mentioned by the Honourable Mover, the number of the members of the Executive Council should stand at as high a figure as four. After all, Sir, spend-thrift habits are contagious, and I should not be surprised if the contagion one day spreads from Bombay to the United Provinces, and from Madras to the Punjab. Therefore, I think this is not a question which should be considered in a parochial spirit, and this Council has every right to express its opinion thereupon.

Having said this much, I come to the Resolution of the Honourable Mover. I must at once say that I am in entire agreement with the first portion of the Resolution of the Honourable Mr. Sethna. But to me it seems—if my Honourable friend will excuse my saying so—that the latter portion of his Resolution, which recommends reduction in the number of Ministers, is wholly inconsistent with the spirit of the Reforms scheme. His complaint was that in certain provinces the number of Executive Councillors had been raised from 3 to 4. He also urges strongly that no increase in the volume of work has taken place to justify the raising of this number by one. That is a question which I believe will be dealt with by the official benches, and I am anxious to listen to the arguments which may be adduced to justify this increase. But, as Honourable Members of this Council know, the whole scheme of Reforms is based on this. Every Provincial Government is divided into two compartments, namely, the Governor in the Executive Council is one compartment, and the second compartment consists of the Governor acting on the advice of his Ministers. Honourable Members are aware that in certain very exceptional cases it is open to the Governor to overrule his Executive Council as laid down in section 50, clause 1 of the Government of India Act. He also has the power to dissent from the advice given by the Ministers, as laid down in section 52, clause 3, of the same Act. Therefore, there is

absolutely no question of the Ministers being in a position to defeat the Executive Councillors, if the Ministers are more in number than the members of the Executive Council. The Governor is to act in compartments, and the two compartments are, so to say, for the purposes of the constitution, entirely independent of each other. The Act avoids the case of collision arising, and I therefore fail to see why the Honourable Mr. Sethna should go out of his way to recommend a reduction in the number of Ministers. The argument gathers force when we remember that the Montagu-Chelmsford Report, as also the Report of the Joint Committee, recommended a gradual increase in the number of Ministers : in fact, that is the spirit of the whole scheme of reforms. At present the Executive Council is to be retained because the experiment of Diarchy is being tried. Honourable Members will excuse my using the word "experiment," but I use it in a most inoffensive sense. (*Voice* : Diarchy is an experiment). Diarchy is an experiment, and therefore I say that this Diarchy, whether for good or evil, has taken possession of our constitution. The Executive Council had to be retained, but everybody knows, and I need scarcely say that every member of this Council knows that as the people are to be associated with greater powers, to that extent the powers and number of the Executive Council must decrease and *pro tanto* the powers and number of Ministers must increase. That being so, I can quite see the Honourable Mr. Sethna recommending that the number of Councillors be reduced and the number of Ministers be increased. But I entirely fail to see on what principle he recommends a reduction in the number of both classes of officers. I need hardly point out that Diarchy is an experiment and a very new thing in this country. I sincerely hope that the time will soon come when it will be done away with, and the people of this country will come into their own. But as long as that state of affairs is not arrived at, I think we will be doing a very wrong thing in treating Diarchy improperly—though I for one am not very fond of that—and in crippling the parts of the machinery at the very start.

I think that in every province Honourable Members will find that services which are known as beneficial services have been put in charge of Ministers. These were services which were, to a large extent if not wholly, neglected in times past and, therefore, we want men in sufficient numbers to develop these services and look after the interests of these services. It follows, therefore, that the number of Ministers should not be reduced unless it is shown very satisfactorily, with reference to facts and figures, that the number of Ministers is much in excess of that which is required for the needs of those departments which have been transferred to the charge of Ministers. I think the position is so very clear that I have no doubt that this Council, while agreeing with the first part of the Resolution, namely, that the number of Executive Councillors should be reduced and in no case should it be more than two unless very exceptional circumstances are shown, will take the view that the argument does not apply so far as Ministers are concerned. The Ministers have been doing very useful work. I am not here to give a testimonial to the Ministers, but we have it on very high authority that the Ministers in every province have been doing very good and useful work. They are in charge of very important and useful departments, and

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therefore, I think this Council should be the last body to treat the Ministers in a stepmotherly fashion. After having listened very attentively to the speech of the Honourable Mr. Sethna, I should say that no case has been made out for reduction in the number of Ministers. What was probably at the back of the Honourable Mover's mind was that, as he wanted to reduce the number of Councillors, he thought he should impartially make a similar reduction in the number of Ministers. (*The Honourable Mr. Phiroze Sethna* : "No."). I am very glad that my Honourable friend disowns that intention. Well, if that is so, I entirely fail to see why the number of Ministers should be reduced. On the other hand, all the arguments that have been advanced go to show that their number should be increased. There remains the very important financial question no doubt : but, after all, if you reduce your Ministers from 3 to 2, that means a saving of Rs. 64,000 only. I do not despise even a saving of a sum of Rs. 64,000, but, on the other hand, look at the very useful and good work that has been done during the past eighteen months by these men who are responsible to the Legislative Council in every province. For these reasons, Sir, I hope that Honourable Members, while supporting the first part of the Resolution, will not countenance the number of Ministers being reduced from 3 to 2.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, so far as the first part of this Resolution is concerned, the Government have already moved in the matter. There are, as the Honourable Mr. Sethna has reminded us, four provinces in which the number of Executive Councillors exceeds two, namely, Bihar and Orissa and the three Presidencies. As regards Bihar and Orissa, there was as the Honourable Mr. Sethna has said, a debate in the Legislative Assembly in March 1921. In the course of that debate, it was explained on behalf of the Government that the retention of two European officials on the Council was a temporary measure, designed to meet the needs of a transitional period, and concurred in as such by Lord Sinha, which it was proposed to revise on the retirement of Sir Haviland LeMesurier in November 1922. The proceedings of that debate have been forwarded to the Secretary of State ; the matter is now under his consideration and his orders are awaited.

As to the Presidencies, the Government of India some time ago addressed their Governments on this very question. It is undoubtedly the case that the reforms have added immensely to the volume of work devolving on these Provincial Governments. The Sessions of the Legislative Councils are much longer and more continuous ; the volume of questions, of Resolutions and of legislation to be dealt with is immensely greater and the whole machinery of the Government is more complicated than it was before the reforms. For example, I may mention that in one of these provinces during the course of three Sessions there were over 2,000 questions, over 400 Resolutions and nearly 1,300 motions on grants for money to be dealt with. That gives you some idea of the increase of work which the reforms have involved. The Honourable Mr. Sethna has referred to the United Provinces. Well,

I come from that province, and I should be the last person to say anything which implied that that province was less important than any other Province. At the same time, it is only fair to remember that not only are the United Provinces an inland province, but that they are not commercially and industrially a very advanced province and, therefore, the comparison is not necessarily conclusive. The United Provinces have not the same maritime, commercial and industrial interests that the Presidencies have, and, therefore, it does not follow that the volume of work is precisely the same. At the same time, it is undoubtedly true that the reforms have added considerably to what may be described as the overhead charges of the administration, and in the present financial conditions the need for economy, wherever this can be effected without detriment to the efficiency of the administration, is manifest and indisputable. The Government of India accordingly some time ago asked these Local Governments to consider this question further and to furnish the Government of India with a considered expression of their views. When these opinions have been received, and when they have been examined, they will be forwarded to the Secretary of State, together with an expression of the views of the Government of India themselves. The Council will, of course, recognise that it is quite impossible for the Government of India to commit themselves at present to any final view on this matter. They must consider the views of the Local Governments who are specially qualified to judge on this matter before they can communicate their own opinion to the Secretary of State with whom the decision rests ; but they are fully alive to the necessity for economy and, in formulating their own views, they will give due weight to that consideration.

The second part of this Resolution stands on a different footing. Under the Act it rests with the Governor to appoint as many Ministers as he considers are required for the administration of transferred subjects. The Governor exercises in that matter a statutory discretion, a discretion vested in him by law. But it is not a discretion which the Governor can exercise arbitrarily. Ministers are appointed for the administration of transferred subjects, and the essence of a transferred subject is that the ultimate control of that subject rests with the Legislative Council of the Province. The Secretary of State and the Government of India, except for certain very limited purposes, such as matters in which the interests of more than one province or Imperial interests are concerned, have been divested by statutory rules of their powers of control. The salaries of Ministers are voted by the Legislative Council, and the recognised constitutional position is that Ministers must resign unless they have the confidence of the Legislative Councils. Therefore, in regard to this matter of the number of Ministers required, the Legislative Councils have ample means of voicing their wishes and ample means of making those wishes effective. If there are at present three Ministers in each of these Provinces, it must be presumed that the Legislative Councils in each of these provinces consider that number to be required. It is, of course, open to them at any time to revise their previous opinion on this subject, but the ultimate decision rests with them. We have in the provinces, so far as transferred subjects are concerned, responsible government, and it would be inconsistent with

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the principle of responsible government that the Government of India should attempt to interfere in this matter. You really cannot have it both ways. You cannot have responsible government and at the same time retain the power to interfere.

Well, Sir, that is how the matter stands. It is not possible for the Government of India to concur in the first part of this Resolution, for the simple reason that the matter is still under examination and they cannot commit themselves to any final opinion till they have considered the views of the Local Governments. Obviously, the Local Governments are specially qualified to judge on this matter and their opinions must be before the Government of India and must have been examined by the Government of India before the Government of India can make any definite recommendation to the Secretary of State.

The second part of the Resolution, on the other hand, relates to a matter in regard to which the Government of India, as the Honourable Sir Maneckji Dadabhoy I think quite rightly pointed out, ought not and cannot interfere, and for that reason they cannot concur in the proposal embodied therein.

The HONOURABLE RAJA V. N. VASUDEVA OF KOLLENGODE (Madras : Nominated Non-official) : Mr. President, I am sorry that I am unable to accord my unqualified support to the Resolution moved by Mr. Sethna in the form in which it stands, as I believe it involves in the first place a violation of principle. It will be accepted, I think, as a sound principle that, as far as possible, the Provincial Governments should be allowed freedom of action and responsibility in their provincial concerns as we are all aiming at Provincial Autonomy. The Provincial Legislature of each province must therefore be the sole judge as to how it can run the administration for which it is responsible and with what number of Executive Council Members and Ministers the administration can be carried on.

Speaking for Madras I think, that the Madras Legislative Council is in a better position to know its own requirements than anyone from outside and I am sure it is alive to its own responsibilities. I very much doubt whether it is sound policy to dictate to it that it shall run the administration with so many members only, whatever the needs may be. Each province must decide for itself how much scope it has for its developments and what funds are available, and surely the number of officers required must necessarily depend upon the potentiality of each province, the quantity of work that has to be done and the money available. The Provincial Councils are responsible to the people for the efficient discharge of the functions entrusted to them and for the proper utilisation of the funds at the disposal of the Government. If any province is spending money on Executive Council Members or Ministers which it cannot justify, surely the voice of the people must, and will, assert itself and it would bring pressure on the Legislative Council to take such action as may be necessary.

If the present financial straits in which some of the provinces are now woefully placed on account of the unjust and unreasonable system of contributions levied on them, continue or are allowed to be continued, I have no doubt that some of the Ministers and Executive Council Members

will find very little scope for work, and in that event many of them and perhaps many other officers too will have to go ; but on the other hand if measures are taken, as we are bound to take, to relieve such of the Provincial Governments as are suffering under the present financial system, I believe there is immense scope for development, which will tax to the full the brains and energy of all the existing number of Executive Council Members and Ministers. Instead of therefore trying to save a little money by removing a straw from a camel's back by the reduction of a few officers here and there, because of the financial burden, it should be our aim to find means to improve the finances of the provinces and to develop them to the fullest possible extent.

The saving effected by the reduction of the officers mentioned in the Resolution is extremely trifling, and any recommendation on the lines suggested must I think come from the Provinces, if there is a demand for it, and it would be our duty then to support it. But I think we should not take the responsibility of dictating to them as to what they should do in their domestic concerns. If the Honourable Mover confines the scope of his Resolution to the Province which he represents and omits Madras, on behalf of which he has no mandate to speak, I shall be glad to vote in favour of his Resolution on the principle, I advocated, of non-interference with the domestic concerns of another province. Otherwise I must say that I shall be constrained to vote against his Resolution.

If the idea of the Honourable Mover is that the Provincial Governments should reduce their expenditure, irrespective of their needs to find money for the Government of India, it is a proposition I cannot subscribe myself to, as I believe each Government, whether Provincial or Central, must either cut its coat according to its cloth, or find out independent sources of revenue.

Further, Sir, it is undesirable to treat in this respect all Provinces alike and to have a hard and fast rule for them. The requirements of each Province will have to be considered on its own merits.

The HONOURABLE MR. PHIROZE SETHNA : Sir, as a result of the discussion on this Resolution, I think I can claim that this House, or at any rate the majority, do recognise that in these particular Provinces there is incurred a greater expenditure than should be the case, in regard to the appointment of the highest officials in the Executive Government.

The objections raised, however, are of a different kind. My friend the Honourable Sir Maneckji Dadabhoy says that we have no right to dictate to the Provinces. I think I made it abundantly clear in my speech that we certainly had no voice in the matter of running the Reforms, and the most we could do was to make recommendations first to the Secretary of State and next to the Governors of Provinces.

My friend the Honourable Saiyid Raza Ali agrees with the first part of the Resolution but differs from the second, on the ground that because Diarchy has been introduced it will mean that eventually, as more subjects are transferred, more Ministers will be required, and therefore I need not ask for a reduction in the number of Ministers. But my Honourable friend Saiyid Raza Ali has missed my point. The work of the Government, or rather the portfolios of the different Governments, have not increased. I certainly admit that the work, as the Honourable Mr. O'Donnell told us, must have increased, if in a certain Province there were

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2,000 questions on the subject of this Resolution. I agree with that, but the portfolios have not increased, and if the work has increased it is not necessary to increase the number of Executive Councillors or Ministers, but the staff. However, that is beside the point. My main object was to point out to these Provinces that the country at large is of opinion that they should not have any more Members of the Executive Council than is the case in the other Provinces I have named. My object is more than served by the information which my Honourable friend Mr. O'Donnell has given to the House. I had no idea that the Government of India had themselves taken up this matter, which, in itself, by the way, is an answer to my friend the Honourable Sir Maneckji Dadabhoy, that the Government of India did not think wrong to intervene as they have done; and because the Government of India are making inquiries and they are awaiting replies, I will not press my Resolution, Sir, but only hope that when the replies from the Local Governments have been received by the Government of India, this Council will be duly informed of the result and the action which the Government of India mean to take on the recommendations made in those replies. As regards Ministers, I am not at all particular; and consequently I beg to withdraw my Resolution being more than satisfied with the reply from the Honourable the Home Secretary.

The HONOURABLE THE PRESIDENT: Is it your pleasure that leave be granted to the Honourable Mr. Phiroze Sethna to withdraw his Resolution.

The Resolution was, by leave of the Council, withdrawn.

POSTPONEMENT OF RESOLUTIONS RE PRIME MINISTER'S SPEECH.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary): Sir, I rise to suggest that the Resolution standing in the name of the Honourable Mr. Kale and the similar Resolution in the name of the Honourable Sir Maneckji Dadabhoy be postponed till to-morrow.

My reason for making this suggestion is that the Honourable the Home Member is extremely anxious to attend the important debate on these Resolutions, and if this comes on to-day, it will be impossible for him to do so, because he is in charge in another place of a number of Bills which it is important to push on with. I have reason to believe that both the Honourable Mr. Kale and the Honourable Sir Maneckji Dadabhoy are quite agreeable to this course should it commend itself to you, Sir.

The HONOURABLE THE PRESIDENT: I assume that the Honourable Mr. Kale and the Honourable Sir Maneckji Dadabhoy agree, and I think the Council will feel that that is a suitable course and will desire to hear the Honourable the Home Member on a matter of this kind. As a matter of constitutional practice I intend to put the question to the House. That is the only satisfactory way of arriving at a decision. The question therefore is:

"That the Resolution standing in the name of the Honourable Mr. Kale, and a similar Resolution standing in the name of the Honourable Sir Maneckji Dadabhoy, be postponed on the understanding given by the Government that they will be taken up on the next Government day, which is to-morrow."

The motion was adopted.

RESOLUTION RE CONDITIONS OF LIFE AND COMPLAINT OF INDIAN LABOURERS.

The HONOURABLE SIR AHMEDTHAMBY MARICAIR (Madras: Muhammadan): Sir, the Resolution that stands in my name runs as follows:—

"This Council recommends to the Governor General in Council that a Committee consisting of officials and non-officials with an official majority be appointed to inquire into the conditions of life and complaint of Indian labourers working in India both Industrial and Agricultural in the following respects and report to the Government with recommendations for their amelioration:—

1. Wages earned, and indebtedness.
2. Hours of work.
3. Housing accommodation and sanitation.
4. Medical treatment.
5. Educational facilities for children.
6. Age of working children."

This is a Resolution which affects the poor labouring classes in India. It is needless for me to explain here in a lengthy speech how important the question is. It is a well-known fact that the treatment which the labouring classes receive at the hands of mirasidars and industrialists is most unsatisfactory. They are not given sufficient wages and the housing accommodation that is given to them is very poor as compared with what they get in the colonies. In the presidency of Madras, agricultural labourers are put to considerable hardship. They are not provided with sufficient work throughout the year and their position is so hard that they are compelled to seek work elsewhere. At a time like this, when questions of emigration to distant colonies are under consideration, and the committee appointed for the purpose are proposing to put a considerable degree of embargo on emigration in order to retain labour in India itself, it is only proper that sufficient safeguards should be provided with a view to get them properly looked after in India itself. Otherwise their position in India will become very bad and they will be left in the lurch. Before teaching lessons to others we must keep our house clean.

(At this stage the Honourable the President vacated the Chair which was taken by the Honourable Sir Zulfiqar Ali Khan).

It is said that coolies get into indebtedness in the colonies. What about the coolies in India? How are they kept? Mirasidars in all parts of the Madras presidency are keeping their labourers in indebtedness for centuries together. There is not one village in which the coolies are not in a constant state of indebtedness. As a matter of fact I have recently purchased some lands in my part of the country and the owner of the land had to hand over to me certain documents which I had to transfer to myself with a view to keep these coolies under indebtedness. Such is the case, Sir, that the coolies in our parts are in a much worse state than they are in the colonies. For example, it was the custom in Ceylon that the coolies were kept under the "thundu" system in a state of great indebtedness; but now the Ceylon Government have passed an Ordinance that the "thundu" system should be wiped off. Well, Sir, when we are teaching the colonies where our coolies are finding their way to get employment freely and properly, is it not our duty to look after our own coolies in India itself and see that they are not in a state

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of indebtedness always and provide them with sufficient wages so that they may be kept here? Without keeping our own house in order, is it proper on our part to teach the other colonies and say they should give them minimum wages, good housing accommodation and sanitary arrangements, medical treatment and education for their children and so on? As far as my experience goes, Sir, the condition of the labourers is such that it requires the immediate attention of the Government. They are provided with kajan houses round the drainage canal and there they are asked to live with their families and children. As a matter of fact the coolies in our parts get work only for four months or five months in the year and during the remaining portion of the year they are left without work. As regards medical treatment and sanitary arrangements, it is needless for me to say that there is no such kind of treatment at the hands of the mirasidars. No doubt I am one of those who have been giving similar treatment. But I am quite in sympathy with the coolies and I should like to build a hospital for them; I should like to give them sanitary arrangements; I should like to start a school and give them all sorts of facilities; but if I do all these things, I shall be incurring the displeasure of my co-mirasidars for starting things which have not been in existence for centuries. So, Sir, I think the time has come when the Government should take up this important question and the labourers should be treated in such a way as to enable them to be kept in their own homes with sufficient happiness in India itself. It is, I think, absolutely necessary that a committee should be appointed in this matter to look into the whole question and to ameliorate the difficulties and hardships that these poor labourers suffer from. I am sure Honourable Members in this House will sympathise with me and will give their co-operation, and that Government will not hesitate to accept my Resolution and appoint a committee in this matter. With these few words I commend my Resolution to the acceptance of this Council.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, before I refer to the Resolution moved by the Honourable Sir Ahmedthamby Maricair, may I with your permission congratulate him on the high honour done him by His Majesty the King-Emperor in conferring on him a Knighthood? (*Cheers*) I congratulate him in another way also. He has now become a labourer and a philanthropist, from a capitalist and an industrialist. That is a matter for congratulation. I hope he will stick to this rôle and not merely bring forward a Resolution because of what has happened in another place.

(At this stage the Honourable the President resumed the Chair).

He has made his position quite clear; he feels that the Emigration Committee is putting forward certain proposals which may stop emigration or reduce emigration to the colonies in which my Honourable friend is interested.

He thinks that unless we put our house in order we have no business to lay down conditions for the improvement of labour in the colonies. So far as the principle is concerned, Sir, I don't think there can be any objection; but the method suggested for achieving it is not what it ought to be. My Honourable friend wants a committee consisting of officials and non-

officials. We have already one committee still to come into existence, for which my Honourable friend, Mr. Lindsay is responsible, and which has not been appointed yet, possibly because there is no money forthcoming, I refer to, a committee on the Mercantile Marine. Another reason why such a committee is not necessary just now is that the Provincial Governments have started Labour Departments, and we have got in Bombay a capable man, Mr. Findlay Shirras, as the head of that Department. The Government of India have also opened a Labour Department, and work of the same kind that my Honourable friend wants to be done is being done by the Government of India. I think, therefore, it is unnecessary to have a separate committee doing practically the same kind of work. I hope with this explanation my Honourable friend will see his way to withdraw his Resolution.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : I recognise the philanthropic motive which has prompted my Honourable friend to move this Resolution, but in my humble opinion it will be a waste of public time and public money to accept a Resolution of this nature. My Honourable friend has not recognised that the problems which he has raised in this Resolution are of great and grave economic importance, and each Presidency has to contend against special difficulties in this matter, and I cannot understand how a committee like the one suggested by my Honourable friend will be in a position to collect information and to advise the Government of India.

I will discuss briefly, point by point, the matters raised by the Mover of the Resolution. Now, so far as the question of wages is concerned, every province presents innumerable peculiar difficulties of its own, and it is absolutely impossible to reconcile the difficulties and interests of each province, and there could be no general recommendation which would promote the interests of all wage-earners all over India. Likewise, with regard to the indebtedness of agriculturists and labourers, I quite admit that it is a question of vital importance, but it is absolutely a hopeless task to find out any means or methods of relieving their condition, and what little can be done in that direction each Presidency has been endeavouring for years past to do.

So far as the hours of work are concerned, by special legislation, such as the Indian Factories Act, the hours of labour have been tremendously reduced and regulated, and there is no scope for further reduction in the hours of labour compatible with industrial progress. Housing accommodation is no doubt a very serious problem, and the Indian industrialists all over India are adopting means and measures for meeting this deficiency, as far as possible; but it is impossible in big crowded cities to find house accommodation for their industrial labour, and I am afraid the proposed committee will not be able to contribute anything to the literature existing on the subject at present. Medical treatment, too, is a matter which needs consideration. The Provincial Governments are at present bankrupt; they have no money; you cannot ask Provincial Governments to go in for a programme of larger construction of dispensaries and the supplying of free medical aid and relief to labourers and others. However, as the Council is aware, in this direction commendable efforts have already been made, and I do not think it would serve any useful purpose to appoint a

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committee, like the one suggested, to inquire into the matter and to make recommendations that would be advantageous to the country.

So far as educational facilities for children are concerned, it is a big problem, and the Municipalities and Local Governments are doing their best to make education free, as far as their power of the purse permits. You cannot have all these changes effected in a day ; they must all depend on the progress of industrialism. The people must wean themselves from agriculture and take to industries, and so produce wealth in the country, and only then will you be able to remove the poverty of the people and bring prosperity to the nation.

In the matter of the age of working children lately the Factories Act has made commendable alterations. The age limit has already been considerably raised, and I am therefore of opinion that a commission like that suggested by my Honourable friend would not be in a position to make recommendations for each province, which would be compatible with its peculiar requirements and necessities and will be beneficial to the people of that Province. I think my Honourable friend will do well not to press this Resolution on the Council.

THE HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab : Muhammadan) : Sir, I am sorry to say that I cannot see eye to eye with the Honourable Mover of this Resolution. He speaks about agriculturists. Agriculturists, in other provinces, where the " Eka " system exists, would be very dangerous. They have been fighting with their landlords and with each other ; and in a province like the Punjab, where everything is now quiet, if such a Committee were appointed, it would be a sign to all these labourers to unite and make trouble. There is already sufficient trouble going on, and it is no good inviting further trouble.

As regards their houses, they have their own houses and can build as well as they like.

As far as I know about the Punjab, I think medical aid and schools are in plenty and within reason. If they do like to send their children to such schools they can easily do so. The Honourable Mover has all along said that he has had experience of his own province. He said nothing about any other province. If the trouble is only in his province, the question should be confined to his province, and a Committee should not be appointed for all the provinces. Then again, Sir, the question of expenditure will be involved, and I agree with the other members who have asked the Honourable Mover to withdraw his Resolution. If he does that, it will save a lot of trouble.

THE HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, I had intended to inflict a long and rather tedious speech on the House this morning, but so many of my words have been taken from me by previous speakers that I think it is only necessary to summarise the general feeling towards this Resolution. If I oppose it, Sir, it is not from want of sympathy with the condition and needs of Indian workmen. They are fully known, the Government is fully alive to them. In fact I would summarise the position by saying that it is not the existence of the disease which is in doubt, it is the difficulty of finding a practical remedy.

This leads me to my first criticism. What is the remedy that the Honourable Member suggests ? As an official myself I am pleased and flattered that he has suggested an official majority, which shows a very pleasing confidence in the official side of the House (Laughter). But, Sir, we have had one Committee after another dealing with this and similar questions. We have had the Industrial Commission which went very fully into the question of housing and labour conditions. Are we to add one more Committee to that series ? The Industrial Commission, after all, produced a report which has borne excellent fruit. I doubt whether a second Committee could improve on that.

This leads me to my second point. I hope the Honourable Member does not mean to imply that the Government are adopting an aloof attitude in regard to the condition of Indian labour. The very reverse is the case. Take any one of these points which the Honourable Member has raised. Take the question of indebtedness. It is an extremely difficult question ; it is one which has exercised official and unofficial minds for a great many years past in India as in other parts of the world. The soundest and best solution which has occurred so far to Government is the system of co-operation. Co-operative societies have been developed and the Indian public have responded to that movement in a most wonderful way. Between 1910 and 1920 the number of co-operative societies has increased from 3,500 to 40,000 ; the number of members has increased from 227,000 to 1,500,000 ; the amount of capital at their disposal has increased from 2 to 21 crores of rupees. That, Sir, is a record of merely 10 years' progress. Then with regard to hours of work. Only last March the Indian Factories Act was brought up to date and contains the very latest provisions for regulating hours of work of adults and children. It also provides for the sanitation of factories ; and the age of working children is regulated by the Factories Act. Again, only last Session, the age of children employed in docks was regulated, and I understand that the age of children working in Indian mines is to be the subject of forthcoming legislation. Housing is a still more difficult problem, and it is one which is really for Local Governments to decide. They have already taken action through Municipal legislation, City Improvement and Town Planning Schemes, and, a short time ago, the Government of India addressed them suggesting lines of further development.

Then, the last point, and it is an inevitable point, I am afraid, in these days of retrenchment. Can a Committee be afforded ? It will have to be one which includes experts, and it will have to tour throughout the country and advise on labour conditions for a very large area indeed, in fact for the whole of India. Is it right that we should take from the provinces the task of progressing further in improvements to local labour conditions.

My friend the Honourable Mr. Lalubhai Samaldas has referred to a possible Committee on the Mercantile Marine. I am afraid that, although the one Committee does not necessarily exclude the other, financial circumstances do not admit of the present Committee being appointed.

On these grounds I ask the House to vote against the Resolution.

THE HONOURABLE SIR AHMEDHAMBY MARICAIR : Sir, I quite realise, after I have heard the explanation given by the Honourable

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Mr. Lindsay, the financial difficulty of the Government of India is so great that it is not possible to appoint such a huge Committee to go into the whole question. I only hope the Government of India will bear this matter in mind and see that the difficulties of these Indian labourers are safeguarded by appointing a Committee, when the time permits of their doing so. In the meantime I do not like to press my Resolution and I beg for leave to withdraw it.

The Resolution was, by leave of the Council, withdrawn.

MESSAGE FROM ASSEMBLY *RE* CANTONMENTS (HOUSE-ACCOMMODATION) AMENDMENT BILL.

The SECRETARY OF THE COUNCIL : Sir, there is a message from the Legislative Assembly.

The HONOURABLE THE PRESIDENT : Let it be read.

The SECRETARY OF THE COUNCIL : *"I am directed to inform the Council of State that the following motion was carried in the Legislative Assembly at their meeting on the 6th September, 1922, and to request the concurrence of the Council of State in the recommendation contained therein, namely :—*

"That this Assembly do recommend to the Council of State that the Bill further to amend the Cantonments (House-Accommodation) Act, 1902, be referred to a Joint Committee of this Assembly and of the Council of State, and that the Joint Committee do consist of ten Members."

DATE OF NEXT MEETING.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, the next meeting of this Chamber will be held to-morrow, Thursday, the 7th September, and I understand.....

The HONOURABLE THE PRESIDENT : I beg the Honourable Member's pardon. I will adjourn the meeting when the business is over. I thought the Honourable Member wished to make a statement as to the message just received.

REPORT OF JOINT COMMITTEE ON CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : Sir, I beg to present the Report of the Joint Committee on the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870.

PROGRAMME OF GOVERNMENT BUSINESS.

The HONOURABLE THE PRESIDENT : Does the Honourable the Leader of the House desire to make any statement as to the programme of Government business ?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : Sir, the next meeting of this Chamber will be held to-morrow, Thursday, the 7th September, and I understand that the Agenda for the meeting has already been circulated to Honourable Members. In addition to the items entered on that Agenda there will, of course, be taken the Resolutions which stand over from to-day's list. Thereafter, there will be meetings on Monday, the 11th, which has been allotted by the Governor General for non-official business, and Wednesday, the 13th, on which day the Report of the Joint Committee on the Code of Criminal Procedure (Amendment) Bill will be taken into consideration. I may be in a position on Wednesday, the 13th September, to make a further announcement regarding other official business in prospect.

The Council then adjourned till Eleven of the Clock on Thursday, the 7th September, 1922.

COUNCIL OF STATE.

Thursday, the 7th September, 1922.

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

QUESTIONS AND ANSWERS.

LADHA LINE IN WAZIRISTAN.

61. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state if there is any truth in the report published in the English newspapers that the Home Government insist on the Government of India to carry out the permanent regular occupation of the Ladha line in Waziristan although the Government of India are strongly opposed to the same ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : There is no truth in the report that the Home Government insist against the wishes of the Government of India on the Government of India carrying out the permanent regular occupation of the Ladha line in Waziristan.

PUNISHMENT OF INDIAN TROOPS IN EAST AFRICA.

62. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state :

- (a) if they are aware that there is a growing feeling in the country that because of the influence of South African Generals, punishments inflicted upon Indian troops by Military Field Court Martials in German East Africa compare very unfavourably with sentences for similar offences passed at other centres ; and
- (b) do Government intend to take steps to have such sentences reconsidered with a view to their being remitted or decreased ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) The Government of India have no information to shew that any such feeling exists.

(b) Unless the Honourable Member can produce some specific instances, I am afraid it will be impossible for the Government of India to take any action in the matter. I may mention that the cases of all military offenders who were tried and convicted by Court-martial under the India Army Act in a theatre of war have already been reviewed by me, and a remission of sentence has been made according to the merits of each case.

RETIREMENT OF SURPLUS BRITISH OFFICERS.

63. The HONOURABLE MR. LALUBHAI SAMALDAS : (a) Will Government be pleased to give the number of surplus British Officers retired under the orders issued by the Government of India in May (1) up to 31st July 1922, and (2) of those to be retired up to 31st March 1923, and (3) the amount of gratuity paid or payable to them under the said rules ?

(b) Will Government be pleased to say whether these officers were recruited for the Indian Army, and, if so, will they be pleased to lay on the table the terms of their recruitment ?

(c) Will Government be pleased to say whether these officers were examined before recruitment as physically fit for service in India, and whether any percentage and, if so, what percentage was found to be incapable of work in this country soon after their arrival ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) (1) 921.

(2) 969.

(3) The Government of India regret they are unable to furnish exact particulars at present. They will not be able to do so until all the officers to be retired as surplus to the requirements of the Indian Army have been selected and the sum admissible to each officer has been assessed, by the various Controllers of Military Accounts in India and by the India Office in the case of officers on leave in the United Kingdom. As the Honourable Member is aware, the amount of gratuity payable to these surplus officers varies according to their rank and the length of their commissioned service.

(b) The answer to the first part of this question is in the affirmative. As regards the second part, all the officers on appointment to the Indian Army came under the rules for pay, pension, etc., as laid down in the Royal Warrant for Pay and Army Regulations, India. Copies of these publications may be obtained from the Superintendent, Government Printing, India, Calcutta. The terms are however the same as those applicable to all regular officers of the Indian Army.

(c) Every officer, before receiving a regular commission, has to pass a searching medical examination as to his fitness for general service in any part of the world. All the officers now in question were passed fit for service in India before receiving their Indian Army commissions, and, so far as is known, none of them was found incapable of work soon after his arrival in India.

EXPENDITURE ON WAZIRISTAN OCCUPATION.

64. The HONOURABLE SIR MANECKJI DADABHOY : Will Government be pleased to state the total amount of expenditure incurred down to March 31st, 1922, for military occupation of Waziristan ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Prior to the year 1920-21, the expenditure on the military occupation of Waziristan was not distinguished in the accounts from the expenditure on North-West Frontier operations generally. In 1920-21, the Waziristan expenditure amounted to approximately Rs. 14.40,00,000, and in 1921-22 to approximately 3½ crores of rupees. The latter figure is provisional as the accounts for the year 1921-22 have not yet been finally closed.

TERRITORIAL FORCE IN INDIA.

65. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to lay on the table a report of the progress made so far in the various provinces with regard to the establishment of a Territorial Force in India ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : A statement is laid upon the table, showing the authorised establishment and the actual enrolments of each of the Territorial battalions, including University Training Corps, as so far constituted in the provinces of all India.

Indian Territorial Force.

Name of Unit.	Province.	Date of Constitution.	Authorized Establishment.	Enrolled strength 1st August 1922.
1st (T. F.) Battalion, 2nd Rajput Light Infantry.	United Provinces.	5-8-21 ...	738	104
1st (T. F.) Battalion, 4th Rajputs ...	"	11-3-22 ...	738	460
1st (T. F.) Battalion, 6th Royal Jat Light Infantry.	"	11-3-22 ...	738	348
1st (T. F.) Battalion, 25th Punjabis...	Punjab ...	5-8-21 ...	738	351
1st (T. F.) Battalion, 26th Punjabis...	"	11-3-22 ...	738	788
1st (T. F.) Battalion, 37th Dogras ...	"	11-3-22 ...	738	*
1st (T. F.) Battalion, 39th Royal Garhwal Rifles.	United Provinces.	11-3-22 ...	738	69
1st (T. F.) Battalion, Merwara Infantry.	Ajmer-Merwara.	11-3-22 ...	738	173
1st (T. F.) Battalion, 51st Sikhs ...	North-West Frontier.	11-3-22 ...	738	*
1st (T. F.) Battalion, 62nd Punjabis ..	Punjab ...	5-8-21 ..	738	673
1st (T. F.) Battalion, 66th Punjabis...	" ...	11-3-22 ...	738	323
1st (T. F.) Battalion, 70th Burma Rifles.	Burma ...	5-8-21 ...	738	706
1st (T. F.) Battalion, 73rd Carnatic Infantry.	Madras ...	5-8-21 ...	738	619
1st (T. F.) Battalion, (Malabar) 75th Carnatic Infantry.	" ...	28-1-22 ...	738	672
1st (T. F.) Battalion, 79th Carnatic Infantry.	" ...	11-3-22 ...	738	*
1st (T. F.) Battalion, 83rd Light Infantry.	" ...	11-3-22 ...	738	*
1st (T. F.) Battalion, 94th Infantry...	Bengal ...	5-8-21 ...	738	215
1st (T. F.) Battalion, 103rd Mahratta Light Infantry.	Bombay ...	5-8-22 ...	738	65
*1st Bombay Pioneers ...	" ...	11-3-22 ...	738	740
*2nd Bombay Pioneers ...	" ...	15-4-22 ...	738	555
Total ...	...	...	14,760	6,811

*Parsi Battalions.

†Excludes approved applicants not yet enrolled.

‡Enrolment not yet commenced.

University Training Corps.

Name of Unit.	Province.	Date of Constitution.	Authorised Establishment.	Enrolled Strength 1st August, 1922.*
1st (Bombay) Battalion ...	Bombay ...	5-8-21 ..	640	667
2nd (Calcutta) „ ...	Bengal ...	5-8-21 .	640	195
3rd (Allahabad) „ ...	United Provinces.	5-8-21 ..	640	206
4th (Lahore) „ ...	Punjab ...	5-8-21 ...	640	559
5th (Madras) „ ...	Madras ...	5-8-21 ...	640	166
6th (Burma) „ ...	Burma ...	5-8-21 ...	640	397
Total ...	...	...	3,840	2,390
GRAND TOTAL ...	...	...	18,600	9,201

*Excludes approved applicants not yet enrolled.
†Enrolment not yet commenced.

INDIAN EXTRADITION (AMENDMENT) BILL.

The HONOURABLE MR. J. P. THOMPSON (Officiating Political Secretary) : Sir, I move for leave to introduce a Bill further to amend the Indian Extradition Act, 1903. I can explain the Bill in a few words. Desertion from any body of Imperial Service Troops is one of the offences which appears in the First Schedule to the Act. As a result of the experience gained in the war, the Imperial Service Troops have been reorganised, and one of the features of the new scheme is that the term 'Imperial Service Troops' has been dropped. The object of the Bill is to find an equivalent in terms applicable to the new conditions.

The motion, was adopted.

The HONOURABLE MR. J. P. THOMPSON : Sir, I introduce the Bill.

INDIAN MUSEUM (AMENDMENT) BILL.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, I beg to move for leave to introduce a Bill further to amend the Indian Museum Act, 1910. Honourable Members who are familiar with this Act are no doubt aware that under its provisions the control of the Indian Museum in Calcutta, together with all its endowments and other properties, is vested in a Board of Trustees, the constitution of which is defined in section 2 of that Act. Under clause (a) of sub-section (1) of that section, six persons holding certain offices are *ex-officio* members of this Board. Certain circumstances have necessitated the amendment of this particular clause to which I have just referred, and the Bill which I ask leave to introduce is intended to carry out those amendments. In the first place, the designation of the officer who formerly was called the Superintendent of the Zoological and Anthropological

section of the Museum has been changed into that of Director of Zoological Survey in India, and this verbal amendment is therefore necessitated by this change of designation.

In the second place, the Director General of Archaeology in India, who is a member of this Board, by virtue of this sub-section, has no longer his headquarters in Calcutta since the change of Capital, his headquarters being now mainly in Simla, and therefore it is necessary that some officer of that Department, who is a permanent resident of Calcutta, should be nominated as a member of this Board. For it is obvious—it must be obvious—to all Honourable Members that Archaeology has a very important connection with the Indian Museum. Therefore, in addition to the Director General of Archaeology, it is intended to appoint the Superintendent, Archaeological Section, as an *ex-officio* member of the Board of Trustees, and there is the further consequential amendment that, instead of six persons being *ex-officio* members, henceforward seven will be *ex-officio* members. This in brief is the nature of the amending Bill which I ask for permission to introduce.

The motion was adopted.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : Sir, I introduce the Bill.

CANTONMENTS (HOUSE-ACCOMMODATION) AMENDMENT BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I have the honour to move :

“That this Council do agree to the recommendation of the Legislative Assembly that the Bill further to amend the Cantonments (House-Accommodation) Act, 1902, be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of ten Members.”

The motion was adopted.

NOMINATION OF MEMBERS TO JOINT COMMITTEE.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I beg to move that the following Members of the Council of State be nominated to serve on the Joint Committee to consider and report on the Bill further to amend the Cantonments (House-Accommodation) Act, 1902, namely :—

The Honourable Khan Bahadur Ebrahim Haroon Jaffer,
The Honourable Sardar Jogendra Singh,
The Honourable Lala Ram Saran Dass,
The Honourable Diwan Tek Chand, and
The Honourable Khan Bahadur Saiyid Zahir-ud-din.

The motion was adopted.

RESOLUTION *RE* PRIME MINISTER'S SPEECH ON THE POLITICAL FUTURE OF INDIA.

THE HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) :
Sir, I beg to move the following Resolution :

" This Council recommends to the Governor General in Council that he may be pleased to convey to the Secretary of State for India and, through him, to the Government of His Imperial Majesty an expression of the keen sense of apprehension and disappointment created in the public mind in India by the pronouncement of the Prime Minister, in the House of Commons, regarding the present situation and the political future of this country."

Sir, this Resolution requests the Government of India to convey an expression of the feelings which exist in the public mind in this country about the speech of the British Premier in the House of Commons, in connection with the position and the future of the Indian Civil Services. No speech of the Prime Minister—or for the matter of that, of any Minister—has given rise to such wide-spread controversy as the speech of Mr. Lloyd George in connection with the Services. Various and divergent views are, however, held with regard to the propriety or otherwise of the discussion of that speech in the Indian Legislature. There are some who say that we ought not to take the Premier very seriously. From the career of Mr. Lloyd George many people have drawn the conclusion that he did not exactly mean what he said in the course of his speech in Parliament. It is well known indeed that he is one of the finest phrase-makers that the British Parliament has at the present time, and it is said that, therefore, we ought not to trouble ourselves with regard to certain expressions which he might have used. There is no doubt about the fact that Mr. Lloyd George coined a number of phrases in his speeches in war time—I need not allude to these expressions which are too well known to require mention here. In the palmy days of his Radicalism, while he was making attacks upon the Conservative Parties, I remember he characterised the Conservative Government of the day in a very peculiar fashion. He was in those days inclined to attack the House of Lords, the Peers, and at the same time the licensing and liquor interests. He characterised the Government of the day as "Government by Peer and Beer," and I am quite sure that, if he had been in the Opposition at the present time, he would have characterised the Indian Government of the present time as "Government by Threats and Assurances." I am not, however, inclined to put Mr. Lloyd George in the category of another British Minister whom, we are told, we ought not to take seriously. My main reason for this is that we have a quarrel not only with regard to certain phrases and expressions, but the policy behind those expressions and phrases. There is another set of critics who tell us that any discussion of the subject in this House would be superfluous, in view of the explanation which has been already given in the House of Commons by Earl Winterton and also the rodding assent or the assenting nods of the Prime Minister with regard to that explanation. However, I must point out that those explanations are not calculated to give satisfaction. At this stage, I must freely and frankly acknowledge the transparent sincerity of the assurances of the Viceroy, and the deep sympathy which he has evinced in the assurances

which he has repeatedly conveyed to us, and we have not a word to say against the Viceroy's explanation or the attitude of the Government of India. On the other hand, the Government of India and the Viceroy are entitled to our confidence and respect for the manner of their dealing with this question of the Prime Minister's speech. In those explanations and assurances, as I shall presently show, there is one important question which has not been satisfactorily dealt with, and that question has direct relation to the policy underlying the reforms.

I do not propose to quarrel over certain words and expressions which have been bandied about in the course of this discussion. For example, the word "experiment" has been ridden to death in the course of this controversy. For the moment I may accept the word "experiment" when it is applied to Indian reforms. When reforms are introduced, when a departure is made in policy, there is no harm in calling that an "experiment." Is not British rule in India itself a prolonged experiment? It is an experiment—we are told a wonderful experiment. Consequently we ought not to be carried away merely by the use of such a word as "experiment." Mr. Lloyd George told us that the success of the experiment will depend upon the composition of the Legislature at the next elections. That is to say, the experiment will succeed or fail according as the electorates will return moderate men or non-co-operators. The non-co-operators are however of two kinds. There are non-co-operators in India who have kept out of these Councils and will have nothing to do with the Government and their administration. But there is another type of non-co-operators. There are non-co-operators in England,—those who are opposing the spirit of the reforms—and there are also non-co-operators that are to be found in the Civil Services. If the reforms fail, they will fail as much on account of want of co-operation on the part of these people in England and in India as for want of proper co-operation on the part of the Indian people. It is well known that at the present time an agitation is going on in the country, and it is no secret to anybody that people are trying to expedite the progress of the reforms—to accelerate the pace of the advance—and are asking for a further instalment of the reforms even before the due date which may be ten years. We know that the British Parliament can, at any time, if it chooses to do so, amend the present Government of India Act. Many have laid stress upon the fact that the reforms are a Statute and that they are not an experiment. In England, the constitution is not a written or a rigid constitution, and it can be amended by ordinary Statute. There is no distinction in existence as there is in France between what is called constitutional law and organic law, so that it is competent for the British Parliament to amend the Government of India Act, and in fact that is what is sought to be done when we want to accelerate the pace of the reforms. No doubt the Honourable the Home Member will have much to say with regard to what has been declared in the announcement of 1917 and in the preamble to the Government of India Act. He will tell us how further stages of reform are to be granted conditionally upon the co-operation of those in whom trust has been placed, how the British Parliament and the Indian Government are to be judges of the time and the rate of the progress, and how, in fact, further progress depends upon the success of the electorates, upon the co-operation of the people and so forth. I will, therefore, not enter into that question, but only point out that the Prime Minister has

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ranged himself on the side of those who are known to be the opponents of the reforms in India, and by his speech he has, I may say, laid the axe at the root of the reforms. I am not speaking of any particular expression that he has used. But I want Honourable Members to take into consideration the spirit of the whole speech, and with reference particularly to the position and the prospects of the services. I must guard myself against the charge of taking certain passages from the speech of the Premier, tearing them out of their context and erecting on the basis of these passages a superstructure of conclusions which are not warranted. I do not want to be frightened by shadows or pretend to show danger where none exists. I will therefore give a very brief summary of the Premier's speech, bringing into prominence its salient points. The speech is thoroughly logical. It goes from one step to another and I want to show where the Premier stops and does not proceed to the further logical conclusions which are to be drawn from the premises from which he starts. He sets out with the inauguration of the reforms, and it must be said to his credit that he says at the very outset that the reforms ought not to be prejudged. There is still time to consider whether the reforms are a success or not, and we ought not to be hasty in passing judgment on these reforms. The next point in the speech relates to British responsibility to the people of this country. He says that the British Parliament and the British Government are responsible for the safety, the good government and the well-being of the masses in this country. Consequently, the British Parliament and the British Government will do their level best to carry out the responsibility honestly and sincerely. In discharging this responsibility—that is the third point—the British Parliament and the British Government have associated Indians with the administration of the country. This analysis of Mr. Lloyd George is thoroughly in consonance with what has been said in the Joint Report. First of all, the Government was entirely autocratic. Then the autocratic Government said to itself: "Shall we not benefit by the advice of Indians? Let us call them to advise us." Therefore, in the Legislative Councils of 1861 Indians were called to advise Governments. Then they said: "Let us have more advice." Therefore, in 1892, the constitution was modified in this way. Indians have since then been called to associate themselves in larger numbers with the government of the country in making laws and also in administering the affairs of the country. The fourth point of Mr. Lloyd George is that in spite of the increasing association—association perhaps of Indians in larger numbers and in larger proportions—the British Parliament and the British Government will never contemplate the final relinquishment of the trust. There is that responsibility, and the British Government is not prepared to relinquish that trust and that responsibility. For this purpose—here comes the next point—the existence of a nucleus of British service is necessary and necessary for all time to come—for generations to come.

(An Honourable Member: "No.") My Honourable friend says "No." I am therefore going to quote the very words of the Premier and show what he means by the words that he has used. "We have invited" says the Premier, "the co-operation of the people of India in the discharge of this trust. We have invited them in increasing numbers and perhaps in increasing proportions. I think that that was inevitable. It was a

natural development." So far so good. Then he proceeds:

"That was an inevitable evolution but I want to make it clear, if it is not already clear, that that is not in order to lead up to a final relinquishment of our trust but with a view of bringing into partnership in the discharge of that trust within the British Empire."

Then there is something further:

"Therefore I approach this question from the point of view of one who believes in getting Indians to assist us in discharging a very great trust and obligation which we have inherited and which I hope we shall transmit to our descendants in the generations to come."

So this trust and this obligation is going to be transmitted to generations to come. I have faith and trust in complete self-government for India which will come in the course of a few years. When that complete self-government comes, my question is, what is to happen to this perpetual obligation, this perpetual trust? What is a trust? It is something which is held for the good and the benefit of another. I cannot understand a trust which will never be handed over to the person for whose benefit it exists and who is entitled to its rights or to its property. A time must come, and if I understand the spirit of the reforms aright, they are intended to achieve one result—and this has been the substance of the declarations of the British statesmen—namely, that when Indians are fit for self-government, the British responsibility will be transferred to their hands: but here we have the Premier telling us that this is an obligation and a trust which "we have inherited and I hope we shall transmit to our descendants in the generations to come." He proceeds further:

"What I want specially to say is this that whatever their success"—that is to say, the success of the Indians:

"whether as parliamentarians or as administrators I can see no period when they can dispense with the guidance and assistance of a small nucleus of British Civil Servants, of British officials in India, this in a population of 315 millions and they only number 1,200. They are the steel frame of the whole structure. I do not care what you build on to it. If you take that steel frame out the fabric will collapse."

Lastly, one more quotation:

"There is one institution we will not interfere with, there is one institution we will not cripple, there is one institution we will not deprive of its functions or of its privileges, and that is that institution which built up the British Raj,—the British Civil Service in India."

If these passages mean anything, to my mind they mean that the Premier does not contemplate the transfer of real power to the hands of the people for generations to come. I put it to this Council and ask whether my Honourable Colleagues can contemplate a time in the distant future, one generation or two generations hence, when Indians will not be regarded as fit for discharging the functions of responsible government.

Now, look to the occasion of the Premier's speech. The occasion was provided by Sir Samuel Hoare's plea for the Civil Services regarding their pay and pensions. I must here repudiate in the name of the country certain imputations which have been cast upon the character of India when it has been said that members of the Civil Service are distrustful whether their pensions will be secured in the future or not. So far as I know, no responsible Indian has ever said that the pensions of civilians will be in any danger, and therefore it is an imputation and an allegation which ought to be warmly repudiated. Now, this request and this plea of Sir Samuel Hoare was perfectly reasonable, and I am one of those who would like our Legislature and our leaders to consider the grievances of the Indian Civil Services. If there are any grievances, if there is any improve-

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ment to be made, certainly let us give our best attention to them and make reasonable improvements in their prospects so long as we want them, so long as they are here, so long as their career will be in this country. Certainly it is our duty to support the services and remove any apprehensions from their minds with regard to their present position and with regard to their future. Sir Samuel Hoare was followed by Sir William Joynton Hicks, and he gave a new turn altogether to the whole debate. He referred to the rapid Indianisation of the services and he gave expression to the fear that the British position in India will be impossible to maintain if the number of Indians in the Civil Services will go on rapidly increasing. The Government of India circular about the services which has come to be known as the O'Donnell circular, has caused a flutter in the dovecots in England and in this country. Now, the Government of India have made it quite clear that the views that they have placed before the Provincial Governments in the course of that circular are not their views, and we must say that the Government have been quite frank, quite reasonable, quite far-sighted in the arguments and the pros and cons of the whole question that have been placed before the Local Governments. But many people in this country and in England have taken alarm at the prospect of an increasing number of Indians coming into the services and especially the paucity of British candidates at the recent Civil Service examinations in England. Mr. Lloyd George clearly took his cue from Sir William Joynton Hicks, and that is the reason why I say that he ranged himself on the side of those conservatives and those reactionaries in England who had been unnecessarily spreading false alarms about the attitude of Indians towards the Civil Services. Not only that, even the Viceroy has been bracketted by certain people in the English Press with Indian agitators. Now, this is the sort of work that is being done in England and I am sorry to find that Mr. Lloyd George, in his anxiety to give support to the Civil Service, fell a prey to this anti-Indian agitation,—and I may call it—the anti-reform agitation.

That is my quarrel with Mr. Lloyd George. So far as his assurances to the Civil Service are concerned, I have nothing to say against them, but he could have said all that without creating distrust and suspicion about the future of the Indian Reforms. We may ask, how is it possible for India to develop self-government, complete responsible government, in the course of a few years, if the “steel frame” is to remain intact, and if the functions, the prestige and the privileges of the Civil Service are to remain as at present? The Government of India have made it quite clear that some of the Civil Service appointments will have to be abolished, and some of the functions of the Service have already been transferred to Indians. It is futile to expect, therefore, if the reforms are to be real reforms, if they are not to be a mere show, that there will be a transfer of more control and functions from the hands of the British Civil Service to the hands of Indians. There are two alternative courses here : either keep the prestige, the power and the functions of the Civil Service undiminished and then there are no reforms worth the name, or the Civil Service will have to drop some of its functions, some of its control and some of its prestige. Practically, therefore, Mr. Lloyd George has thrown down a challenge to us and the question before us is, are we

going to take up that challenge or not? Are we not going to make our own position clear? The Premier has made an emphatic declaration about his policy and what he thinks should be the policy of every British Government with regard to the reforms for generations to come. Is it not our clear duty to make a declaration of our own policy or what we think is the right policy? So far as I am concerned, I think we shall be failing in our duty if we do not give expression to our views. We shall be helping the Government of India and even the British Government if we tell them what the feelings and sentiments of the people of this country are, and we have to show up some of those who are carrying on an agitation against the Reforms misinterpreting the views of Indians, that they are misinterpreting the demands of the Indian people for further reforms and for greater power. I will not make a detailed reference to a certain memorandum sent to the Secretary of State by the Central Provinces and Berar Association of European Government servants. I would refer to it only for the purpose of showing the spirit of the agitation which is being carried on against the reforms and its connection with underlying ideas of the Premier's speech. Now, be it noted that this is an expression of views recorded in August 1922. The Association says that “It endorses the fear expressed by the Calcutta Association—and that was in 1919—that the Government of India do not realise the difference in difficulty between keeping order in the name of an all-pervading and apparently permanent British administration and keeping it in the name of a British administration which has narrowed its sphere to a very few reserved subjects, and is understood to be pasting labels ‘to London’ on its baggage”.

Now that is the kind of views which are being circulated with regard to the reforms, and it is our duty to combat such views and make a clear declaration of our policy. These Civil Servants have not stopped only with giving expression to their own grievances. They are welcome to form their trade unions and demand more privileges or seek redress of their grievances. I have nothing to say against that, but they go beyond this, and they want to teach the Government of India, even the Secretary of State and the British Parliament what their duties are and what their attitude should be. And in this memorandum to which I have made reference, the Civil Servants have waxed eloquent over the civilization and the political history of India, and they have said that they cannot see any prospect in the immediate or the distant future of an autonomous India. They have given a long history of India, much of which is irrelevant. Now, it is for this reason that I venture to submit my Resolution to the Council, and in view of the arguments which I have advanced in favour of it, I feel assured that the Council will give me its hearty support.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhammadan) : Sir, it is more than five weeks since the Premier made his very ill-conceived speech on the subject of the Indian Civil Service in the House of Commons, a speech which has raised, and rightly raised, a storm of indignation in this country. In what he said the Premier has introduced an element of instability and uncertainty in the whole scheme of reforms, and which amounts to a direct negation of the principles and policy laid down in the formal declarations announced by Government. All honour to His Excellency the Viceroy for seizing

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two distinct opportunities to allay the Indian mind, and I may assure the House that the country at large has every confidence in the Viceroy himself and in the Government of India composed as it is to-day that in so far as lies with them they are determined to make the Reforms a great success. But it is speeches of the kind made by Mr. Lloyd George that give them a distinct set-back. After the reply which His Excellency the Viceroy gave to the deputation that waited on him on the 19th August, it was argued in some sections of the press that it will be useless to discuss the Premier's speech any further in the two Houses of the Legislature, and I believe that the same opinion is held by many after the further speech made by His Excellency the Viceroy only two days ago. But, Sir, the speech of Mr. Lloyd George has caused such a great sensation in the country, and the issues involved are so great, that it would be a serious dereliction of duty on the part of the Central Legislature if it did not voice the feelings and sentiments of the Indian public. It is absolutely necessary that the Premier himself, the British Parliament, as well as the British public, should know what India and Indians think of the Premier's speech and of the views expressed therein. Sir, in the reply which the Viceroy gave to the deputation he conveyed the assurance of the Premier that in what he said there was nothing which would conflict with or indicate any departure from what was laid down in the famous declaration of 1917. With all respect to the Premier, I make bold to say that this is a clear after-thought, and it is perhaps the outcome of the insistence on the part of the Viceroy to appease the Indian public. The speech of the Premier was not delivered on the spur of the moment or without due consideration and thought as I hope I will be able to convince the Council. Some months ago when Mr. Winston Churchill made certain observations against Indians on the subject of Kenya Colony and India was greatly excited, we were told not to attach any great importance to the speech, which after all was only an effort of post-prandial oratory on his part. Such a defence or a similar defence cannot be put up on behalf of the Premier on the present occasion. The Premier's speech was made on Wednesday, the 2nd August. Only five days previous to that, it was publicly announced in the press. On Friday, the 28th July, in the Westminster Gazette, which is known to be a Government organ and in the confidence of the Premier, there appeared a paragraph with the headline in letters $\frac{3}{4}$ th of an inch in size reading "BIG SPEECHES TO COME", and in the body of the paragraph it was stated that the Premier was to make an important speech on India on the Wednesday following at the Second Reading of the Appropriation Bill. After this, I hope the Council will see that the Premier went that afternoon to the House of Commons with the determined idea of expressing his own views, whatever they may be, and unmistakably, on the question of Indian Reforms. There is no mistake about his intentions, and in the reply to the Deputation His Excellency Lord Reading told his hearers that Mr. Lloyd George enjoyed the reputation of being able to express the meaning of his words more lucidly and forcibly than any other member of the House.

We certainly endorse this testimony and we say that on this occasion the Premier certainly gave very lucid and very forcible expression to what he intended to convey, and consequently no other interpretation can be

put on his words than the interpretation that is placed upon them by all India. It is not that this interpretation is put upon it by all India alone, for, as my Honourable friend the Mover just now observed, there is a section of the British public whom he called Non-Co-operators, who also put on it identically the same interpretation. Again, His Excellency reminded his hearers that they should attach some importance to the nod of assent which the Premier gave, when later in the afternoon, both Earl Winterton and Sir Donald Maclean observed that there was no intention of departing from the policy laid down. Surely, Sir, history is not to be made up by gestures of assent or dissent, but by the spoken words of statesmen which will live long after them.

We had a foretaste of this speech in what fell from the Under Secretary of State on the 17th June last when he introduced the India Office Estimates in the House of Commons in a speech that he made on that occasion. When Mr. Montagu resigned, we were informed, when Lord Peel and Earl Winterton assumed office, that there was to be no reversal of policy, and yet on the 17th June Earl Winterton in the speech that he made offered an apology for the European members of the Indian Civil Service and administered a very stern rebuke to those Indian leaders and patriots who asked for further immediate constitutional advancement, and characterised it as 'absurd.' I think, Sir, it was in the same speech that he observed that the present military expenditure was irreducible. That speech of Earl Winterton was evidently a prelude to the speech which followed from the Premier only six weeks later.

One more argument, Sir, to convince the House that this was not a speech delivered on the spur of the moment. What was the occasion of the speech? Sir Samuel Hoare enjoys the reputation of being at the beck and call of the Coalition Whip to put inconvenient questions to enable Ministers to reply and satisfy the public at large. On the present occasion, two points that Sir Samuel Hoare raised were in regard, first, to the feeling of insecurity felt by the members of the Indian Civil Service on account of the constitutional reforms, and, secondly, to their concrete financial grievances. Now, Sir, one would have thought that the Premier in his speech would have referred, and referred very particularly, to these two points. But a very close perusal of the speech will show one that he never came to close grips with either of these points, but flew off at a tangent and thundered forth his great eulogy,—an eulogy according to which in the history of no nation at any period of time there has ever flourished any body of men who have rendered so conspicuous a service as have the British members of the Indian Civil Service. Sir, he also took the occasion to warn India that at no period of its political advancement was it ever to rise to a status, even 50 or a hundred years hence, when it could decide that it would have no more Britishers in the Indian Services. That is the interpretation which the Premier has put upon complete responsible self-government as promised to us. Now, we Moderates, recognize the need of the presence of Britishers in the different Indian Services for a long time to come, and particularly during the transition period. We want them to stay as long as they desire to, and as long as we want them, but we certainly will not subscribe to the dictum of the Premier that the entire fabric will collapse if what he calls 'the steel frame' is removed. I have no hesitation in repeating once more what I have said in this House before that, if the Indian Civil Service is the best paid Civil Service

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in the world, it is also perhaps the most efficient. But I also hold that, given the same conditions of service, the Indian Civil Service of the future, whether it has in it a partial element of Britishers or none whatever, will continue to give the same fair account of itself as it has done in the past, whether the 'steel frame' be there or not. I entirely agree with the Honourable Mover—I think many of my Honourable Indian colleagues may differ from us—that the legitimate grievances of the Indian Civil Service must certainly be looked into. Sir, I said just now that the Indian Civil Service was the best paid Civil Service in the world,—I said advisedly 'it was', for it no longer is. Times have changed; Government themselves have recognized that, and consequently in 1920 they introduced what was called a time-scale pay. The time-scale pay seems to have helped the Civil Servants only in the earlier years of their career, and not later. When Government framed this time-scale pay instead of grade pay, Government thought that the artificial rate of exchange as laid down by them, namely, 2 shillings to the rupee, would continue, but unfortunately, as we know, it has not, with the result that in the remittances which the Civil Servants have to make, which I suppose amount to a large percentage of their income, they have got to pay 33 per cent. more than what Government calculated when fixing the new scale. Again, the cost of living has increased since the pre-war days from 60 to 90 per cent. But there is one particular item of cost in the Civilian's budget in which the increase is very high, and that, Sir, is the passage money of himself and his family from here to England and back. Knowing, as those of us do who travel beyond India, the increase is not 10, 20 or 50 per cent., but 200 per cent. and more. These, therefore, are legitimate grievances and require to be looked into. Sir Samuel Hoare was perfectly reasonable in this connection when he said that he did not wish to dictate what India should do or should not do. He felt that the question could only be amicably settled with Indian co-operation. He added that "after all, the Indian Civil Service existed not for the benefit of a few Englishmen, but for the good of the whole of India". British officials, I readily admit, have played a glorious part in the history of modern India; it is given to them yet to play a still more glorious part in the development of India into one other unit enjoying complete self-government in the British Commonwealth of nations. It is true that the old glamour has gone, or will soon go. In fact, "Servants" as they were called,—the members of the Indian Civil Service—was a misnomer; they were not servants in the sense in which Civil Servants elsewhere are understood to be; they lorded it over the people. The Civil Servants' work hereafter will not be spectacular; the members of the Indian Civil Service will discharge their duties in this country hereafter in the same manner as their namesakes in the United Kingdom or elsewhere. Either by a coincidence or out of sheer indignation at the Premier's speech, on the very next day after he spoke in the House of Commons, a retired eminent Indian Civil Servant, Sir Hamilton Grant, speaking to a very large gathering at the Labour Summer School at Oxford, presided over by a former Secretary of State, the Marquess of Crewe, observed as follows:—"Let us not resent our loss of privilege, but let us face the position in good humour and drop all talk of holding India by the sword." The same Civil Servant at the same meeting expressed his wonder that there has been comparatively speaking so little

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unrest in India, and equally wonderful in his opinion was the patience with which Indians were waiting for complete self-government.

I, like my Honourable friend, Mr. Kale, will not take up any single isolated passage from the Premier's speech and complain against it.

There is an under-current in paragraph after paragraph which clearly explains his own mind in regard to the reforms, and according to which India is never to attain self-government to the same extent as is given to Canada, to South Africa, Australia or to New Zealand. He referred to the reforms as an experiment; if he referred to Diarchy and called it an experiment, he would be perfectly right. I do not agree with the Honourable Mr. Kale when he says that the reformed constitution can also be called an experiment. I emphatically deny that. My contention is that the present reforms are but the evolution of the policy that has been pursued in this country for years and years, and are also an evolution of the institutions that have existed amongst us. It is therefore, I say, that it cannot be called an experiment by any stretch of imagination.

The Premier maintains that at no time in the history of India can we do without Britishers. My Honourable friend has quoted many extracts from his speech. I will not repeat them, but I will quote one. The Premier's exact words are:

"I can see no period when they can dispense with the guidance and assistance of a small nucleus of British Civil Servants and of British officials in India."

and he goes on by saying,

"There is no idea of winding up the British Civil Service and that we consider it not merely as an integral part of the system but as essential to the very life of the system."

I ask this Honourable House, after hearing these passages, how they can possibly reconcile the 'assurance' which the Premier has now chosen to convey through the Viceroy with his actual words which my Honourable friend the Mover and myself have quoted.

The Premier's speech is a great political blunder, and I am sure no one knows it better than the Government of India themselves, although they will not publicly acknowledge it; for, it is a blunder committed at a time when, owing to the collapse of the non-co-operation movement, the present was a better time for constitutionalism than ever before. The Premier's speech is nothing else but a tissue of platitudes, of old-world notions no longer existent or true, of extraordinary and extravagant praise of the British members of the Indian Civil Service, of undue exaltation of their proper sphere and functions in the scheme of Indian Government, and of statements absolutely inconsistent with the realization of the ideals of complete self-government.

Sir, some one has well said before that, when a politician makes a bad promise it takes a gentleman to keep it. Much of Indian politics turn round a promise. A promise was given to India in the dark days of the war to keep her quiet and given by the Premier, who, as His Excellency the Viceroy reminded us two days ago, was himself at the head of the Cabinet when the famous declaration was made. Perhaps the Premier in his greater wisdom thinks to-day that it was a bad promise; but it was a promise foreseen decades ago. Political advancement to Indians has been administered only in tiny homœopathic doses and very reluctantly with the deliberate idea of protracting the wardship. As far back as

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1823, a famous Governor of Bombay, Mountstuart Elphinstone, writing to the Court of Directors, observed :

“ If we raise the natives to an equality with ourselves by education and at the same time admit them to a share in their government, it is not likely that they will be content with the position assigned to them or will ever rest until they have made good their title to the whole.”

And India and the Indians now desire the British Premier, the British Parliament and the British public to know that this is exactly what we are determined to do, no matter how many more speeches the Premier or others of his kidney may choose to make, now or hereafter.

The HONOURABLE SIR ALEXANDER MURRAY (Bengal Chamber of Commerce) : Sir, I sympathise with the feelings that prompted my Honourable friend to give notice of this Resolution. For undoubtedly the first garbled report of the Prime Minister's speech came so slowly to us over the wires did lend itself to the creation of what my friend describes as feelings of apprehension and disappointment. And, speaking quite frankly, though the full text of the speech received some days later did much to dispel the misunderstandings and doubts inspired by the first messages, I must confess it did not entirely remove my feelings of surprise that the Prime Minister should have taken advantage of the Debates in the House of Commons on the Appropriation Bill to deliver himself of a speech on Indian affairs so liable to misinterpretation and so capable of mischief-making in this country. I was therefore very pleased to read His Excellency the Viceroy's explanation of the speech, and had no hesitation in accepting the Prime Minister's assurance that nothing in his statement to the House of Commons was intended to conflict with, or to indicate any departure from, the policy announced in the formal declarations and His Majesty's Proclamations. In view of this explanation and assurance and after hearing His Excellency's very decided pronouncement on the subject in his Address to both Houses on Tuesday, I am disappointed still to find on to-day's List of Business this Resolution of which I observe notice was actually given before His Excellency replied to the Deputation on 16th August. I have listened with great interest to the speech of the Honourable Mr. Kale in order to learn what good purpose, if any, can be served by pursuing this matter further, and am glad to say that I have heard nothing to influence me in forming any other opinion than that the sooner this unfortunate speech of the Prime Minister is allowed to sink into oblivion the better it will be for all concerned. I use the word “unfortunate” advisedly, for I do believe the particular debate in which this speech was delivered was raised with the best intentions, and that Mr. Lloyd George's well-known “gift of the gab,” as we say in Scotland, led him far beyond the specific point raised in the debate and indeed beyond his knowledge of the actual effects of the recent changes in India. May I quote the Prime Minister own words ? He said :

“ I should like to say one or two words with regard to the working of those changes before I come to the specific point raised by my Honourable and gallant friend because they have a bearing upon the problem which is suggested for our consideration.”

As we all know, these “one or two words” expanded into a speech filling four columns of the newspapers. Is it any wonder the Right Honourable gentleman wandered from his brief and made statements

which some people even yet evidently find it difficult to reconcile with his assurance to the Viceroy ? All the same I accept that assurance and am prepared to stand by it.

In the Resolution before us the Honourable Mr. Kale objects to the pronouncement of the Prime Minister in the House of Commons, in so far as it affects the present situation and the political future of this country. Whatever grounds my Honourable friend had for his objection at the time he gave notice of his Resolution, and I do not say that then he had not good grounds for wishing to discuss this matter on the floor of this House, I maintain these grounds no longer exist. The Prime Minister's pronouncement consists no longer of his statement in the House of Commons as originally wired out to us, but of that statement as qualified by his special message to the Viceroy. The Honourable Mr. Sethna says he stands by the Prime Minister's speech and refuses to accept the subsequent assurance. But why stand by the one and not by the other ?

The HONOURABLE MR. PHIROZE SETHNA : Because they are contradictory.

The HONOURABLE SIR ALEXANDER MURRAY : Is the second not a retraction of the first ? Is that contradictory ? I cannot understand why Mr. Sethna refuses to accept the assurance given in the Prime Minister's special message on the subject. That message contains the deliberate pronouncement that nothing in his statement to the House of Commons was intended to conflict with, or to indicate any departure from, the policy announced in the formal declarations and His Majesty's Proclamations.

What that policy is we all know. No longer is it a pious expression of opinion, but a statutory enactment incorporated in the Government of India Act of 1919, and I am prepared to discuss that policy—I hope I shall be given an opportunity to do so—when the amendments to this Resolution printed in to-day's List of Business come before us.

Meantime let us consider the special circumstances under which the Prime Minister's speech was delivered. It was made during the debates on the Civil Estimates in reply to a speech of Lieutenant-Colonel Sir Samuel Hoare who desired to draw attention “to certain very urgent questions connected with the present position and the prospects in the Indian Civil Service.” Now what was this position to which attention was drawn ? In reply to a question asked by Mr. Joshi in another place when we were last up here in Simla, the Honourable the Home Member stated that the percentage of Indians to the total strength of the Indian Civil Service was 13 per cent. only, (that was last year—I believe now it is over 15 per cent.)—but that according to existing orders, it was proposed to bring that percentage up to 48 per cent. You will remember the Islington Commission recommended that 25 per cent. of the superior posts of the Indian Civil Service should be recruited for in India. Mr. Montagu and Lord Chelmsford in their Report on Indian Constitutional reforms (paragraph 317) suggested that this percentage should be 33 per cent., increasing by 1½ per cent. annually until the periodic Commission is appointed which will re-examine the whole question, and that suggestion, I presume, has been accepted and is being acted on by the Government of India. In any event the Honourable the Home Member this time last year indicated 34½ per cent. (being 33 plus 1½) as the ratio at which the

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appointments then being filled by Indians bore to the total number of appointments filled. On this basis 36 per cent. of this year's appointments should be filled by Indians. Now, what do we find? At the annual open examination which began on the 1st of last month, (one day before the Prime Minister's speech) only 20 out of 80 entrants were British. I use the word "British" in its most limited sense. That is to say, 60 were Indians or say 75 per cent. Another instance of where "the best laid plans of mice and men gang aft agley" as we say in Scotland! According to the Montagu-Chelmsford Report and the orders issued under the Government of India Act, Indians this year should be getting only 36 per cent. of the Indian Civil Service appointments and the British 64 per cent. How can this policy be carried out if sufficient British young men refuse to come forward? With only 25 per cent. of the entrants at the last examination British, is it any wonder that Sir Samuel Hoare and other friends of India should be growing anxious as to the future of the Indian Civil Service on whom they consider, and in my opinion rightly consider, the successful working of the Reform Scheme must depend for many years to come? I say, no wonder Sir Samuel, on the day following the opening of this Indian Civil Service examination, raised the question in Parliament, and to my mind his speech was a model of what a speech on such an occasion ought to be. May I quote his opening remarks? He said:

"At the very outset, let me make my position clear. I approach this problem with no sort of desire to question or criticise the policy of Parliament as expressed in the Government of India Act. I believe that policy was a right one, and nothing that I wish to say in connection with the Indian Civil Service is in any way intended to question that policy or to suggest that we were wrong in setting up the political Councils and Assemblies which were then set up. Indeed I go so far as to say that I raise this question expressly for the purpose of helping to make the Government of India Act a success, for I am certain one of the most important factors for success in the policy embodied in the Government of India Act is an efficient and contented Indian Civil Service."

These were some of the opening remarks in the debate, and I wish I had time to read more, as for instance where Sir Samuel said:

"I am very anxious that this House (of Commons) should not dictate as to what India should or should not do" and again—

"After all, the Indian Civil Service exists not for the benefit of a few Englishmen, but for the good of the whole of India" and again—

"If the grievances that I have put before the House (of Commons) were put practically and fairly to moderate Indian public opinion you would have it behind you in the improvements that, I think, ought to be made."

I make these quotations to satisfy Honourable Members that the Member of Parliament who raised this discussion in the House of Commons did so with no ill-will to India, but with every desire to be of practical assistance. I have no doubt some of you are thinking "Yes, that is all right, but what did the Prime Minister say in reply." That is quite true, it is not what a private Member of Parliament says, but what the Premier says that we are worrying about. The Honourable Mr. Kale wishes us to deal with the speech as a whole, and he has placed his interpretation of the speech before the House. May I now remark on the speech as I read it? Sir, what did the Prime Minister say? Let

us first take some of his remarks "regarding the present situation," to use the words of the Resolution. He says there is a great deal of uneasiness with regard to the future among our British Civil Servants and British officials in India; they feel their position is precarious and are uneasy with regard to their pay and pensions generally; and they want and need reassurances. All perfectly true, isn't it? Haven't the Indian Civil Service had good grounds for uneasiness? And although, as the Premier goes on to say, it is but natural that the great constitutional changes which took place should provoke some uneasiness in the minds of those who worked the old system. I for one do not believe this uneasiness is due half so much to the actual nature of the Reforms as to the reception accorded to them by certain sections of educated Indians, who, in my opinion, ought to and in fact do know better.

So far I am sure we all agree with the Prime Minister and with his further statement that the changes are in the nature of an experiment, and most of us probably agree with his conclusion that on the whole the experiment has achieved a very considerable measure of success. It is at this point that the Prime Minister breaks off to deal with the political future of this country—to use again the closing words of the Resolution—but before touching on that, I wish to lay stress on the portion of the speech in which emphasis is laid on the fact that the difficulty is not one of finding places in India to put Britishers into but, to use the Premier's own words, "the difficulty is to get men to go there." And it is from that point of view he is talking. He says so himself and I am thoroughly satisfied in my own mind that this is the key to the whole speech. He finds fault with Sir William Joynson-Hicks for making a statement which taken from its context and read by parents would have the effect of discouraging them from sending their children to the Indian Civil Service. He thinks it discouraging that this statement should be made at a moment when great difficulty is being experienced in getting recruits. He treats lightly the difficulty in regard to the Medical Service which he thinks will right itself; he puts the Indian Civil Service in a different category and says "it is essential that we should keep this Service." He promises to go into the questions of higher cost of living and of dear passages to Europe "because it is essential that young men should not be discouraged from entering the Service." In fact, for the time being, the mind of the Prime Minister is filled with the necessity for maintaining the high character of the Indian Civil Service. He can see no period when Indians can dispense with the guidance and assistance of a small nucleus of British Civil Servants—of British officials in India. To this statement, in particular, I notice considerable objection has been taken both inside and outside this House, but Honourable Members will please remember that here the Prime Minister is only paraphrasing what Mr. Montagu and Lord Chelmsford said in paragraph 324 of their Report, viz.:—"We believe then that so far in the future as any man can foresee a strong element of Europeans will be required in India's public service." It is immediately after this statement, and in my opinion from this point of view, that the Prime Minister says that British officials in India are the steel frame of the whole structure, and if you take that steel frame out the fabric will collapse. Here again objection has been taken both inside and outside this House. But what are the actual facts? Is it not the

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case that the whole structure of the Reform Scheme is being slowly but surely built up—on what? On foundations laid and maintained chiefly by generations of British Officials. Does any Member of this House doubt that if all these officials were withdrawn this year or next year, the fabric, as we know it, would collapse? And he is a bold man who looks ahead and indicates within what period of years the services of the British Officer in India may be entirely dispensed with! It is for this reason that the Prime Minister refuses to contemplate any idea of winding up the British Civil Service, and insists on considering it not merely as an integral part of the system, but as essential to the very life of the system. It is for this reason, too, and because he considers the most serious and most trying time is yet to come, that the Prime Minister endeavours to make it clear Britain will in no circumstances relinquish her responsibility to India,—that responsibility being, in the words of the Preamble of the Government of India Act of 1919, the increasing association of Indians in every branch of administration, and the gradual development of self-governing institutions, with a view to the progressive realisation of responsible government in British India as an integral part of the Empire. To that end, the Prime Minister says the British stand by their responsibilities and will take whatever steps are necessary to discharge or to enforce them. To that end and in the discharge of that trust, the British Parliament has invited the co-operation of the people of India. For the Prime Minister believes in getting the co-operation of India in the government of the country, believes it strengthens the Empire and the hold which the Empire has upon them.

Sir, I have spoken at considerable length. I have endeavoured to lay before the House the pronouncement of the Prime Minister—in the terms of the Resolution—as I see it and as I would have my fellow Members see it. And having done so, I would now appeal to them, and in particular to my Honourable friend Mr. Kale, for whose political sense and judgment I have the highest regard, to accept the assurances of the Prime Minister of Great Britain and of the Viceroy of India—two of the most powerful factors for good in the life of India to-day. I beg of them to accept these assurances and to allow this unfortunate episode in India's politics to be forgotten.

The HONOURABLE SIR BENODE CHANDRA MITTER (West Bengal: Non-Muhammadan): Sir, at the very outset I must say that there was every justification for the notice of the Resolution which the Honourable Mover gave, and but for the later pronouncements of His Excellency the Viceroy which conveyed to us what the Prime Minister really meant to say, I would have given this motion my whole-hearted support. I do think and I join with my Honourable friend Sir Alexander Murray in stating that the speech of the Premier was, to say the least of it, somewhat unfortunate and disappointing. Sir, before I proceed very shortly to analyse that speech I must refer to one point to which my Honourable friend Mr. Sethna has alluded. He has assured this House that the Prime Minister's assurances conveyed through His Excellency the Viceroy were mere afterthoughts. It is not for me to take exception to the words

he has used. But let us analyse and see what they convey. What is meant by saying that they are afterthoughts? Does it not mean that they are retractions? Does it not mean that it is a public disavowal of the interpretation which has been put upon them? If that is so, is it not a great gain to us? Does that not really take away the very basis of further discussion? I heard my Honourable friend Mr. Sethna say to my Honourable colleague Sir Alexander Murray that it has not been retracted in Parliament. I do not know whether any further occasion has yet arisen or will arise in Parliament when the Prime Minister can appropriately refer to this matter. For my part I am satisfied with his Excellency's assurances, and the sooner this unfortunate controversy is forgotten the better it is for all parties concerned in it.

Having said so much, I will now proceed, Sir, with the leave of the House, to analyse that speech very shortly. The Premier begins by referring to the great changes which have been brought about in the constitution by the Reform Act. I will just read two lines with regard to that. He says: "The constitutional changes have a bearing on the problem suggested for our consideration. These changes were of the nature of an experiment and they must be tried as a very great and important experiment." Now, exception has been taken to the word "experiment." It is no doubt an ambiguous word. But speaking for myself I do not see any very great objection to that expression. That was the expression which I find was used by Mr. Montagu, the sponsor of the reforms—by Mr. Montagu whom I think the moderate section of Indian opinion considers as one of the most liberal Secretaries of State that India ever possessed. That expression, I find, was used in the debates in the House of Lords by our distinguished countryman whose ill health we all so deeply deplore to-day. I mean Lord Sinha. If no exception was taken to that expression when these two distinguished and undoubted champions of our legitimate aspirations used them, is there any real occasion to-day to cavil at these words?

I now pass on to the next portion of his speech. The Prime Minister pays a tribute, and I think a handsome tribute, to what we, the Members of the present Legislature, have been doing. I do not think, Sir, there is any one here who will take exception to that. Then the Prime Minister proceeds to refer to what would happen if the non-co-operators were to get into power. What he says upon that point can shortly be summarised as follows. He says: "If there was a change of that kind (that is, if the non-co-operators got the upper hand in the Legislative Council), if there was a change in the design of the responsible and chosen leaders of the Indian people, that would constitute a serious situation and His Majesty's Government would have to take it into account. Britain can under no circumstances relinquish her trust." Here again I say that you cannot divorce the expression from its context, nor is it the suggestion of the Honourable Mover or Mr. Sethna that you should do so. He then says:

"If Britain withdrew her strong hand nothing but strife, conflict and anarchy will ensue. If we are to withdraw, it would be one of the greatest betrayals in the history of any country. We have invited their co-operation not with a view to a final relinquishment of our trust, but with the view of bringing Indians into a partnership in the discharge of that trust within the British Empire."

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Speaking for myself, I do not find anything very dreadful in these utterances or anything of a menacing character. Then he proceeds to say :

"That he was one of those who believe in getting the co-operation of India in the good government of the country. He was anxious to make India feel that she was a part of the Empire. He was one of those who believe in getting Indians to assist in discharging that very great trust and obligation which he hoped we shall transmit to our descendants and generations. The success of this depends mainly on Indians being good Civil Servants."

That, in short, is the first portion of his speech. Then comes a portion to which we do take exception, and that is the portion which is headed in the report of the "Times" as the "STEEL FRAME." Now, let us see exactly what it comes to. This is the portion :

"Whatever their success whether as parliamentarians or as administrators he could conceive no period when they, that is, the Indians, could dispense with the guidance and assistance of a small nucleus of British Civil Servants. They were the steel frame of the whole structure. He did not care what they built on it, but if they took the steel frame out the fabric would collapse."

We won't quarrel about the exact words, but what is it that the Prime Minister means there? He says that he could conceive of no period when they could dispense with the guidance and assistance of some nucleus of British Civil Servants. If by that he means that there could be no period when by far the vast majority of the higher Civil Service should be Indians I for my part enter my most emphatic protest against that. If by that the Prime Minister simply refers to the fact that for many years yet to come, there must be a substantial element of British officials to guide us in our onward march towards our goal, *viz.*, the complete dominion form of government, I have no objection to that expression. Taking the expression as it stands, he merely says, "small nucleus." Why should we put the worst construction upon that? He has not said "a preponderance of British element" there at all. If he did say that, I for my part certainly would enter my respectful but very firm protest against that.

Then, Sir, comes the portion, the last portion of that speech which I cannot for my part explain or even understand. I proceed to read it :

"Therefore it was inevitable that they should be strengthened, but whatever they do in the way of strengthening, there was one institution they would not interfere with or cripple, there was one institution they were not in the least going to deprive of any of its functions or its privileges, and that is the institution which built up the British Raj, namely, the British Civil Service."

Now, Sir, speaking for myself, I take strong exception to this portion of the speech. To start with, it is not an accurate representation of facts as they stand to-day. The British Civilian has been deprived of many of his functions and of many of his powers. Therefore to say that at no time should he be deprived of his functions and privileges is going against existing facts and the Act of Parliament. If from the concluding portion of his speech we are to understand that no power of the Civil Service is ever to be crippled, I think the whole House will be with me in condemning that portion of the speech, because that is against the Government of India Act of 1919. But the question is, is that what he really meant to say?

Now, let us come very shortly to the two subsequent events which are of importance. In the first place, His Excellency the Viceroy on the 19th August told the Deputation that there was no intention on the part of the Premier to go back upon the pronouncement of the 20th August 1917 upon the Reform Act which was passed in 1919, and His Excellency added that he had the authority of the Prime Minister to make that statement. Then comes another important incident, namely, His Excellency's speech on the 5th September. I will now read only one portion because to my mind it is of the utmost importance in this connection. After repeating the assurances which he had given to the Deputation that waited upon him on the 19th August, His Excellency proceeds to quote from his own Instructions :

"For above all things it is Our will and pleasure that the plans laid by the Parliament for the progressive realisation of responsible government in British India as an integral part of Our Empire may come to fruition to the end that British India may attain its due place among Our Dominions."

When His Excellency gives us that assurance on two solemn occasions and repeated that he had the authority of the Premier at his back, is there really any further necessity of any further discussion over this matter? I for my part congratulate the Mover for having given notice of this Resolution. I for my part welcome the debate and thank the speakers who have preceded me for their speeches, for that has cleared the atmosphere, but the question that now remains for further consideration is, whether there is any further necessity to press this Resolution to a vote? I have no doubt that when my Honourable Friend, the Honourable the Home Member speaks, he will give us further assurances that the pronouncements of 1917 and 1919 remain unaffected.

Sir, it appears that the Civil Service is somewhat unnecessarily nervous. I for my part feel confident that they will by their work in the future testify to their great utility and ability to which many of us bear testimony for their great work in the past. They will shew that they can adapt themselves to changing circumstances.

It will be impossible really to reach our goal, *viz.*, the attainment of the fullest responsible government without their assistance and co-operation. I quite appreciate that they may have legitimate grievances, and I am sure many of us here are at one with them in thinking that if they have any legitimate grievances, the same ought certainly to be considered but they must realise, and I have no doubt they do realise, that their functions, privileges and powers are bound to change as we advance more and more to complete responsible government.

Sir, I can quite understand the great feeling that has been roused by the Premier's speech, for we do regard the rights conferred upon us by the Reform Act as our *Magna Charta*; we do guard the rights and privileges conferred by the Act with scrupulous and jealous care. We consider that that Act has placed an instrument into our hands by which we can work our own salvation. We consider that that Act has placed us on the high road to responsible government. We consider that that Act has enabled us to be in sight of the winning post. Therefore, if there is any attack on any of our rights and privileges conferred by that Act, it is no wonder that great feeling would be roused amongst us. But I ask

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this House to consider dispassionately whether, having regard to the two occasions on which His Excellency the Viceroy has given us the assurance of what the Premier intended to say, viz., that there was no intention whatsoever of going back upon that liberal policy formulated in the great declaration of August 1917, and in the Reform Act of 1919, is there any occasion now to carry this discussion further to its bitter end? I venture to say that the position is the same as it would have been if the Prime Minister had sent a direct message to the Indian Legislature affirming the declaration of 1917 and the Act of 1919, for the Viceroy, as his accredited agent, has said so in a joint meeting of the two Houses. Is there any real danger to our rights? I feel confident that, although there is a provision in the Act that if after 10 years the Statutory Commission considers that it is necessary to restrict or abridge or enlarge our rights the authorities may do so, it is not within the bounds of practical politics that we are ever going to lose those valued rights which have been conferred upon us, unless we, by our failure to cripple the non-co-operation movement, allow the country to be plunged into anarchy and confusion. Of course, if such a state of thing happens, action may be taken; but such a catastrophe is most unlikely. Therefore, Sir, having regard to the assurances, I would suggest to the Honourable Mover that he should not press this Resolution to a vote.

The HONOURABLE SIR WILLIAM VINCENT (Home Member): Sir, I confess that when I entered this Council I was rather surprised to see this Resolution placed on the list to-day. I quite realise, as others have said before me, that when first the Premier's speech was published in this country it occasioned great misgivings in the minds of many. Since then two notable events have happened. On two occasions India has had the assurance of the Viceroy as to the meaning and intention of the Premier in making this speech, and I am quite sure that no member of this Council would wish to cast any doubt whatever on the solemn speeches and assurances of the Viceroy (Hear, hear). I want the Council to remember quite clearly that if they pass this Resolution, if indeed my Honourable friend Mr. Kale presses it, an impression might be created in the country that they are not only unwilling to accept the assurances of the Prime Minister, but also the solemn words which His Excellency the Viceroy addressed to the Legislature but a few days ago.

Sir, while I am speaking of the Premier, may I say I regret also that language should have been used about the Prime Minister of Great Britain which, to my mind, showed some disrespect, language indeed which has seldom been heard in this Chamber. I congratulate all the speakers, perhaps except one, on the moderation of their language and on the careful way in which their speeches have been worded; but I feel some of the language used by one speaker was open to objection, in that it might mar the reputation of this Assembly, it might further create a false impression of its character.

Sir, if there is one thing that is essential for the future progress of this country, it is the good-will of the British people, and the sympathy, help and assistance of His Majesty's Government. It is from that point of view that I want this Council to consider the present Resolution. The

very basis of the constitution of this Council is that it consists of men of weight and authority, of sobriety of judgment, men who exercise a restraining influence on public opinion. It is from that aspect particularly that I want the Members of this Council to consider this Resolution, for any speech here expressing illwill towards Great Britain cannot but have mischievous effects.

Now, Sir, I want to proceed to the Prime Minister's speech. A great many people have discussed it, I am sure, more effectively than I can, but I do want to put before the Council the meaning of the speech as it appeared to me. In the first place, we have a clear warning. There is no threat—I have heard that word used in India—but there is a warning to a party hostile to the Government, a party that has really openly said that it desires, or many members of which have openly stated that they want, to sever the ties that bind this country to Great Britain and create an independent Republic here. I say that in the circumstances there was great justification for the warning. Can any one say that it was uncalled for? I want the Members of this Council to put themselves for a moment in the position of English citizens, in the position of the ordinary man in the street at home who gets information by reading news which occasionally appears in the papers and from letters. What does he hear? We have had this country disturbed for over two years by one of the most mischievous political movements that have existed here for many years. We have had grave outbursts of violence, we have had serious rioting. In one part of the country at least people rose against the Government necessitating this prolonged use of His Majesty's troops, and that area has even now been hardly restored to tranquillity. We have had systematic attempts made to sap the loyalty of the troops. We have had endeavours made to boycott all British trade. Lastly,—no, there is one more thing, we have had this racial hostility, promoted I am afraid with great success, in many parts of the country. Lastly, we have had in some places despicable, though happily unsuccessful, attempts to insult the Heir to the Throne last year (Hear, hear). I do not think that perhaps it is realized in India what an idol of the people the Prince of Wales is throughout His Majesty's Dominions, where he has endeared himself and secured the affection and respect of all, and this is true not only of Great Britain, but of Australia, or wherever you may go in the Empire. Sir, what has been the effect on public opinion of this action of some despicable, disloyal Indians in the matter of the visit of the Prince of Wales? What do you think has been the effect in Great Britain? Remember too that all this was done in spite of very great patience and forbearance on the part of the Government of India. It was done in the face of the gravest warnings from His Excellency. Everyone was told what would be the result of any attempts to treat the Prince of Wales with disrespect. What was foretold has now come to pass. Sir, we here in India, with first-hand knowledge of the conditions, had gloomy forebodings as to the future. If any Member of this Council will look back into February or March and recall what his opinion was, he will admit that our minds were much exercised as to the future. Indeed, was there not justification for this? Now let me turn to one other aspect of this movement, and that is the power of the non-co-operation party. I do not want to exaggerate it; but if we are to judge from the paucity of the electors who went to

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the polls last election and the numbers who were kept away by the extremists, if we are to judge from the ease with which Extremists are able to break up political meetings convened by Moderates, then indeed the non-co-operators must have a considerable following. Further, you have members of this party with a large following proposing in one part of the country a Moplah raj, in another a Sikh raj, and at another time separation from the Empire. We have had clear statements that if and when they come into this Council or into the Assembly, their sole object will be to destroy Reforms, to make the administration of this country impossible. Now if all this caused anxiety out here, if we were perturbed, what does this Council think must have been the feelings of those, 6,000 miles away, hearing the gloomiest reports, getting inaccurate, alarmist information on the condition of India? Is it not natural that they should be more alarmed and more exercised over the future of this country? And, in the circumstances, was not the Prime Minister perfectly justified in warning these Extremists of the danger of the course they were pursuing—a course that can lead only to ruin? I want to make this point clear, because it has been suggested, not I am glad to say in this Chamber, that this warning of the Prime Minister was addressed to all Indians including those who have helped to make the reforms a success. I believe that to be an entirely unfair interpretation of the speech. His Excellency in his speech recalled the words of the Premier to the Members of the Legislature,—words of hearty appreciation of the good work which they had done in promoting the cause of the reforms. But, surely, something, some indication of the dangers of the future, was necessary to those who persisted in opposing not only the British Government, but this Government and all the Members of this Council. To them the warning was addressed. Sir, if it is a mistake to overestimate the effect which the entry into the Councils of the Extremists would have, at the same time it is a factor which no one can afford entirely to overlook. I myself have always believed that in present conditions they would not be so successful in getting seats as they anticipate; I believe that the Moderate party in this country has made a great deal of ground in the last year or two. I believe also that if these gentlemen come into the Assembly, then they will find it impossible to disregard that solemn sense of responsibility which the holding of office necessarily involves (Hear, hear). I am not therefore myself afraid of any Extremist coming into the Council; but at the same time when men make the threats which they are making now, I put it to this Council, no Prime Minister of England, with the great responsibilities of his office, the guiding spirit of the British Empire, could safely disregard them (Hear, hear). I have said repeatedly, and I say it again, that the greatest enemy of progress in this country,—political progress, industrial progress, every other form of progress—is Mr. Gandhi. Who can blame the Prime Minister for putting to his party the dangers into which they are leading this country? I am told that he is a visionary, a man with the best intentions. That does not affect my opinion at all,—because there are errors of opinion, as was said by a great Pope which are more dangerous than sin. At the same time I do not take myself a despondent view of the situation: I believe that it is brighter, that the prospects are more promising than they have been for many years. I

believe that the non-co-operation party have lost much of their power; that their influence is waning; I do not say that this is due solely to the so-called repressive measures. I believe it is due more to the returning sanity of the people of this country (Hear, hear), to the fact that they have seen that the programme which the non-co-operators put forward is hopelessly unsound; that the goal which they have in view is one which can never be achieved by the measures which they suggest, and, in fact, that they were leading the whole of this country to ruin and disaster; and I know that that view is shared by many Members of this Council here (Hear, hear). At the same time an important factor in the situation has been the enforcement of law and order,—the protection of peaceful citizens, in their liberty, and in the exercise of their normal rights; and I am sure the Government will continue to receive the support of this Council in enforcing law and maintaining order in this country.

And here, Sir, I want to turn for a moment to the language of the speech. Let me begin with the word "experiment." I believe some—I was going to say 'unfortunate'—Member has put in an amendment about it, objecting to the use of the word. So perhaps I had better wait and deal with him when he puts it up.

Next, I want to turn to another term to which much attention has been drawn, the word "trust". There is one authority which I think no one in this Chamber will refuse to accept, and that is the words of His Majesty, and a clear reference to his position of trust is to be found in the announcement in which His Majesty gave his assent to the Government of India Act. I will quote the words:

"Ever since the welfare of India was given to us, it has been held as a sacred trust."

There, on the highest authority, you have the use of this word. Mr. Montagu, whom it is the delight of this Council to honour, has repeatedly used the word in speeches in Parliament. And, in truth, has not a great trust been imposed upon Great Britain in this land? Is there not a subsisting trust, a trust to see that those who are settled here, that those who have served and are serving His Majesty here, those minorities whose rights may at any time be interfered with, are safeguarded in the exercise of their rights and liberties; that those who have lived here in peace and quiet, those who have stood for loyalty and the Empire in the past, should be protected in the enjoyment of their rights, in the following of their peaceful and lawful avocations? Are not their interests to be safeguarded, and has not His Majesty's Government a great trust in this respect? And what about the Indian States, and the relations of British India with those States? Is there not a trust there too? Surely, no one will deny that His Majesty's Government has a great trust, a trust of the most onerous character in regard to this country. But to say that His Majesty's Government has a trust is no negation of the coming of responsible government, and I venture to suggest that any such interpretation is based on a misconception of the position of His Majesty's Government. Here I want to make one thing clear, because it has been challenged. What is the meaning of 'responsible government'.....

(A Voice. "The Duke of Connaught gave it.....")

The HONOURABLE SIR WILLIAM VINCENT: I want to make clear what I believe to be the meaning of responsible government. It is a

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Government responsible to the elected representatives of the people, and that is the only form of responsible government that I can understand.

May I now turn to the question of the Services. I believe there is great truth in the statement that the Services are the framework of the administration of this country. I do not care whether you use the word 'steel framework' or not. They are the people who have built up the whole of the administration here now; they are the basis on which it is being built; and they have, in my opinion, been great benefactors to India in the past. Nor is it surprising that they are disquieted. If you think for a moment of the attitude that is adopted towards them by many Indians, then I say that there is ground indeed for their anxiety. I am very grateful to many Members of this Council for the sympathetic way in which they have treated the work done by the Services, and on this occasion I am glad to include one to whose language I took exception just before. It has been said that when responsible government comes, their functions must change. Well, my belief is that with the advent of responsible government, these questions will solve themselves. If you once have an assurance that the goal of His Majesty's Government is the progressive realization of responsible government, then everything else must follow as a matter of course; and it has always been recognized that when the development of self-governing institutions is the declared goal of British policy in India, the tendency must be for the functions of the Services to adjust themselves to the new conditions and to approximate more closely to those of other permanent Civil Services. That is the answer to these charges that are made regarding the Services. But what the Prime Minister meant, and what many of us feel, is that the continued assistance of the British Services will be necessary in this country for many years. I do not say this in the interests of the Services, nor is that the intention of those who speak in England. In fact, the very suggestion is a very ignoble one. It is because we believe that Britishers will be necessary to assist in promoting the welfare of India and in forwarding the very cause you all have at heart, that I say that the continued employment of Britishers in this country will be necessary. If you take them away suddenly, if you remove this framework—steel framework if you like—what would be the result? I say this could not but lead to disorder, if not to worse. It is the policy of His Majesty's Government further that there should be a substantial British element in the Services, and on this we have a perfectly clear statement of the Prime Minister's. That does not conflict with the policy of the increasing association of Indians in the Government. You have only to look at the orders issued in 1920, which have been put before you by Sir Alexander Murray. Year by year the number of Indians recruited to the different Services increases very rapidly indeed. In the Civil Service, 33 per cent. rising to 48 per cent. of Indians are recruited annually. If you will look at the figures for this year, for the Indian Civil Service examination, you will see that there were 99 candidates, of whom 80 were Indians and 19 Europeans. Does that look as if the people in England were so anxious to retain the privilege of coming out here? I tell you the real difficulty is not a question of

increasing recruitment, but in securing recruits for the percentages already prescribed.

As to the Services however the real question before this Council is a very simple one. Do they want to abolish European recruitment outright? If so, let them say so.....

The HONOURABLE MR. PHIROZE SETIHA : No, no; no one has said so.

The HONOURABLE SIR WILLIAM VINCENT : One member says, 'no one has said so'—that true friend of the Britisher in this country, who, whenever any opportunity has been offered to him of attacking the British Services, of maligning the Prime Minister and of maligning the British, has been the first to seize it. If my Honourable friend poses as a friend of the British Services, then God save me from such friends, for I would sooner have an open enemy.

The question, as I said, is whether you want to do away with recruitment altogether. Now, the real object of the Prime Minister was, as you have been assured repeatedly, not to go back in any way on the promise of an increasing association of Indians, not to modify or change the policy enunciated in the solemn declarations to which reference has been made—the Declaration of August 1917 and the Preamble to the Act—or in the Announcement of His Majesty. His intention was threefold. First, to warn those who are really hostile to the British Government in this country. Secondly, to emphasise His Majesty's Government's responsibility for the welfare of this country. Thirdly, to encourage the recruitment of British officers for India—recruitment which it is now difficult to secure. I know that many Members of the Services—I am not including myself—but many members of the Services sometimes wish that the inducements had been of a more material character. [*The Honourable Mr. E. M. Cook* : "Hear, hear."] I am glad to have confirmation from one who is one of the custodians of the finances of this country—I will remind him of this when the time comes. But I don't want this Council to believe that I think that pecuniary attractions are the sole inducement to Englishmen to come to this country. Nor do I believe that the idea of exercising power and authority is. There is, in addition to these, a desire to do some real work for the Empire, to serve His Majesty and to help this country on. If it is hypocritical to deny the more material motives, then it is cynicism to deny the nobler one; and as has been said by a great writer of these cynicism is the greater sin for it emphasises the lower motives and destroys the higher ones. I have now explained to you my interpretation of the speech of the Prime Minister, the objects that he had in view, the fact that there is no intention of going back on any solemn promises made. And, in these circumstances, I want to ask where lies the duty of this Council? But, before I proceed to that point, I want to emphasise one aspect which is, to my mind, of paramount importance, and that is the effect of the decision of this Council on English public opinion. I believe that seldom, if ever, has there been a time when the assistance of Great Britain was more needed in this country than at present. British capital is essential for the development of industrial enterprise. Every year, both on Government account and on private account, large sums of money come out to India from Great Britain. The benefit which this country derives from

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the investment of such capital is, I believe, incalculable. I believe that the continued assistance of Britain in Commercial and industrial projects is equally urgently required. It is indeed the very foundation upon which the whole commercial and industrial prosperity of at least one province is based. I believe that the association of British officers in the administration of this country is equally imperative for the good government, peace and tranquillity of the land. Lastly, I believe the protection and the help of the British Empire, of British officers in the Indian Army, is essential to the very existence of this country. It is in that view I ask this Council not to take any action here, or to approve anything which can only antagonize His Majesty's Government and still further harden the feeling in Great Britain against this country. Where does the duty of the Council lie? Where is the wiser course, where is the more statesmanlike course—the one most likely to promote the welfare of India? Does it lie in further exacerbating feeling, in alienating His Majesty's Government, in encouraging those who are hostile to Great Britain and the Government. Does not it lie rather in the other direction? Is it wise to make a pure dispute about words, now that the intention of His Majesty's Government is clear? Does not the wiser course lie in the direction of making renewed efforts to prove the wisdom and capacity of the people of India, to show that India is worthy of the great trust that has been imposed in it to justify the hopes that have been expressed by those who have the welfare of India at heart—by the continued and steady furtherance of constitutional reforms, showing that this Council is undeterred either by any extremist or reactionary influence. Sir, the success of these new Legislatures—these two Chambers and other Chambers too—has been frequently admitted. Mistakes, I dare say, have been committed by Government. Mistakes, I dare say, have at times been committed by the Legislature. That is inevitable. But I say that it speaks volumes for the character of the two Chambers that a scheme such as the present Reforms Scheme, so dependent on mutual forbearance, mutual co-operation, on patience and toleration, has succeeded at all. This Chamber has now before it a unique opportunity of answering the question whether it is going to proceed on the wise course hitherto pursued on the course of mutual co-operation and forbearance which it has hitherto followed with such success, or whether it is now going to abandon that wise attitude—give up that patience and forbearance and co-operation, and embark on a course which cannot but lead to mischievous results, and to renewed and increased bitterness in England.

Sir, numbers of charges and attacks on the Prime Minister's speech have been based on particular words and expressions chosen from it. It is not fair, I submit, to weigh the words of an orator in that way. It is not fair to concentrate on particular expressions, to examine the words as meticulously as if they were a Statute. You should really see what his intention was. Is this Council going to say that it will not accept as sincere the Prime Minister's assurance that there is no intention of going back on the promises made? Why should Members say that the one statement is sincere and the other is not? But, Sir, the whole of these attacks really resolve themselves into one charge, namely, that the speech indicates some

intention of modifying the policy of the Reforms as laid down in the Act. The Prime Minister has given an assurance that nothing of this kind is intended. The documents stand where they stood and only need examination. They have the same significance. These solemn documents, the Preamble to the Act, the Announcement of His Majesty's Government as to the increasing association of Indians in the administration, and the gradual development of self-governing institutions, speak for themselves. But the time and manner of each advance towards this goal is to be determined by Parliament. Further the intention of the Prime Minister is now clear, if it was doubtful before: you have received a full assurance from the highest authority as to his intention and meaning. In such circumstances, while realising that many Members may regret particular expressions I trust that this Chamber will definitely refuse to endorse a Resolution which can do no good and may do great harm and which will in fact impair the good feeling between Great Britain and India so essential to the welfare of this country.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhamadan) : May I offer a personal explanation, Sir?

The HONOURABLE THE PRESIDENT : Does it arise out of the speech of the Honourable the Home Member?

The HONOURABLE MR. PHIROZE SETHNA : It does. The Honourable the Home Member has chosen to refer to me sarcastically as the true friend of the Britisher, and he has added that I have always opposed everything with regard to the British in this country. I challenge that statement, Sir. The Honourable the Home Member may find fault with the language I used with regard to the Premier this morning, but I am glad, Sir, that there are others around me whom I have already consulted who find no fault with the language. I challenge the statement made by the Honourable the Home Member that I have consistently opposed British interests. On the contrary, Sir....

The HONOURABLE THE PRESIDENT : Order, I will allow the Honourable Member to make a personal explanation, but it must not degenerate into a speech.

The HONOURABLE MR. PHIROZE SETHNA : All right, Sir. I only want to end by saying that both in my public and private career there has been nothing which the Home Member or any one else can point out to show that I have at any time opposed British interests in this country. On the contrary, I have always been in favour of the British connection, and I hold that the British connection is for the good of India.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab : Sikh) : Sir, I think I will begin by speaking on the Resolution first. Possibly the amendment will never come—that is, if the Resolution is lost.

The HONOURABLE THE PRESIDENT : If the Honourable Member desires to make any motion which is in order, he can make it in his speech. In other words, if he desires to move his amendment, he must move it in the course of his speech or at its conclusion.

The HONOURABLE SARDAR JOGENDRA SINGH : In the first place I will deal with the Resolution and then take up my amendment. The arguments of the opponents to this Resolution, which was led by the Honourable Sir Alexander Murray, amounts to a kind of special pleading.

[Sardar Jogendra Singh.]

We have a strange sight. In the first place we have the Viceroy speaking out and saying that the Prime Minister knows what he is talking about. We have that affirmation from the Viceroy himself. Now we have Sir Alexander Murray coming on the scene explaining the speech of the Viceroy, followed by Sir Benode Mitter citing quotations as if he was citing rulings to prove that there was nothing in the speech which could be misconstrued. Then of course we have the moving speech from the Honourable the Home Member explaining the speech and appealing to the better sense of the House not to press the Resolution. He cannot define "Swaraj." And yet it was His Royal Highness The Duke of Connaught in the solemn opening of these two Legislatures who proclaimed that the aim of the British Government was ultimate grant of Swaraj to India.

What do these apologists mean? They say that the Prime Minister did not mean what he said. I think he meant what he said, and as the Honourable Sir William Vincent pointed out, he had three things in his mind,—a warning to those who were hostile to the British Government, a promise of hope to the Civil Service and I did not hear his second point and I do not know what it was. But in any case, the Prime Minister, speaking in the name of the British Government, did not use meaningless words. I think it is for this House, representing as it does 300 million people, to assert that it has a voice, and the Prime Minister of England, though not directly responsible, is at least indirectly responsible to these two Houses; that is why our two Houses should stand firm in their resolve and affirm in no hostile spirit without critical carping their determination to work for "Swaraj." We do not wish to impugn the assurance given by His Excellency the Viceroy. But we, at the same time, wish to assert that our ultimate goal is Swaraj based on the will and the wishes of the people of India. Without that will to achieve, I am sorry to say, Sir, that Swaraj will never be attained. Sir William Vincent in his very moving speech appealed to this House to accept the assurance that has been given. I am quite sure the House is assured. It is moving this Resolution not in any other sense, but to make it clear that India has a voice and hopes to attain responsible government within the Empire. Last year, when Mr. Sethna moved his Resolution asking for a small pittance from South Africa, Sir Arthur Froom stood out for the honour of India. I beg him again to speak in this House to-day and stand for the honour of India proving the partnership which is linking us all together. We are not offending anybody in speaking out the mind of India and making it clear that India will not rest till she attains self-government which has been proclaimed by His Majesty's Government as the ultimate goal of British connection. Prime Ministers may come and go, Councillors may come and go, but the King's word remains and we will stand by it. The King's word was put in the simplest possible language. In times of old, when the Government was not conducted by lawyers, they used plain language, and that plain language is used even to-day in the King's speech; and no misconstruction can be placed on it. Sir William Vincent again spoke of the splendid work done by the Civil Servants, and I am one with him in applauding their work.

I go further and say that they have a splendid future before them. There are great dreams to be dreamt about India. Let us dream them together and work in complete comradeship towards their realisation. I do not know whether the Prime Minister was happy in using the metaphor "the steel structure." The Civil Service is a living organism; and I am sure it will respond to the needs of the times and will not crack in the process. I regret more than anybody else the opposition which was offered here to the Heir of the Throne, but I think Sir William Vincent was not quite justified in ignoring entirely the welcome offered by the Princes and people of India to His Majesty's son and heir. It may be that a small section opposed it, but the entire population of India welcomed the Prince in no uncertain terms wherever he went.

Then again, Sir, a strong point has been made that if the Moderates fail, the non-co-operators will fill the Councils. There can be no doubt that the danger is real, but the danger would be still more real if the Members of these Councils fail in their duties, if they fail to give the service which the country demands, if they fail to secure what the country demands, and if they take their places here and become merely talking machines, dancing to the tunes which are set elsewhere. We represent the people of India, and if we prove ourselves fit to perform our duties, we have no apprehension that when the new elections come, people will trust those who carry out their wishes. But if we abdicate our powers, if we fail in carrying out the wishes of the people, there is no doubt other people will be elected who will respect the will of their electorates. It is only by performing our duty that we can secure the confidence of the people on whose will our elections will depend. To my mind the question of Civil Servants which has been brought into this Resolution does not arise at all. We all want Civil Servants. Any Government or any Legislature that comes here, will always require the best men that can be got, and when you get your best permanent officials, you are bound to meet their demands in order that they may do their work satisfactorily. It is not a question which needs any debate in this House or anywhere else. Sir William Vincent said again that passing of the Resolution will be considered an attack on the British people. I do not know how to meet the suggestion that in case this Resolution is passed, we will be acting in a kind of hostile manner to the wishes of His Majesty's Government.

I do not think that the Mover of this Resolution, or those who are supporting it, have any feelings of hostility in their hearts. All that they want to do is to show that India is not satisfied with the speech of the Prime Minister or with the meanings that have been ascribed to it, which require half a dozen men to explain it. When the Prime Minister of England speaks in the name of England he must speak clearly. Go back twenty-five years and it was then said that an Englishman's word was like letters cut in granite. To-day we have Mr. Keynes writing about the Prime Minister, telling us that he is in the habit of talking a good deal of folly and then trying to explain it. I think we shall be failing in our duty if we do not state that the word of His Majesty's Prime Minister has been brought to this pass that other people have to explain it. There was a day when the words of an English Deputy Commissioner were heard with great respect.

[Sardar Jogendra Singh.]

Why should not India state what she needs? Why should she not state in this House what she wants? Why should India close her lips and say, we are quite satisfied with the assurances that have been given to us? Why arouse a need for assurances at all? His Royal Highness the Duke of Connaught gave assurances in his opening the two Chambers, and these assurances were quite enough for us. It was in that hope that we were working towards responsible government. What has the Prime Minister done in shattering these hopes? You ask us to believe that because he nodded his head he did not mean what he said, and that because the Viceroy has explained and because my Honourable friends, Sir Alexander Murray and Sir Benode Mitter, have given their support, we are to believe that the speech was meaningless. Who is going to believe that in this country or outside or anywhere else that the Prime Minister spoke at random and was carried away by eloquence?

Having dealt with the Resolution, Sir, I will now move my amendment.....

The HONOURABLE THE PRESIDENT: May I remind the Honourable Member that he must be within the time limit in moving his amendment.

• The HONOURABLE SARDAR JOGENDRA SINGH: What time, Sir?

The HONOURABLE THE PRESIDENT: Fifteen minutes. Ten minutes have gone and you have five minutes left.

The HONOURABLE SARDAR JOGENDRA SINGH: The amendment is:

That at the end of the Resolution the following be added:

“and that this Council affirms India's determination to attain Swaraj and to declare that the Reformed constitution is the law of the land and not an experiment as the Prime Minister seemed to imply.”

The meaning of my amendment is that India can only attain responsible government, if she is fit for it, and works for it. I feel that the Members of this House would be failing in their duty if they fail to affirm India's right to self-government as promised by His Royal Highness the Duke of Connaught in his memorable speech in Delhi. What is more, Sir? It has been said that India needs England. I entirely agree that India needs England, but I would go further and say that England needs India also. Look back and see when has India ever failed. It was to India that England turned when it was necessary to rescue the Pekin Legations from massacre, when war broke out in East Africa Indian troops were found most effective for the task. Indian troops were flung into the battlefields of France and Flanders, and Indian troops are to-day ready to fight the battles of the Empire. If we claim partnership, we claim it on the strength of services which our Armies have rendered, which our men have done. The men who sacrificed their lives in the far-flung battlefields of the Empire are to-day asking and seeking self-government. These are the men who would be ready to pay the price to secure self-government in India. I am quite sure that the Prime Minister was carried away by the feelings of the moment when he spoke, but it is for India to assert that India is not altogether lifeless, that in spite of many castes and creeds it is

now expressing its will into one common focus and attaining a clear unity of purpose in the political plane, eager to share the perils and the advantages to the full in the Imperial partnership. It is this hope that should inspire the Indian Civil Service in the future. It is this hope which should animate the Government in India and in England. In moving this amendment, Sir, I call upon this House to realise what India wants, not what the Honourable Sir William Vincent said about injuring the feelings of the Prime Minister or anybody else. The Prime Minister and the Viceroy both are public men used to hear what people feel, and plain speaking has never done anybody any harm when it is based on good and sound motives, and that motive at present is none other than to take our stand upon the declaration made by His Royal Highness the Duke of Connaught at the opening of the Legislature.

The HONOURABLE THE PRESIDENT: To the Resolution under discussion amendment moved:

That at the end of the Resolution the following be added:

“and that this Council affirms India's determination to attain Swaraj and to declare that the Reformed constitution is the law of the land and not an experiment as the Prime Minister seemed to imply.”

That amendment is now before the Council, and until it is disposed of, the speeches of Honourable Members must be confined to the sole question of the advisability of adding those words or not.

The Council will now adjourn till 3 O'clock.

The Council re-assembled after lunch at 3 P.M. The Honourable the President was in the Chair.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): May I ask you, Sir, to give us a ruling on a point? The position is that a certain amendment stands in my name, but I also wish to speak to the substantive Resolution. What I should like to know is whether I can move my amendment, and after that is disposed of, I can also speak to the substantive proposition or I should take up both at the same time.

The HONOURABLE THE PRESIDENT: Before the Council was adjourned, I know I explained to Honourable Members the point now before the Council. The matter for consideration is the amendment moved by the Honourable Sardar Jogendra Singh. On that amendment any Member may speak. When that amendment is disposed of, it will be time to consider whether the amendment which stands in the Honourable Member's name can still be moved; but should I so decide it will be open to him also to speak on that amendment. Then when the Council is back on the original Resolution, it will equally be open to him to speak on that. The matter at present before the House is the further consideration of the amendment moved by the Honourable Sardar Jogendra Singh.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I will only speak on the amendment now before the Council. In this amendment reference is made to Swaraj. We have been hearing a lot about Swaraj, but every man has got a different meaning about it. As long as we do not know what this

[Colonel Sir Umar Hayat Khan.]

Swaraj is, we would not try and jump into the dark as it is very dangerous. As far as we know, this Swaraj, if it comes, is perhaps going to be an oligarchy of politically-minded people. If that is the case, we of course do not want that Swaraj. It has been repeatedly said 'cut short the army,' but it is the army which has won all these reforms. On the other hand, it is also urged to cut short the Civil Service. Why? because the members of the Civil Service are well paid and all the nice appointments, i.e., the loaves and fishes, go to them. How can we ask for such a Swaraj in which the best posts would go to those politically-minded people? We are already being disbanded, because some of them say that so much money is being spent on the army. We have been disbanded during the last two or three years and we are very dissatisfied. There is another thing about the experiment. Yesterday one of my friends was speaking about the experiment, and he said that it was Diarchy which was on its trial, and pointed out that these Reforms have Diarchy in them. If as regards Diarchy it is said that it is an experiment, naturally the whole thing is an experiment. I need not say this, but it was already said by one of my friends here about Lord Sinha how he used the word "experiment." If in the next election all those who want to make the smooth running of Government impossible, and, if they come into the Council, how would the work go on? Some Honourable Members of the Council will probably remember—I do not call them the extreme wing—some of them said that they were not going to bring forward any Resolutions, and though the next day's Agenda was full of Resolutions only one Resolution was brought forward. So if such men come in, naturally the Reforms will be an experiment and a very bad experiment too. I have only spoken on these two points, and I do oppose this amendment. I will speak on the substantive proposition later.

The HONOURABLE SIR ALEXANDER MURRAY (Bengal Chamber of Commerce): Sir, I must apologise for rising again so soon, but the terms of this amendment are so different to those of the Resolution that I do feel justified in taking up more of the time of the House. There are three points in particular I wish to draw attention to. The first is that the Honourable Mover of this amendment invites us to declare that the reformed constitution is not an experiment as the Prime Minister seemed to imply. I have no doubt, when my Honourable friend, Saiyid Raza Ali, rises to speak, he will, judging from his remarks in this House yesterday, make short work of this declaration, but all the same I would like to say something. Reading through the Debates in the House of Commons and in the House of Lords when the Bill of 1919 was under discussion, one cannot help being struck by the unanimity with which every speaker agreed that the Reform Scheme was an experiment. To mention only the names of a few supporters of the measure—Colonel Wedgewood—to whose remarks following the Prime Minister's speech I think much of the present excitement is due—Colonel Wedgewood not merely referred to the scheme as an experiment, he described it as a "wonderful experiment." Mr. Ben Spoor more than once spoke of the "great experiment" and "the tremendous experiment that this scheme really is." I am quoting his own words. Sir J. D. Rees said: "This Bill is, of course, a great experiment." Mr. Fisher, one of the backers

of the Bill said: "We are starting a great new experiment" and Captain Elliot said. "There is no doubt that this is a tremendous experiment * * * an experiment which this democratic Parliament of Great Britain will need to supervise with very great closeness." These are extracts from speeches in the House of Commons.

In the House of Lords, Lord Sinha, in opening the Debate on the third reading referred to the "experiment which this Bill proposes." So did Lord Meston and Lord Carmichael, while Earl Curzon of Kedleston, Lord Islington and Viscount Midleton described the measure as a "great experiment." Indeed I would like to further quote Viscount Midleton where he says:

"I would therefore adopt the language of Lord Sinha in his admirable speech—I hope others in India will take the broad view that he took—and say that this is a great experiment which will depend on the manner in which those who are to have the working of it will work it out."

Need I go on quoting further, Sir, to justify the use of the word "experiment" by Mr. Lloyd George? I may just mention that I remember a speech in another place to which I listened last September. In the Debate on Indian Autonomy, an undoubted champion of "Swaraj" within the Empire more than once used the word "experiment" and actually described the Reform Scheme as "a unique experiment." And may I add in that same Debate, the Honourable the Home Member, said "this scheme of Government is a new experiment."

Is there any longer any doubt in the minds of Honourable Members that the Reform Scheme was framed as an experiment, exists as an experiment and must continue an experiment until such time as we of the Indian Legislature, our fellow Councillors in the Provinces and the people of India generally make the scheme a success?

That is my first point. My next is with reference to the suggestion that this Council should declare that the reformed constitution is the law of the land. Now, Sir, there is more in this than catches the eye. I have heard it said that the Council of State corresponds to the House of Lords at Home, but, so far as I am aware, none of the Honourable Members of this Council—until now—have ever thought of usurping any of the powers of the House of Lords, in particular the powers of the portion of that noble House which forms the ultimate Court of appeal and the last word in interpreting the laws of the land. I would beg of my Honourable friend to refrain from giving our detractors any reason for saying that this Council aspires to an importance out of all proportion to its constitution. Whatever the future may bring, Sir, it is not yet one of the functions of this Honourable House to declare what is or what is not the law of the land.

My third point is with reference to the suggestion that this Council should affirm India's determination to attain Swaraj. Sir, I can understand this Council affirming its own determination should Honourable Members so desire. But why take it upon ourselves to affirm India's determination. Speaking for myself, I am satisfied with the promise of responsible government in India as an integral part of the British Empire as contained in the Declaration of 20th August 1917, in the Government

[Sir Alexander Murray.]

of India Act of 1919, in the King Emperor's Proclamations, in His Majesty's Instrument of Instructions to the Governor General of India and in His Excellency's latest announcement. Any suggestion that the British Parliament or the British people should desire to go back on the promise so oft repeated and confirmed is a reflection on the British that I as a humble Britisher indignantly repudiate.

I appeal to my Honourable friend to ask leave to withdraw this amendment, an appeal which this House I feel certain will not refuse.

The HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Sir, I rise to make a very few observations on the amendment that is before this House. The points that are involved in fact in the amendment are two in number, first, a determination to get Swaraj, secondly, a declaration that the scheme of reforms that has been put into force is not an experiment, but an accomplished fact which is going to stay. I thought, Sir, that there would be no dissentient note sounded in this Council over these terms. But I find that objection has been taken to this form of the amendment by my Honourable friend, Sir Alexander Murray. Now I do not think my Honourable friend is right in reading into the word "Swaraj" more than it means. The Mover of the amendment made it quite clear in an interjection when the Honourable Home Member was making his speech that his Swaraj was identical with our more approved word 'responsible government for India.' He made it quite clear. If that is so, I entirely fail to see why any objection should be taken to the word "Swaraj." I do not think we need seriously be afraid of the word "Swaraj." After all it really means the same thing as responsible government, and I am utterly unable to see why this word should have been challenged. We are all agreed, I believe, more or less that responsible government is the goal of this country; this country is already on the high road to responsible government and will in the fulness of time reach that goal. If that is so—and I think, Sir, we are all agreed about it—then I entirely fail to see why any objection should be taken to the first part of the amendment.

The HONOURABLE SIR ALEXANDER MURRAY : Sir, I do not take exception to the word "Swaraj" nor to the interpretation that my Honourable friend places on it; what I take exception to is, why discuss it at the present moment, in view of the various declarations, proclamations, etc., that have already been made on the subject.

The HONOURABLE SAIYID RAZA ALI : That is not my own interpretation of Swaraj; that was the interpretation put upon that word by the Honourable Mover of the amendment; I simply repeat it. Then we come to the second part, that has given us more trouble, and on which I believe a stand is going to be made by those who do not see eye to eye with some of us. Chapter and verse have been quoted, and it has been sought to be made out that after all this word 'experiment' is by no means a new word in the English dictionary, it is a very old word and has the sanction of having been constantly used in the House of Commons when the Government of India Bill was under discussion in 1919.

I do not think I should agree with the Honourable Sir Alexander Murray in his exposition of the speeches and the interpretation that he

puts on this word as used in 1919. It is true that the word was used, but it was not used in the sense in which it was used by the Prime Minister on the 2nd of August; in fact it is just that which has given rise to all the trouble. I do not wish to take up much time, but the Preamble to the Statute announces clearly what the goal of India is and what the declared intention of Parliament and the Sovereign was. Every one of us knows it and it is not necessary for me to read it. It starts by saying :

"Whereas it is the declared policy of Parliament to provide for the increasing association of Indians in the administration....."

and so on. I want to make it quite clear that that is the declared policy. Let us face facts as they are and not quibble over words. It is the declared policy of the British Government in a certain manner to reach a certain goal. What is the goal? Self-government. Then, in order to reach that goal you have to travel along a certain road. What is the road? That road, fortunately or unfortunately, is Diarchy. I entirely agree that the road we have to take in order to reach the goal may be an experiment, and, as a matter of fact, is an experiment. It so happens that Diarchy commended itself to the authorities here and in England to Parliament; instead of Diarchy some other device might have been adopted, and that device no doubt would have been equally an experiment. But is it fair to call the whole declared policy of the British Government, as embodied in the Preamble to the Statute, an experiment? In that respect, I submit it is not. It cannot bear that interpretation in the light of the Preamble; of the Declaration of the 20th of August 1917, and also of the King-Emperor's Declaration with which His Royal Highness the Duke of Connaught opened the Session of the Legislature in the early part of last year. Assuming for a moment that the Honourable Sir Alexander Murray is right in his interpretation of the word "experiment," I put it to you, Sir, and to the House, is it fair, is it right, is it real statesmanship to give unnecessary offence to the people by reminding them that this is an experiment? It is an experiment which has been in force for the past 18 months, and at the same time it is an experiment which, according to the speech of the Prime Minister himself, has very largely succeeded. If these are the facts, I put it to you, Sir, is it any use to provoke people by saying, "you have to remember that this is after all an experiment." To do so is to wound feelings for nothing. With these remarks I safely leave this amendment to the care of this House.

The HONOURABLE MR. E. L. L. HAMMOND (Bihar and Orissa : Nominated) : We have just listened to an interesting dissertation from the Honourable Mr. Raza Ali as to when an experiment is not an experiment, and that is when the word is used by the Right Honourable the Prime Minister. I ask the House quite seriously, when you endow the *chamar* and the *dhobi* with a vote, is that or is it not an experiment? It may be successful or it may be unsuccessful, but it is obviously an experiment.

The HONOURABLE SIR LESLIE MILLER (Madras : Nominated non-official) : Sir, there are two small points upon which I oppose this amendment. One of them is this matter of "experiment." I am convinced that, if the Honourable Mover had been here just now, he would also have been convinced by the weight of authority against him that the reformed constitution is an experiment. His amendments suggests to us to declare, in

[Sir Leslie Miller.]

the face of the Prime Minister's assertion to the contrary, that it is not an experiment. This is somewhat rude to the Prime Minister, but apart from that, there is no doubt in my mind whatever that it is an experiment, and that the weight of authority is in favour of that interpretation. I quite agree—or perhaps I almost agree with the Honourable Mr. Saiyid Raza Ali that the policy of the British Government cannot properly be described as an experiment. But that is not the amendment. The amendment asks us to declare that the reformed constitution is not an experiment, and therefore it asks us to declare what is not true. I am quite sure that the Honourable Mover does not want us to do that, and I have very little doubt, had he been in his place when Sir Alexander Murray was speaking, he would have by this time asked your leave, Sir, to withdraw the amendment.

The other point is perhaps more important. The Honourable Mover in the course of his speech asked us, as I understood him, to accept his amendment as an invitation to us to assure the Prime Minister of the co-operation of the people of India in the work of accelerating their progress towards responsible government. I am afraid it is difficult to do that. If that be the true meaning of the amendment, then I take it that it is entirely superfluous, and on that ground I should oppose it. But I venture to say with confidence that not one single Member who read that amendment on the paper ever had the slightest idea that it represented an assurance to the Prime Minister of the co-operation of the people of India. On the contrary, I myself have read it over and over again, and I am convinced that it contains, not an assurance of co-operation, but rather a threat of non-co-operation. It amounts to this, as any ordinary person would read it, "Let us tell the Prime Minister that if he will not give us Swaraj we will take it." Sir, I am clear on that point; that is I believe what it means to those of us who have ordinary intelligence sufficient to enable us to understand the English language. It is undoubtedly a language which lends itself to ambiguity, but I cannot conceive that if my Honourable friend had intended to convey an assurance of co-operation to the Prime Minister, he would have couched his amendment in the words in which he has couched it. Now, Sir, it has been very recently pointed out, and it is a matter which is plain from the Act of 1919, on which the Honourable Member relies as the law of the land, that according to that Act he cannot obtain what he calls Swaraj for British India without the concurrence and without the sympathy and good-will of the British Parliament.

That is our constitution, experimental, tentative, temporary, what you like. It is our constitution at present. If, then, we tell the Prime Minister or anybody else that, if the British Parliament will not give us Swaraj, we will take it, we will make what appears to me to be the most senseless kind of a threat—a futile threat which we cannot by any possibility under our constitution carry into effect. That such a threat should emanate from this House to the British Parliament seems to me to be inconceivable, and, if any Member agrees with me that that is the effect of the amendment, I have no doubt that he will do his best to oppose it. We have all heard that curses come home to roost. We have also heard of "bloody instructions which being taught return to plague the inventor." I confess, Sir, that I am under some apprehension that the powers which regulate these matters of destiny may apply similar or analogous methods of reprisal

to futile menaces. It is hinted in the speech, I think, of the Honourable Sir William Vincent, that that might be the effect of our passing even a comparatively harmless Resolution like the one which we are now asked to amend. Sir, if this House desires to alienate the sympathy and the good-will of the British people, if that is its desire, I find it difficult to conceive any better means of accomplishing that object than by threatening it as this amendment threatens it. That it will have that effect I have not the slightest doubt, and I venture to hope that no Member of this House will go so far as to support an amendment which has that effect.

Sir, I have one word more. The declaration which we are asked to make is really a declaration that we are prepared to throw over the constitution,—a declaration that the law of the land—what is admitted by the Honourable Mover to be the law of the land—is not binding upon the people of India. Sir, let that declaration be made outside this House. Surely it cannot be made here?

THE HONOURABLE THE PRESIDENT: If the Honourable Sardar Jogendra Singh now desires to make a personal explanation, he is at liberty to do so. It must be a *personal* explanation.

THE HONOURABLE SARDAR JOGENDRA SINGH: I have just one word to say, Sir. I must have expressed myself very clumsily if my amendment can be treated as a threat. I merely made a statement of fact, that this House should slowly win Swaraj, and it cannot come from outside.

THE HONOURABLE SIR WILLIAM VINCENT: Sir, I should hardly have troubled the Council on this amendment if I had not said that I would deal with it at a later stage when I spoke this morning. Now, let us take this word, "experiment." It means testing, proving the capacity of the people. In that sense, Reforms certainly are an experiment. It is assumed in the Honourable Member's amendment that the fact that the reformed constitution is an experiment is inconsistent with the fact that it is the law of the land. There is no true inconsistency at all. There is no question about the fact that the reformed constitution is a part of the law of the land and it is also, as has been said by dozens of people, an experiment. An experiment of the very greatest moment. So many authorities have been cited about this that I am really loathe—I hardly feel I ought—to add to them. But one great authority I will add. And that is Lord Bryce. I suppose he is a man who knows more about democracies than almost anyone in Europe—(did know,—I should have said). And he speaks of this Act in 1919 as a most interesting experiment. He did not mean something derogatory to India or to the East. That is not so at all. Why, Honourable Members who will read the speech which the Prime Minister delivered in February will find, when speaking of western countries, he said, "Democracy is a western experiment and in the full sense it is only a recent experiment in the West." Now, is not it idle on these circumstances to attack a speech on the ground that a word of this character is used? I think what really lies at the bottom of this attack is what was put by Mr. Kale in the earlier part of the debate, when he suggested that there was a threat in the Prime Minister's speech that, if at the next election, the composition of the Chamber altered, then there would necessarily follow some change in the

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[Sir William Vincent.]

constitution. Now, I do not believe that anyone who reads the Prime Minister's words on that point can possibly support the interpretation which the Honourable Member puts on them. What he did say was that, if certain persons (as I interpret it) came into the Council, simply in order to attain some purpose which is detrimental to British rule and subversive of the whole system upon which India has been governed—if there was a change of that character in the Legislature, in the purpose and in the design of the chosen responsible leaders, that it would create a serious situation which His Majesty's Government would have to take into account. Now, really, when all is said and done, is that a very unjust thing to say? Would it not be a very serious position? If the people did come in and with the purpose of ruining the whole reform scheme, would not every man have to take it very seriously in regard? Well, that is really all I have to say on this question of experiment—it is a dead bird. There is nothing in it. I am not going to waste the time of the Council any more over it. But I want to go on to another part, and that is another part of the Resolution which seeks to affirm India's determination to attain Swaraj. The Honourable Mr. Raza Ali has to-day told us what Swaraj is. He has stepped in where many angels have feared to tread. I have seen a good many questions asked in vain in the press to various people as to what exactly they mean by Swaraj. Why, it was only a few days ago that a very able man—a great opponent of Government—Mr. C. R. Dass—was put up to define Swaraj. I don't think that he put the same interpretation on it that the Honourable Member does. I myself have often been asked what exactly Extremists mean by Swaraj. If however Swaraj means self-government—responsible government, if the object of this Resolution merely is to re-affirm the policy stated in the Preamble of the Act—and that is really what I believe is the Honourable Member's desire—namely, to re-assert that it is the aim of India to secure the gradual development of self-governing institutions, with a view to the realisation of responsible government in British India as an integral part of the British Empire, then indeed Mr. Raza Ali is quite right, and there is very little between us on this point. But the amendment is so unfortunately worded and so superfluous, that I cannot believe the Honourable Member will press it on the Council any further.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I wish to add only one word to what has fallen from the Honourable the Home Member in connection with this amendment. The Honourable Member has quoted the authority of Lord Bryce for the purpose of proving that the reformed constitution is not the law of the land but an experiment. We need not go so far in search of authorities. The very constitution that gave the reforms has made the matter absolutely clear. I draw the Honourable Member's attention to section 41 of the Government of India Act, 1919, sanctioning the reforms. I shall read the section as it has a bearing in this connection, and I am sure my Honourable friend will withdraw his amendment after he hears this section. Section 41 says:—

“(1) At the expiration of ten years after the passing of this Act the Secretary of State, with the concurrence of both Houses of Parliament, shall submit for the approval of His Majesty the names of persons to act as a commission for the purposes of this section.

(2) The persons whose names are so submitted, if approved by His Majesty, shall be a Commission for the purpose of inquiring into the working of the system of government, the growth of education and the development of representative institutions in British India and matters connected therewith, and the Commission shall report (my Honourable friend will mark these words) as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend modify or restrict the degree of responsible government then existing therein.”

I think the law is perfectly clear. The Reformed Constitution is the law of the land only for the period of ten years. The Imperial Parliament has the right to modify, restrict or alter it, which absolutely proves the experimental and provisional character of the reforms.

The HONOURABLE THE PRESIDENT: I think the Council is now in a position to come to a decision on this amendment. The Question is that at the end of the Resolution the following be added:

“and that this Council affirms India's determination to attain Swaraj and to declare that the Reformed constitution is the law of the land and not an experiment as the Prime Minister seemed to imply.”

The motion was negatived.

The HONOURABLE THE PRESIDENT: The Council is now back on the Resolution.

The HONOURABLE SAIYID RAZA ALI: I think, Sir, that so far as my amendment* is concerned, being almost identical in terms with the Honourable Sardar Jogendra Singh's amendment, it need not be taken.

The HONOURABLE THE PRESIDENT: The Honourable Member has confirmed me in my own opinion.

The HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, in common with several other Members of this House, I must confess that, when I received from the Honourable Secretary of this Council a list of the Resolutions set down for discussion, I was considerably amazed to find amongst them Resolutions framed round the speech made by the Prime Minister of Great Britain in the House of Commons on the 2nd August this year. No one, I think, will be more astonished than the Prime Minister himself at the outcry which his speech has created. I should however like to bring back the House to a calm realisation of what Mr. Lloyd George's speech actually was about.

Unfortunately this speech aroused a feeling of distrust in certain Indian political circles that there would be a change of policy on the part of the Home Government with regard to the scheme of reforms for the governing of this country. With this feeling of uneasiness, as we all know, a number of members of the Legislative Assembly and of other Councils formed themselves with others into a deputation and took their troubles to His Excellency the Viceroy. I think that the Honourable Members of this Council will agree with me that this action was at once wise and prudent. The accessibility of the Viceroy to all is well recognised throughout India, and those who were uneasy in their minds did well

* That for the words “in the House of Commons regarding the present situation and the political future of the country” the following be substituted:

“and this Council's determination to secure full responsible government for India at the earliest possible opportunity.”

[Sir Arthur Froom.]

and rightly to seek his advice and help. Well, Sir, those who have read with care the reply of the Viceroy to the address of the deputation will at once have recognised that the advice, good advice, they sought for was tendered without stint and that the help they desired was given sympathetically. The questions asked were clearly and definitely answered and the doubts in the minds of many were shown to be groundless. What more could be desired then? What more could be desired now?

Therefore, Sir, as I have said, I was considerably amazed to find among the Resolutions set down for discussion in this Council one of the nature of that brought forward by the Honourable Mr. Kale, and I was still further astounded to find on the list of business for to-day the amendments which we have just disposed of.

Again, but two days ago we listened to the clear, wise and statesman-like utterances of the Viceroy dealing with the very subject under debate now, and I must admit that I anticipated the withdrawal of this Resolution would follow. However, if there are still doubts, if there is still uneasiness in the minds of any and the doubts and uneasiness are dispelled by this discussion, then, Sir, I consider the debate will not have been in vain.

Now, Sir, we in this Council deal with facts, not with fancies. We have established a reputation for some success in that respect, and that makes me hope that we shall not depart from the good rule on the present occasion. The facts in this case are those to which our attention was forcibly directed last Tuesday. They are guarantees, laid down in one of the most binding documents that could possibly be offered, of the security of the constitutional position here in India, guarantees which my Honourable colleagues accepted as sound and good when they consented to sit in this House and took the oath. The fancies from which some of us are suffering are figments of the imagination arising from consideration of isolated passages in the Premier's speech without relation to their context or to the special circumstances under which the speech was delivered.

The Premier spoke as the representative of the British Government, not to throw down a challenge to the reforms as suggested by my Honourable friends Mr. Kale and Mr. Sethna, and here, Sir, I should like to express the hope—and I am sure that the Honourable Members of this House are with me in this—the hope that when this debate closes, there will remain no feeling of bitterness between those who have taken part in this discussion. I mention this in connection with some criticisms which have been levelled at the Honourable Member who sits very nearly directly behind me.

I have known the Honourable Member for many years and I am sure that he at no time has entertained any feelings of animosity against the British in India whether in the Services or in the commercial walk of life. (Hear, hear). My Honourable Friend as we all know is an eloquent speaker and perhaps when soaring into the realms of eloquence he has at times conveyed a wrongful impression of his real feelings towards the British. When any speaker soars into the realms of eloquence, and his eloquence is criticised afterwards, incorrect conclusions are apt to be

arrived at. (*The Honourable Saiyid Raza Ali* :—Like Mr. Lloyd George). I am just coming to that. The Honourable Member has anticipated me, and it was this eloquence, if I may be allowed to continue,—it was this eloquence on the part of the Premier which has led to this debate to-day. I should like to tell the House, Sir, that I was in London when this memorable speech was made, and the day before I happened to meet one who is in close contact with the Premier and he told me that on the morrow the Premier was going to make a speech concerning the Services in India. The realms of eloquence perhaps led Mr. Lloyd George further afield and led, as I said before, to this extensive debate to-day in this Council.

The Premier spoke to re-assure the British Members of the public services in this land, and I make bold to say that no right-minded man can deny that there was reason for such a re-assurance. The principle of the Indianisation of the Services has been conceded in the plainest possible and liberal terms, yet members of the Legislature have over and over again raked up this question and have addressed themselves to it in a manner which not unnaturally has caused in the minds of many devoted British Officials in this country the impression that the power which has been handed over to the unofficial majority in the Legislature is a power hostile to them and might at some time be used for the curtailment of their legitimate advancement if not for their ejection from their posts altogether.

This attitude of the Legislature has had its counterpart in an intensely embittered form in the agitation which the non-co-operators are leading against the British members of the public services in many a city, town and village throughout India. Is it surprising therefore that many British members entertain an apprehension of their future? What wonder can there be at a reluctance on the part of British lads to offer themselves for service in this country?

I ask my Colleagues in this House what has been done to allay this atmosphere of doubt and uncertainty in the public services? In the many Resolutions that have been passed in the Legislature on the question of Indianisation, there have been but few expressions of appreciation of what the British members of the services have done for India in the past and yet fewer acknowledgments that there is still need for their continued service in this country.

Yet I believe there is not a reasonable politician in India who does not recognise both the good work that the British services have done for India and the necessity for the continuance of their help for very many years to come. I believe more. I believe that if the Extremists won the next general election, obtained a majority in the Legislature and attempted to use it for turning every Englishman out of the services, there would be an outburst of protest by the great majority of Indian public men throughout India. But I confess that the Moderate or Liberal politicians of the country have yet shown little inclination to face the Extremists in open fight and begin a campaign to turn them out of the dominating position that they are still able to claim they hold in various parts of the country.

[Sir Arthur Froom.]

I say that since the reform scheme was inaugurated the British member of the Indian public services has received little encouragement from the Indian Legislature which shares the position of employer in regard to him. I say that the Premier had to speak because the Legislature would not. And I say that, while many words of praise have been said about the work of the Indian Legislature since it was inaugurated in the present form, this fact is a weighty consideration on the other side of the account.

I have the constitutional progress of India sincerely at heart. I believe that there are in India constructive elements which justify firm hope in that direction. But I appeal to my Honourable friends in this House to recognise that the encouragement of an important section—the British section—of their public services is a matter in which there has been some neglect in the past and to express warmly their friendly feeling to the British servants in this country and their determination to consider their rights and claims for justice and support in the most cordial manner. If that change can evolve out of the present commotion great good will have been done. The present not-unreasonable apprehension will be allayed. More—an impression will be made in England that will stand the Legislature in good stead when next the development of the constitutional position in India comes before Parliament for consideration.

THE HONOURABLE SAIYID RAZA ALI : Sir, I feel that I would be failing in my duty if I refrained from giving expression to the deep feelings of resentment that have been caused from end to end in this country by the speech made by the Prime Minister on the 2nd of last month. Sir, my idea was to say a few words in support of the Resolution on the merits, but since the Honourable the Home Member spoke on the subject on behalf of Government, I must say that a different aspect has been put on the Resolution inasmuch as in the remarks by which the Home Member prefaced his speech he, without making any serious attempt to justify the lengths to which the Prime Minister had gone, tried to soften down the rigour of the words used by the Prime Minister and wanted to make out that after all, having regard to what had been happening in this country during the last eighteen months or more it was not such an unnatural thing for the British Prime Minister to speak in the vein in which he had actually spoken.

The Honourable Sir William Vincent tried to point out vigorously that the speech was in the first instance meant to convey a warning to those incorrigible people known as the non-co-operators; that if at the next election they tried to swamp the polls and enter the Councils, and if they endeavoured to further their own designs, a very serious situation would be created. Now, Sir, accepting broadly the proposition stated by the Honourable the Home Member, am I not entitled to ask whether the method adopted by the Prime Minister is the correct one, whether that is the way to disarm the hostility of the non-co-operators? One thing however is clear from the speech of the Honourable the Home Member, namely, that the pronouncement of the Prime Minister did contain a threat but that threat was not meant for those who are co-operating with the Government, rather it was intended for those who have been acting the other way. Sir, with great respect I submit that

threats are always unavailing especially when used to a class of people like the non-co-operators who, according to the Honourable Sir William Vincent, disperse every meeting and carry before them almost everything in this country and can use the present situation in any manner they like. I submit, Sir, that if that was the real object of the Prime Minister, then he has hopelessly failed in that. Threats always stiffen the back of your adversary. The Honourable Sir William Vincent says that these non-co-operators are the adversaries of Government. I do not want to express any opinion on this subject, but if they are the real adversaries of Government, then these threats will be of little avail.

A further argument used by the Honourable the Home Member in this connection was that racial hostility has very much come to the forefront and the Prime Minister could not but take cognisance of that. In this connection the Honourable the Home Member went on to mention the name of one who, whatever his political opinions may be, is respected by a very large section of the people of this country, I mean Mr. Gandhi. Sir, I for one am not disinclined to weigh people according to their merits and pass judgment upon them as they deserve. But is it again fair for the Honourable the Home Member to condemn Mr. Gandhi in the terms in which he did without mentioning a word about people like Sir Michael O'Dwyer and Lord Sydenham? I submit, Sir, that it is not quite fair. I admit that unfortunately there is racial hostility, and it is the duty of every one of us to remove that racial hostility by employing all the means we have; but all the same, so far as racial hostility is concerned, if there are two parties responsible for it, I do not think it is fair play to condemn one without condemning the other.

A third point that was taken up by the Honourable Sir William Vincent was that unfortunately a certain section of the people behaved in a very objectionable manner during the visit of His Royal Highness the Prince of Wales. I for one entirely agree with the Honourable Sir William Vincent on this point. It is really very painful to find that a certain section of our people should have behaved in the manner in which they did during the Prince's visit. Nobody can say a word of justification for the attitude adopted by those people; on the other hand, all right-thinking people would unite in condemning their attitude on that occasion. But, Sir, again may I put a query? Did not the Government of India, did not the Secretary of State, did not His Majesty's Government know the depth of feeling that obtained in this country about the time when the visit of His Royal Highness took place? Was it not the duty of the Indian Government to place those facts before the British Cabinet? I do not know what the Government of India did, but I take it that the Government of India must in their turn have communicated to His Majesty's Government how matters stood at the time in India. When I say that, I do not by any means try to justify the conduct of those misguided people who really have prejudiced the cause of their countrymen before the British public and the British Parliament. What I do mean simply is that if you complain that those people acted in a very objectionable manner, the complaint is quite correct; but after all the Honourable the Home Member himself to a certain extent, as he forms part of the Government of India, is responsible for the visit of

[Saiyid Raza Ali.]

His Royal Highness the Prince of Wales at a time at which the visit was not desirable.

Speaking in this connection, the Honourable Sir William Vincent further went on to say that there was a lot of insecurity and apprehension of breach of the peace in February and March last, and it is natural that the minds of the British public must have been considerably exercised when they came to know of all that had taken place in this country, and therefore the same must have reflected in the mind of the Prime Minister when he made that speech. Since the Honourable Sir William Vincent is shaking his head I think I must quote his words which nearly were "when people here were alarmed what must have been the feelings of those who are at a distance of 6,000 miles, what must have been the feelings of Mr. Lloyd George"? Sir, I entirely agree that the unfortunate state of affairs in India must have reflected itself in England, but at the same time what was the Government of India doing in the meantime? Had they informed His Majesty's Government of the tremendous improvement that has been effected in the situation in India since March last? We know that the speech was made in August last, and it is undeniable that a very great improvement had taken place in the situation at that time, whatever may have been its causes. Well, Sir, if that is so, what were the Government of India and the Honourable the Home Member—if I am not personal—doing? Did they not inform His Majesty's Government and the Prime Minister that the situation had much improved and there was no serious apprehension of any untoward event taking place in India, and that therefore it was highly undesirable to make a speech like the one which the Prime Minister did make?

Now, Sir, on the actual Resolution I shall say just a few words. The Prime Minister's speech can fairly be divided into two portions. The first part is the one in which he deals with the reformed era that was introduced in the beginning of last year, and the second portion of his speech is devoted to the public services in India. I do not think, Sir, that after the pronouncement that was made by His Excellency the Viceroy last month and also after the speech with which he opened the Session of the Legislature on Tuesday last, I will be justified in taking up much time of this Council with a discussion of this subject.

There is no doubt, as I said in the beginning, that the Prime Minister's speech is highly objectionable. All the same, we have no reason to doubt that the Prime Minister, after all, did not perhaps mean what he said, inasmuch as so illustrious an authority as His Excellency the Viceroy, who is well known in the legal world, puts a different interpretation upon it, and as His Excellency has further said that the statement which was made had been made after consultation with the Prime Minister. That being so, Sir, I do not think that, objectionable as the speech is, we would be justified in not accepting the interpretation put, as I have submitted, by so high an authority as our own Viceroy and the late Lord Chief Justice of England. But when we come to the second aspect of the question we find that no attempt has so far been made to explain that away. I for one, Sir, was eagerly expecting the Honourable the Home Member to make a pronouncement on that subject, I mean the Indian Civil Service or rather

to quote the Prime Minister, the British Civil Service in India. I took very great pains to read more than once His Excellency the Viceroy's speech made last month; I again went through the speech that was made by His Excellency last Tuesday—though I had listened to it attentively—but there is no re-assuring statement that has been made by His Excellency on either of these two occasions. As I submitted, the Honourable Sir William Vincent also, though he has very skilfully referred to the subject and has tried not to give us any cause of bitterness, has not explained Government's attitude on the subject. The question is this, Sir. We all appreciate, very highly appreciate, the services that have been rendered by the Civil Service,—I mean the British element of the Service because at one time there was no other element than the British in that service. I appreciate, and I think it is my duty to say publicly, that we all of us appreciate, most Indians appreciate, the services that have been rendered to this country by that illustrious Service. But having said that, Sir, I am far from accepting the proposition that the Civil Service should be perpetuated in this country for all time to come. That of course is a point on which a statement is really needed by some authority who is in a position to make that statement. A lot has been said about the complaints of the members of the Indian Civil Service; I do not propose to go into that. But I would say that after all there is no reason to suspect that this country, when it gets responsible government, would treat the British members of the Civil Service shabbily. Look at what has happened in independent Egypt. The latest papers bring out the news that the Cabinet there has decided to treat the British members of the Civil Service very very fairly and to give them 25 per cent. in addition to what would be the pay of the Egyptian members of the same Service. In the same way, Sir, I believe India would be willing to do justice to the British element as long as that element remains. But we do not want the 'steel frame' to be perpetuated in our mud huts; and therefore I submit, Sir, that a statement on this subject is necessary by the Honourable the Home Member. I support the Resolution of the Honourable mover.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, the Honourable Mr. Kale's Resolution, as it is worded, seems to me to be so mild and harmless that I cannot understand why it has created so much disturbance in this Honourable House. What he wants to be done is this, Sir. He merely wants that we should convey to the Secretary of State, and through him to the Government of His Imperial Majesty, an expression of the keen sense of apprehension and disappointment created by the Prime Minister's speech. I think those who have been looking at the papers of all sections of opinion—I am talking of Indian papers at present, whether they be moderate, whether they be extremist, whether they are conducted by co-operators or by non-co-operators, they all must have seen that till the reply of His Excellency the Viceroy to the deputation was given, all were united in expressing—I won't say, as the Honourable Mr. Kale has put it, apprehension—but resentment at the Premier's speech. It is true that when His Excellency the Viceroy, after getting permission from the Premier, was good enough to explain to the deputation that waited on him the meaning of the speech, some papers have thought that the Viceroy's speech has made the position clear, while the majority, the big majority including some of the liberal papers, have thought that the position was still not quite clear, and that an expression

[Mr. Lalubhai Samaldas.]

of opinion in the House should be communicated to the Secretary of State. It has been said by my Honourable friend, Sir Binode Chandra Mitter, that he hoped that the Resolution would not be carried to the bitter end. I do not know where the bitterness comes in ; it is merely an expression of opinion which is sought to be communicated to the British Government ; it merely requests the Governor General in Council to communicate this view to the Secretary of State so that he and the British Cabinet, of whom the Prime Minister is the head, may know what feelings have been engendered in this country by the Prime Minister's speech. The Honourable the Home Member said, if I remember aright, that the effect of the Resolution on the British public would be harmful. Why should it be harmful if we merely express in as general terms as possible that we feel a sort of disappointment and apprehension at what has fallen from the Prime Minister. We do not want to fight with the Prime Minister. We do not want to use any strong language. What we want the Honourable the Home Member,—the Government of India—to convey to the Secretary of State is that there is a feeling of apprehension and disappointment in the minds not only of one section of Indians, but almost of all sections of Indians. That should not in any way create a bad feeling in the minds of the British public or a loss of sympathy of the British Parliament. We are as anxious, as the Honourable Home Member, to keep the good-will of the British public and to have the sympathy of both the Houses of Parliament ; we do not want to lose it. I do not see any reason why the passing of this Resolution will lose us that sympathy. I hope the Honourable Member will make this quite clear in his reply. Personally, I do not believe that a mere communication of our expression of apprehension or disappointment would lead to that result. Sir, my Honourable friend, Mr. Sethna perhaps, as my Honourable friend Sir Arthur Froom said, on account of his elocutionary powers may have said certain things which may have been misunderstood. Sir, if the Prime Minister's speech is liable to be misunderstood by us, it is just possible that the speech of my Honourable friend may be misunderstood by the Honourable the Home Member, because, knowing as I do, and I have known him for years in Bombay, I can say that you can seldom find a better friend for the British connection and for British services than my Honourable friend, Mr. Sethna.

It is rather unfair to him if, because of a few words that he has used in the heat of debate, he is always to be looked upon as an enemy, either of the British connection or the British Services. I may mention, Sir, that it was he who was Honorary Treasurer of the Prince of Wales' Reception Fund. And if my Honourable friend will look up the files of the "Bombay Chronicle," he will see how often Mr. Sethna has been abused for supporting British candidates and British officials. I mention these matters so that when the Home Member speaks he will try to see our point of view that the Honourable Mr. Sethna has been done, I believe, some injustice because of his heat in debate.

Now, Sir, coming to the Resolution proper, the Honourable the Home Member tried to explain it on the ground that the Prime Minister and the British public were angered at the treatment that was meted out to His Royal Highness. We all look upon that with the same indignation as the Home Member or the Government of India does. We all feel

that it was one of the greatest mistakes that the non-co-operators at that time made, and possibly that may have something to do with the temper of the Prime Minister. But we all expect Sir, that the Prime Minister ought to restrain his temper, as the Home Member asks us to restrain our tempers. Sir, His Excellency the Viceroy, who was good enough to get the assurance from the Prime Minister, said that there was nothing in the speech which could be taken to mean any departure from the policy of 1917 or 1919. It would have been perhaps a little more graceful if such an explanation or pronouncement had been made by the Prime Minister himself in England. Even if the House was not sitting Politicians in England, as in India, know how to get up meetings when they want to make an announcement. If he had done that it would have been more gracefully received in this country than a mere interpretation by however high an authority here. His Excellency the Viceroy said that he concluded that there were two grounds for the Prime Minister making this speech, and these were firstly that it was meant as a warning—I won't use the word "threat" which some of my Honourable friends have called it—to the non-co-operators that if they tried to wreck the constitution, then the Parliament would have to reconsider the whole situation as it was a serious matter. May I remind the Home Member that in India at present there are not two but three parties. There is one party of strong co-operators, who, at a sacrifice of time and of money and in some cases of health, come here to co-operate with Government to make the reforms a success. They have cut themselves off from many of their friends to work the constitution. That party will always stand with Government so long as they are not forced to go out. There is another party, a party in which I think I may include the Poona and Central Provinces Maharashtras, which has decided to contest the elections and come into the Councils. I think, Sir, that they do not want to wreck the constitution ; and even if they did, I agree with the Honourable the Home Member in thinking that when once they enter the portals of the Councils, they will become saner, as that will teach them their responsibilities, and both the Government and those of us who have the honour to be returned to the Councils will find in them support and not opposition. I believe Mr. Khaparde has used the words "responsive co-operation" in connection with the Maharashtra party of Poona, Bombay and the Central Provinces. They want responsive co-operation ; for them the warning or threat was not necessary. If anything it was rather tactless, because we want them to come in ; I would like any day to make room for any of those bigger men. But the third party is in existence and they do not want to help or to come into the constitution. So for them, the real non-co-operators, there was no necessity for this warning. They do not care what happens to the constitution. I hope I will be permitted, whatever views we may have about non-co-operation, to quote from the leading non-co-operation paper, "Young India" :

"The Premier's speech has created a great agitation among the co-operators. This is natural. The co-operators made a tremendous sacrifice in cutting themselves off from the bulk of their countrymen. They made themselves the object of general condemnation and willingly paid the penalty for their faith in the Reform Scheme. They ignored or forgave every wrong which the Government committed and when almost the entire body of Indian people revolted and declared non-co-operation, they co-operated with the Government. At the parting of the ways from the bulk of their countrymen, they trusted themselves to British faith. They now find that their boat has sprung a leak. It is no wonder they are greatly perturbed."

[Mr. Lalubhai Samaldas.]

This is what we hear in season and out of season from our non-co-operating friends, and we who have sacrificed, as even they admit, a great deal in cutting ourselves off from our countrymen to make the reforms a success, need greater sympathy than has been given to us by the Prime Minister.

As regards the Services, which is the second point to which His Excellency the Viceroy referred as to what the Prime Minister had in mind, I may support the remarks which have fallen from some of the Members as to appreciation of the good work done by the Civil Service and other Services in this country. We do not want, and I say it as emphatically as I can—and I have the support of all my colleagues on this side—we do not want the British element to go out of the country. We want their co-operation; but what we want—and there is a 'but'—is gradual Indianisation such as the Preamble to the Act says will be done. If the Prime Minister's speech meant that 1,200 was an irreducible minimum, then the policy outlined in the Government of India Act cannot be carried out. The Honourable the Home Member has made the position clearer, and Sir Alexander Murray has given figures. I believe, Sir, that the Premier's speech is partly due to what is well known as the O'Donnell Circular. The Home Member or the Home Secretary put the whole case from the Indian point of view much better than any Indian could have put it; and may I congratulate them on putting the Indian point of view before the Local Governments.

I believe it is this circular that has enraged some of the Members—either of the Civil Service here or else what are called the Die-Hards in England. Because Lord Sydenham in yesterday's papers in the *Morning Post* said that the Indianisation Circular is entirely opposed to the Prime Minister's utterances. So that the impression that the Premier's speech is opposed to the Indianisation Circular is general and is shared by Lord Sydenham and others who ought to know what the English language means better than we do and whose interpretation supports us.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : Sir, I speak rather late in the day on this Resolution, but I am very glad that I am speaking late, for this reason that there appears to me to be a misunderstanding about the whole affair on nearly all sides of the House and that is what makes me rather look awkward. In former times, it is said, the Badshah or the Reigning Prince used to propose two or three questions and Birbal was supposed to give one answer which would meet all the questions. That used to be in the old days. Something similar has happened in these democratic days. The Prime Minister was approached by the Civil Service for the redress of their grievances. I am sure he heard about these non-co-operation people and information was also given to him about them probably. The non-co-operators went on saying that the reforms had failed and there was nothing in them and so on. So all these conflicting things went to the Prime Minister, and he propounded only one answer to the three and found out for himself what he wanted to find out. That is what happened actually, Sir. He wanted to find out for himself whether the

Reforms had succeeded or not. Of course, there were reports. We said that they had succeeded, and these people said that they had not. He did not give a threat at all. He merely said that, if such a contingency arises, there will be a serious position. He does not say what he would do. But he merely says, "I will consider the matter." The Civil Service people went and made all their representations—and he has given them nothing by that speech. He said, "You are very good people, you are essentially necessary for the maintenance of the British Empire, and you are to serve in India for the good of England, but there is no promise at all." That is the first consideration. Now, you take the non-co-operators, who were jumping about. He said, "All right, I will take it into consideration." But he does not say that he would prosecute them. He does not say that he would put them down. He says that it will create a serious situation and he will consider the matter. I suppose all these three parties have been answered. Some Honourable Members think that much has been given to the Civil Service. I think that nothing has been given. They think that the reforms have been threatened. I say not in the least. It is only a matter for consideration. The non-co-operators are afraid that there may be repression. Nothing of the kind. So by one answer he has answered all these people. It reminds me very much of what took place at one time. Probably Honourable Members know that there is a State called the Jamnagar State. Well, a *charan*—that is a person corresponding to the itinerant minstrels who used to visit the castles of Barons and sing their praises and describe battles and get something for his pains—a *charan* went to the Jam State and stood before the gate of the Prince and he sang his songs and brought out his beautiful things. And the King used to sit on the balcony there and he was immensely delighted. He said, "You came to my Court and sang such beautiful songs." And he ordered his store-keeper to carry two thousand tons of wheat to the house of this man. So this man was very pleased. He went home, and the King had given his orders, but not a grain arrived. So he came again next day. And he sang his songs again. And he told the King that nothing had been given him. And the King said, "All right. Give him twenty thousand tons of grain." But this too never arrived. So he came a third time. And each time, the King was seen, the man used to complain. Ultimately, the bard grew desperate. "Look here," he said, "I come and see you every day and sing to you, but nothing ever reaches me." "Oh," he said, "so you want to argue it out? This is a business proposition. Now, what did you do for me that I should give you all this you ask?" "Well, Sir," he said, "I sang those songs and pleased you." "All right," said the King, "you had to sing for five hours to please me. I pleased you by a single sentence—'give him that.' And what do you want further?" That actually happened. Well, something like that has happened here. Everyone made his representations. The non-co-operators were putting obstructions and making great demonstrations. And the Civil Service thought they would make their representations. The Prime Minister has answered by one answer. "I will consider." And that is where the whole thing stands. And about this we have been arguing nearly the whole of the day. I am immensely amused by it. What is all this about? That is what

[Mr. G. S. Khaparde.]

I thought. I told a friend of mine yesterday that it looks to me like a huge joke. And he said. "You always see jokes." I said, "All right, you please yourself. But I think this is a joke and I am going to propound this theory in the proper place." I have been trying to propound this theory all day but did not get my opportunity. I am glad to put it before this House so that Honourable Members will all feel as those Knights of old who disputed as to whether a shield was red or white. It was painted red on one side and white on the other, and those who saw the red, said it was red, and those who stood on the other side, said it was white. And so they fought over the question and probably broke each other's heads. But there was nothing at all there to fight about. All colour is after all merely reflection of the light and according as the reflection varies the colour changes. The whole thing here is in the words, "I will take it into consideration."

And that is all he promises and that is all that has happened. And why this tremendous noise about the matter? I think it is a huge joke and six months hence Honourable Members here—all of us will meet and we will agree that the Prime Minister is a very clever, clever person indeed. He has got his answer. He wanted to know whether the non-co-operators had succeeded. The non-co-operators have not succeeded and the reforms are so popular and so much wanted that every section of the community desires to have them and every community is very angry when you threaten to take it away. That does not require any arguing at all. The Civil Service have also got their answer. Of course, when people speak of eternity, it always makes me suspicious. Nobody knows about eternity. It is no good talking about it. Even the near future is hidden from us. So all these apprehensions on the ground that the present state of things may be perpetuated for ever and ever are groundless. I say that is only a figure of speech. As the lover says: "I will go on loving you for ever and ever." Similarly, declarations of politicians when they come to "ever and ever" are suspicious. It means nothing for circumstances will change. But the Prime Minister wanted to encourage English boys to come out and serve in India and maintain the glorious British Empire. Then he wanted to pat the Civil Service on the back. They were threatening to resign. He said, "You are the life of the country, the light of the country." That is the usual way in our country. We have got 33 crores of gods. And in each god's praise you will find that he is the glory of the universe. Each one of these gods is the creator of the universe.

What is the meaning of it and how do you take it? There is a Hindu rule of interpretation and that a very useful one. I want to speak to you about it because this speech has been variously interpreted and learnedly discussed, though there was no necessity for it. When you want to determine the meaning of a Puranic statement you have got to see the occasion on which it is made, how it begins and how it ends. What is the thought that is often and often repeated during the course of the speech or writing? And then you have to put all these things together and then put yourself the question as to what is the net result of it? After having put these five things together then you find out what the *tatpariyam* or the real meaning of the passage is. Now, in this case I

applied the rule for my own benefit. What was the occasion of the Premier's speech? It was some discussion about the Civilians. How did it begin? He began by saying that the Civil Service had rendered great services to India. How did it end? He ended by saying that he would like English parents to be encouraged to send boys to India. He would do everything for them. He promised a new age and country fit for heroes to live in and all that. By these he meant to say that he would do his best for them. If you take it in that way, the speech was entirely made for the benefit of the Civilians. What is the thought that is repeated all through? It is that the British Government or the British Empire is a great structure which requires to be looked after, propped up and supported. That is the burden of the song. He chose to call them the "steel frame," but that does not matter. If I am a pillar, I shall have to bear the whole burden. All through the thought that is repeated is that the Empire is to be preserved, it has to be maintained and it has to be supported. To each person he will say "You are the pillar of the Empire." To the Civilians he will say "You are the pillar of the Empire" and to the public people also he will say, "Of course you are the pillar of the Empire." What does it cost him? It costs nothing, it leads to nothing, it ends in nothing. What is the net result of it? He says, "I shall do my best, take everything very carefully into consideration and I will arrive at results which I hope will be satisfactory to you." That is where it ends. So, from my point of view, the whole thing is a huge joke, and the Prime Minister has succeeded. He has got his answer about the reforms, he has got his answer about the Civilians, he has got his answer about the public people, and so forth. He is no doubt a clever person. There is no doubt about it. But I had not the slightest notion that he was so clever as to sit six thousand miles away and make a joke and make all these people jump about it. After all there is nothing in it. I pay a very great compliment to the Prime Minister. I am glad this Resolution was brought because it has brought out all the answers that the Prime Minister wanted. Whether it succeeds or fails is a matter of secondary importance. The Prime Minister has got what he wanted out of it. We may pass this Resolution or we may not, but that is a very different thing altogether. With these words, Sir, I resume my seat.

The HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-official) : Sir, time is passing and I will therefore only say a very few words. Whatever had to be said on the subject either *pro* or *con* has been said. Of course, everybody admits—and it would, perhaps, be an affectation to deny it—that the Premier has made a mistake. But we must also remember that every great statesman in the history of the world has made mistakes. There have been lapses by such personages times out of number. There have been indeed lapses which have led to great tragedies of a far reaching character. But I think that every one of these lapses of the greatest statesmen of the past have their end and their limitations. Some times they have led to portentous events; sometimes they have led to appalling tragedies, one of which in modern times was the American War of Independence. Mr. Pitt made a great mistake which led to that memorable war. From the days of Pitt and Peel to those of Gladstone,

[Sir Dinshaw Wacha.]

and now to the days of Mr. Lloyd George, colossal mistakes of grave mischief have undoubtedly arisen. Some mistakes have been of an inconsequential character. The Premier's speech has created a great but unnecessary hubbub. I can understand that hubbub: We are a young nationality—a struggling nationality—trying to become a great nation. And every struggling nationality not only in India, not only in the East, but also in the West, has been such that when some imprudent and thoughtless words are spoken, a state of alarm seizes them and a sense of distrust and ill-feeling obsesses them. But all these alarms and sentiments have to be measured with a due sense of proportion. That sense of proportion, I regret to have to say, has been lacking in this discussion. There ought to be no magnification of the Premier's unwise utterance. If you only exercise a little patience and a little sobriety of judgment, and discuss the question as to how far the Premier has made a mistake and how far by his mistake the country is going to be deprived of the free and inestimable boon which the great Charter Act has conferred upon us, if everything in relation thereto was considered from different points of view and in a calm but no stern spirit in these times of commotion, I believe you could discuss it with a due sense of proportion, and arrive at some commonsense judgment thereon. Of course, in a matter of this kind you cannot repress, as I say, a young nationality which feels alarmed. My friend, the Honourable Mr. Kale, has of course not done anything wrong in bringing his Resolution before this House. Possibly he is quite justified in doing so. I do not think that he was not justified in bringing it. But having brought that question what is the next best thing to be done? To-day, we have had ample discussion of the subject. Ample discussion has been going on for the last three weeks outside the House. I think my two friends the Honourable Sir Alexander Murray and the Honourable Sir Benode Mitter have admirably put the question in a nutshell. They have compressed or focussed as it were all the facts in excellent array. They have also analysed those facts. They have further put these facts to the test in their crucible of right reasoning and argument, and they have come to the conclusion that there is not much to be said on the subject which can be said with profit, and that the sooner we forget the unfortunate utterance the better. Great statesmen are apt to make mistakes and a struggling nationality is apt to go into hysterics over it. Let us clear our mind of all hysteria. Let us reflect on it calmly and with the insight of practical politicians. My advice is to say nothing more about it. If I can venture to offer a few words—words of a very modest appeal—to my two friends I would say that whatever had to be said on the subject has been said. Criticism for and against has been made, and whether Mr. Kale's Resolution is conveyed, if passed, to His Majesty or the Premier or not, it would amount to nothing. Before it is so conveyed, the whole discussion will appear to-morrow in London and, perhaps, in all the papers of the world. Mr. Lloyd George will have known of it also and will introspect himself how far he has made a mistake, and possibly he may repent it although perhaps he may not declare that he has made a mistake. Human nature is such. Suppose any one of us is put in the position of Mr. Lloyd George. Don't you think

that we are liable to commit a similar mistake? Other people would resent it just as our friends here resent it or as outside people have resented. We must not forget our own human nature and its verities; also we must not forget certain psychological times when something is said which everybody afterwards repents as a mistake, but which everybody is not willing to confess at once that it was a mistake. That being the case, I modestly appeal to my Honourable friend Mr. Kale, that inasmuch as everything that had to be said has been said, that Mr. Lloyd George will know without even an official conveyance of expression through the Viceroy what has been the feeling of India on the subject, might not the matter be allowed to rest here?

It will do no good whatever to further pursue it. There is no use going outside the House saying "We have done our great act of heroism in bringing forward this matter and having it passed." What matters it? When you go home, sit quiet for an hour, and try to calmly think what after all is this mistake to lead to? I consider that it would lead to nothing alarming or appalling or cataclysmic. Whatever the Prime Minister may say, whatever even a President of the United States may say, what is it? There is the Act in black and white. The Preamble of the Act is clear and definite. No Prime Minister or President can override that Act. No Prime Minister can alter the letter or spirit of the Act by even a word until Parliament comes forward and alters it. Has that been done? I think His Excellency the Viceroy could not have made it clearer and more emphatic than even before that there was nothing to be alarmed at. He said, "I have been burdened with far greater responsibilities than were ever put before on another Viceroy or predecessor." This is absolutely true for the reason he himself urged. "Here, in my Letters Patent, His Majesty's Government have given me certain definite Instructions to carry out. What are they? That I should firmly bear in mind the spirit of the Proclamation of 1917; and also the Reform Act of 1919 which has received the King's assent, and I as His Viceroy and Governor General am bound to carry out those solemn injunctions and abide them faithfully." Is not the Viceroy nobly carrying out those injunctions? Has not the Viceroy in his speech the day before yesterday told you exactly what is the position? It is he who is responsible. It is he who tells us that "all that has to be done will be done and that we need not be alarmed", can we not rely on the Viceroy who is fully imbued with the spirit of our legitimate aspirations? Did he not by implication suggest that after his assurance there should be rest on the subject? I believe that it is best to rest after what we have done. I say to my good friend, here, Mr. Kale,—“Rest, perturbed spirit, rest” and I say further, “Let us all rest and put an end to this discussion.”

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, my work has been considerably lightened by the very sagacious and timely speech of warning of our veteran statesman Sir Dinshaw Wacha. The Resolution has been discussed threadbare, and I would not be justified in detaining this Council any further, but my excuse in intervening in this debate at this stage is that a Resolution not in the identical terms but in terms somewhat parallel to the Resolution of my Honourable Friend Mr. Kale stands against my name. Sir, it is only right and proper that I should explain to this Council my reasons for bringing the Resolution in the form in which I have put it. When the

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full text of the Prime Minister's speech was telegraphed to India I at once saw the difficulty in which we in India were placed. I thought that it was a very unfortunate utterance coming on after a few months of peace and tranquillity which India was enjoying and after the spirit of restlessness that was slowly subsiding. I found the next day papers clamouring vigorously at the speech of the Premier and putting interpretations on that speech which were neither justified by the context nor by the character of reforms that have been conceded to India, and I was gravely apprehensive that the non-co-operators and the enemies of reform would take advantage of that speech in disseminating further sedition all over the country and in causing and instigating fresh agitation in India. I, therefore, thought it necessary to take some action and I despatched immediately on the 16th August my Resolution asking nothing but a mere affirmation in Parliament of the policy enunciated by the Imperial Parliament in 1919. Honourable Members must have perceived already that my Resolution is in no way intended as a censure on the Prime Minister's speech or as a reflection or criticism of any sort on that great statesman. Sir, it cannot be gainsaid that the Premier's speech was inopportune, was impolitic, was unwise and might have been avoided in the present temper of the Indian people. But when all that is said, when this much is said, all is said and done. I disagree with my Honourable colleagues here in ascribing sinister motives to the Premier, in ascribing to that utterance a wrong meaning—a reversal of the policy solemnly laid down by the Imperial Parliament for the amelioration and the political advancement of this country. I repudiate any such suggestion. I am very sorry to notice that my Honourable Friend Mr. Kale has remarked this morning that the Premier has fallen a victim to the anti-reform agitation and that he has ranged himself on the side of the opponents of the reform. I would bring to his attention one simple fact. These reforms which have been conceded to India, these reforms under whose auspices we are working to-day are due to the Prime Minister Mr. Lloyd George. Mr. Montagu conceived the reforms, but without the co-operation of the Premier Mr. Montagu would not have been in a position to launch these reforms in Parliament, nor would India have secured them but for the devoted co-operation of Mr. Lloyd George. It would therefore be unfair that we should criticise his speech to that inconceivable extent and say that he has fallen a victim to the anti-reform agitation. Sir, likewise, I contend that there ought to be no apprehension about the correct interpretation of the reforms. Unfortunately, a feeling has been engendered in this country and the speech has been grossly misinterpreted. There cannot possibly be any reversal of policy. The Honourable Sir Dinshaw Wacha has pointed out that the solemn Act of Parliament cannot be set at naught by a mere utterance. A probationary period has been given to India within which to prove its administrative competence and efficiency, and no power on earth I contend can take away from India what has been solemnly granted to it. I therefore submit that our fears are groundless, and the apprehensions of my friends are baseless. I am as anxious and as solicitous as many of you to see India acquiring full dominion government.

I say that in this connection we have the assurance of His Excellency the Viceroy who not only referred to this matter in his brilliant speech but has expressly pointed out that in his Royal Warrant of Appointment

there is a special command given to him by His Majesty the King-Emperor to see that the reforms are brought to fruition. His Excellency the Viceroy has not only given personal assurances, but rather he has given a pledge to India that as long as he is the Viceroy he will see that the reforms are carried out sympathetically and in their full integrity. Is it necessary after that, gentlemen.....?

The HONOURABLE SAYID RAZA ALI : Sir, the Honourable Member is not addressing the Chair.

The HONOURABLE SIR MANECKJI DADABHOY : Is it necessary after that to have a Resolution of this character? Sir, let me make a final appeal to my Honourable colleagues here. You have now all had your say. Whether this Resolution is passed or not, the country will know your feelings and your sentiments, and England will know that you have taken exception to that speech. I agree with Sir Dinshaw Wacha that it would be well to allow the matter to rest at that stage. Sir, I may tell my Honourable friends that there ought to be no apprehension about the reversal of the reforms. No country has won its freedom by mere declarations in Parliament, by mere Statutes and by Charters. Political freedom, if you examine the history of every country, has been won, has been achieved, by the work of its own people. Let us prove in the tentative and probationary period before us that we have justified the reforms, that we have earned our title to the continuance of these reforms, and I feel certain that no power on earth can take away from us what we have earned by our merit and exertion.

I think I may now make a final appeal in these circumstances to my Honourable friend Mr. Kale to consider the wisdom and propriety of allowing the matter to rest where it is, especially after the remarks of His Excellency the Viceroy. We must remember that our future progress, our future growth, will depend on the good-will of the British people. The British people are not in a mood, they are not in a temper at present, to be troubled with Resolutions of this nature. We shall not be serving the best interests of India, we shall be doing a distinct disservice to the country, if this Resolution is passed to-day and telegraphed to England. It will set the backs of the people at home against us. It is entirely by their good-will that we will get all that we want in this country, and I therefore exhort the Honourable Member not to press his Resolution to a vote.

The HONOURABLE MR. V. G. KALE : Sir, after the very prolonged debate which has taken place on this Resolution, I will not be entitled to make a lengthy speech in offering my remarks with reference to the criticisms which have been made on the Resolution. So far as I have been able to judge, the whole debate reduced itself to one issue, and it is this. Has the Prime Minister's speech raised any question which, in any manner, will prejudice the cause of the Reforms? If it is not calculated to do any harm to the cause of the Reforms, certainly we ought to allow the matter to rest where it is. If, on the other hand, we think that there is something in that speech which has not been satisfactorily explained or accounted for, then I do not think that, in spite of the very kind appeal which has been made to me, I shall be justified in withdrawing the Resolution. My Resolution merely requests the Government of India to convey to His Majesty's Government an expression of the views of this

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House. At least some members feel that such an expression is desirable. Some of the critics of the Resolution have admitted that the Prime Minister committed a piece of indiscretion ; others have said that a mistake has been committed. I have no desire at all to rub it in merely for the sake of rubbing in. If a mistake has been committed, it is our duty to point out that mistake so that it may not occur again in future. If we are not going to take action upon our discussions, if we are not going to pass any Resolution in this House, I do not think there will be much work left for this Council to do (Hear, hear). I have been told that there has been so much discussion and that the debate will be wired to England. These things will happen with regard to every motion. I know that my Honourable friend Sir Maneckji Dadabhoy will not accept this principle when a question affecting the interests of the mercantile community is under consideration (Hear, hear); he will be prepared even to non-co-operate with the Government for the time being so far as that question is concerned. If under these circumstances not only the necessity of discussing the question in this House but even of placing the whole discussion through the proper channel before His Majesty's Government and the Secretary of State is felt, I do not think that there is any point in withdrawing this Resolution.

I do not wish to comment upon many of the side issues which have been raised in the course of the discussion and prolong the debate, but I wish to make only one or two observations. So far as I have seen, the assurances and explanations which have been given, have not touched that most important point, namely, the conflict between the interests of the reforms and the interests of the Civil Service. It is in that light of that conflict that the whole question has been placed in the Prime Minister's speech so far as I have been able to understand it. No satisfactory explanation has been given in connection with it. It has been clearly stated in the speech and I have read extracts from it which are eloquent enough and leave no doubt as to the principle enunciated—it has been clearly stated by the Premier that the Civil Service will continue for an indefinite period to possess and exercise all its functions, powers and privileges. If these words mean anything, they mean that for an indefinitely long period of time, the reforms will not come to fruition ; so that that is the cause of apprehension and of disappointment. In my Resolution I have stated that there is a feeling of apprehension and disappointment and that feeling is to be conveyed to His Majesty's Government.....

The HONOURABLE SIR MANECKJI DADABHOY : That is not inconsistent with paragraph 323 of the Chelmsford Report.

The HONOURABLE MR. V. G. KALE : I listened with great attention to the exposition of that particular clause, but I am afraid it was absolutely irrelevant.

The HONOURABLE SIR MANECKJI DADABHOY : I am not referring to clause 41.

The HONOURABLE THE PRESIDENT : Order, order.

The HONOURABLE MR. V. G. KALE : I know that there are many clauses in the Act which tell us that the whole question will be reviewed at the end of 10 years and so forth, but that has nothing to do with my motion.

Then it is said that nothing concrete is going to happen, and that no harm is going to result from the speech. Why then fight about words, and why not let the matter rest where it is ? I am not quite sure whether that is going to be the case. I think, on the contrary, that this is the psychological moment when a word of protest must be uttered. Certain things may have happened behind the back of the Government of India, and certain questions may be decided with regard to the salaries, promotions, pensions and privileges of the Indian Civil Service behind the back of the Indian Legislature. We do not know what is happening behind our backs, and therefore this is just the psychological moment when a word of protest must be uttered, and that is the reason why I am urging that the Government of India should condescend to accept this request which is, after all, a very moderate and humble request, only to convey what we have been saying and what our attitude is on the question to His Majesty's Government ; and if the Resolution were to be withdrawn, I do not think that the impression which we seek to create on the public mind in England will have a prejudicial effect.

It has been pointed out that we shall be alienating the sympathies of the public in England. Perhaps it may be so, but most probably it will not. My reason for this is that the public in England will also expect us to state exactly what we feel and what we think about the Premier's speech. Protests have been uttered in the press and on the platform, but what have the Houses of the Indian Legislature to say on this question ?

The Houses of the Indian Legislature should speak authoritatively on this question ; if you do not say authoritatively what you want to say, certainly there will be a gap left, and the gap will have to be filled. I, therefore, on my own part make an appeal to the Members of this Council ; if they feel convinced that there is nothing left in the Prime Minister's speech which requires explanation, then certainly they may vote against the Resolution ; but if they feel that no harm is going to be done by simply conveying an expression of our views to His Majesty's Government, certainly I expect them to support the Resolution. I do not want to take any more time on this point, but I will simply make the request again that they should look at this Resolution from the point of view from which I have placed it before them (Applause).

The HONOURABLE SIR WILLIAM VINCENT (Home Member) : Sir, before I proceed to the subject of the Resolution I want to make a personal statement on one point. I spoke with some severity of one of the Members of this Council this morning. He got up immediately afterwards to offer an explanation, and assured me that he was in no way hostile either to the British services or to the British public generally. This has been confirmed by a speaker, an old friend of this Council, the Honourable Mr. Samaldas, and I think that the Honourable Sir Arthur Froom in a part of his speech intended also to convey the same impression. I am perfectly prepared to accept the assurance ; and as I have, in the circumstances,

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made these statements, I ought I think to withdraw those imputations which I made against the Honourable Member (Applause).

I want to turn just to the Resolution itself. I will begin by refuting the particular statement of my Honourable friend, Sardar Jogendra Singh when he suggested.....

THE HONOURABLE SARDAR JOGENDRA SINGH : The Honourable Member is not speaking to the Chair.

THE HONOURABLE THE PRESIDENT : The Honourable Member has not given way.

THE HONOURABLE SARDAR JOGENDRA SINGH : I mean the Honourable Member is not speaking to the Chair but to the audience.

THE HONOURABLE SIR WILLIAM VINCENT : If I turn my back on the Council, then they cannot hear me. I wish to refute the suggestion of the Honourable Member that I did not appreciate the efforts made by loyal India in welcoming the Prince of Wales ; or that I have not expressed it ; I believe that this is not a fair representation of what I said. I did refer to the disapprobation of a certain section of the people. If however I failed in expressing my feelings in regard to loyal subjects who did welcome him, I can only express my regret and say that it was not my intention in any way to depreciate those efforts. Outside that, there is very little indeed to add to what I have said before. The real points which have arisen in the debate since I spoke relate mainly to the functions of the Indian Civil Service. That I think is the point on which the Mover feels most apprehension. I can only say that, to my mind, once the question of responsible government being the goal is settled, then I believe that all other points are necessarily secondary ; all these questions will resolve themselves, there will be no room for any dispute. Now then this question of the goal being the development of self-governing institutions with a view to the progressive realization of self-government has been repeatedly answered here. You have had an assurance but a few days ago given by the Viceroy and fortified by the words contained in his Instrument of Instructions. You have also the assurance of the Prime Minister conveyed through His Excellency : and I know of no better channel to convey to the people of India that he intended no departure from the declared policy of Government. As to the functions of the Civil Service, I said that what I believe the Prime Minister intended to ensure was the protection, the safeguarding of the legitimate, financial and other rights of the Services. I myself never doubted, and I believe no one doubts, that, as constitutional government develops in India, the position of the Services will be adjusted to the new conditions. I cannot conceive of anything else being possible. Then it is said that the question of time is of importance. To those who say this the answer is contained in the Act itself :

“Whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service have been conferred.”

The time of any advance must therefore in every case depend on the co-operation which His Majesty's Government receives from the people

of India. It has again been suggested that there is something sinister in the language of the Prime Minister when he was speaking of the British element in the service. I have seen nothing in that which conflicts at all with the language that His Excellency used as to the increasing association of Indians in the Services, and I do not believe it was intended in any way to conflict with that statement. Whatever happens, whether Indians are here or Europeans I can say one thing, that they will always work, as they have in the past, loyally to promote the welfare of this country,—to promote the reformed constitution and the working of the administration under that system (Hear, hear). I want the Council in a matter of this kind to take a long view to consider really what is good for the welfare of India—whether it is right now, at this juncture, further to antagonize His Majesty's Government, further to alienate feeling at Home. This Resolution may secure for its supporters some cheap popularity here, but that is not what this Chamber should look to ; that is not the deciding factor to a wise statesman-like Member of a second Chamber of this character. I want Members to consider, to answer, the following questions, each man to himself, before he votes. Does he seek to embitter feeling at Home against India ? Does he seek to antagonize His Majesty's Government ? Does he seek to convey the impression that certain words of His Excellency are not accepted as sincere and honest ? Does he seek to encourage the enemies of Government in this country ? Does he not seek to maintain the character, the great reputation, if I may say so, of this Chamber for sobriety of judgment and wisdom ? (Applause).

THE HONOURABLE THE PRESIDENT : The question is that the following Resolution be adopted :

“This Council recommends to the Governor General in Council that he may be pleased to convey to the Secretary of State for India, and through him to the Government of His Imperial Majesty, an expression of the keen sense of apprehension and disappointment created in the public mind in India by the pronouncement of the Prime Minister in the House of Commons regarding the present situation and the political future of this country.”

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The next Resolution* on the List of Business standing in the name of the Honourable Sir Maneckji Dadabhoy is disposed of by the vote of the Council on the last Resolution.

The Council then adjourned till Eleven of the Clock on Monday, the 11th September, 1922.

* “This Council recommends to the Governor General in Council that this Government do move forthwith the Secretary of State for India for an immediate, clear and definite declaration in Parliament of the determination of His Majesty's Government to carry out fully and faithfully the policy embodied in the declaration of the 20th August 1917, and to grant India Dominion Self-Government at the earliest possible opportunity.”

COUNCIL OF STATE.

Monday, the 11th September, 1922.

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

HONOURABLE MR. SETHNA'S ABSENCE FROM MEETING.

The HONOURABLE THE PRESIDENT : I have received information that the Honourable Mr. Sethna is unwell and unable to attend the Council this morning. If any Member of the Government desires to give a verbal answer to any of the Honourable gentleman's questions, perhaps he will express his desire.

QUESTIONS AND ANSWERS.

RADIO COMMUNICATION.

66. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state :—

- (a) what is the present situation as regards radio communication between India and other parts of the British Empire, especially the United Kingdom ?
- (b) if they have expressed the view that the Indian link in the scheme should be carried out by private enterprise working under contract from the Government of India ?
- (c) if it is a fact that the Imperial Government have decided that they will erect the Indian station but that the Indian Government shall maintain and work it, and, if so, have Government agreed to this decision ?
- (d) if it is a fact that such a decision would amount to one transmitting station which will transmit only in one direction at a time ?
- (e) is it not essential to provide two transmitting stations if traffic is to be handled sufficiently expeditiously to ensure an efficient commercial service ?
- (f) if they have a sufficient personnel with the necessary technical and commercial experience to maintain and work the service on a commercial basis ?

The HONOURABLE MR. B. N. SARMA : (a) The manner in which the Government of India should co-operate in the Imperial Wireless Scheme is under consideration.

- (b) Yes.
- (c) His Majesty's Government have suggested a scheme of the kind, which is now under consideration in the Government of India.
- (d) One transmitting station only in India is proposed in the first

instance capable either of duplex communication in one direction or of transmitting in one direction and receiving from another simultaneously.

(e) Until the volume of traffic is known, the Government of India do not propose to arrive at a conclusion on the subject.

(f) The point will be considered when it arises.

RADIO COMMUNICATION BETWEEN INDIA AND THE UNITED KINGDOM.

67. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state :—

- (a) if there is any objection to providing direct radio communication between India and the United Kingdom by means of a commercial company operating under license from or contract with Government ?
- (b) if it is possible to lay down in the form of a license or contract such terms as will ensure an adequate service in every way in accordance with the requirements of Imperial radio communication being maintained whether in normal times or times of war or emergency ?
- (c) if it is possible to have a contract in such a manner that Government have the right to purchase the concern at any time ?

The HONOURABLE MR. B. N. SARMA : (a) The question is not so much one of objections as of the balance of advantages. The Honourable Member will, no doubt, appreciate the value of retaining direct wireless communication with the United Kingdom in the hands of the State.

(b) and (c) The experience of the terms suggested by the Honourable Member, available in India and abroad, is not yet sufficient to enable the Government of India to answer this question with confidence.

RADIO COMMUNICATIONS WITH INDIA.

68. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state :—

- (a) if any private firm or firms have applied for a license to erect and maintain the necessary service to provide the Indian link of the Imperial radio communication scheme and, if so, with what result ?
- (b) the terms under which the private firm or firms, if any, offered to carry out the service ?

The HONOURABLE MR. B. N. SARMA : The Honourable Member is referred to the reply given in this House on the 6th September 1922 to the Honourable Mr. Lalubhai Samaldas' Question No. 27 on the same subject.

EXPENDITURE ON WIRELESS SCHEME.

69. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state what is the Indian share of the estimated capital and recurring expenditure in a Wireless scheme, if any, as proposed by the Home Government ?

The HONOURABLE MR. B. N. SARMA : In consideration of the financial difficulties of the Government of India, the Imperial Government have offered to advance the estimated capital cost of the station, and to recover it by instalments from the annual profits. It is estimated that, except

possibly during the first year or two of working, the annual revenue will be sufficient to cover the working expenses and sinking fund. If there is any loss on the working, it is proposed that the Indian Government should bear it.

AMENDMENT OF INCOME-TAX ACT.

70. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to say if they will consider the advisability of amending the Income-tax Act for the purpose of removing an anomaly whereby according to section 11 (3) professional fees earned in the Native States are liable to Income-tax, and according to section 4 (2) income from business in Native States is only taxed if brought into British India within three years ?

The HONOURABLE MR. E. M. COOK : Government are not prepared to consider the advisability of amending the Income-tax Act as suggested. Section 11 (3) of the Income-tax Act, 1922, is practically identical with section 10(3) of the previous Act of 1918. So far as Government are aware, no difficulty has ever been experienced in working this provision, nor has it given rise to any complaints. The object of section 4 (2) of the new Act was to render the profits of a business conducted outside British India liable to taxation when brought into British India. The limit of three years was inserted in order to obviate the difficulty of determining after what period the accumulated profits of a business might be deemed to have taken on the nature of capital. Government do not consider that the enactment of this new provision has created any anomaly ; on the contrary its effect has been to remove one, as under the old Act it was generally impossible to tax the profits of businesses conducted abroad. Moreover, it is extremely unlikely that in practice any professional man ordinarily resident in British India would allow fees paid to him to accumulate outside British India for more than three years.

COLONIALS IN INDIAN ARMY.

71. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state—

- (1) the number of (a) Canadians, (b) Australians, (c) New Zealanders, (d) South Africans, (e) British West Indians, and (f) other Colonials who have been given regular commissions in the Indian Army since 1st August 1914, and
- (2) the number of (a), (b), (c), (d), (e) and (f) in the preceding paragraph who are included in the surplus list of officers to be demobilised ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (1) and (2). It would entail a considerable amount of labour, which the Government of India regret they are unable to undertake, to compile the information desired by the Honourable Member, as it would be necessary to investigate the parentage of each officer who has been commissioned in the Indian Army since 1914, in order to determine whether, by such parentage, he should be considered to have a Colonial or Dominion domicile. In the circumstances the Government regret that they cannot give the information asked for.

POLITICAL DEPARTMENT IN KATHIAWAR AND RAJPUTANA.

72. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state the number of officers in the Political Department engaged in Kathiawar and Rajputana drawing salaries of Rs. 500 or over per mensem ?

The HONOURABLE MR. J. P. THOMPSON : (a) in Rajputana 12 ;
(b) in Kathiawar 4.

EXPENDITURE ON POLITICAL DEPARTMENT IN KATHIAWAR AND RAJPUTANA.

73. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state what has been the expenditure on the Political Department in Kathiawar and Rajputana during each one of the last five years ?

The HONOURABLE MR. J. P. THOMPSON : A statement giving the figures required is laid on the table.

Statement showing the expenditure on the Political Department in Kathiawar and Rajputana during each of the last five years.

—	1917-18.	1918-19.	1919-20.	1920-21.	1921-22.
Kathiawar ...	2,70,000	2,90,000	3,00,000	3,84,000	4,18,000
Rajputana ...	4,34,000	4,73,000	5,61,000	5,72,000	6,41,000

POLITICAL DEPARTMENT, CIVIL AND MILITARY.

74. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to give the number of officers (a) Civil and (b) Military in the Political Department drawing salaries of Rs. 500 and over per mensem, and also state how many amongst them are Indians ?

The HONOURABLE MR. J. P. THOMPSON : There are 50 Civil and 91 Military Officers serving in the Political Department drawing salaries of Rs. 500 and over per mensem.

Four of the former are Indians.

LEGAL QUALIFICATIONS FOR POLITICAL DEPARTMENT.

75. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to state if military officers serving in the Political Department are required to possess any legal qualifications and, if so, what ?

The HONOURABLE MR. J. P. THOMPSON : Military Officers serving in the Political Department are required by the rules to pass the same examinations in Law as junior officers of the Indian Civil Service in the United Provinces. The United Provinces Government have now substituted a 3 months' training class in place of the examinations, and the question of extending the new arrangements to military officers of the Political Department is now under consideration.

TIRHOOT STATE RAILWAY.

76. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased—

- to give the date when the Tirhoot State Railway was handed over to the Bengal and North-Western Railway for management and for what period ;
- to state if there were any special reasons for giving it to a Railway under Company management instead of handing it over to the Eastern Bengal which is a State-managed line ;
- to state if any inquiries were made at the time and, if so, what, to consult the wishes of the Tirhoot public for the handing over to the Bengal and North-Western in preference to the Eastern Bengal ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The Tirhoot State Railway was leased to the Bengal and North-Western Railway Company for working with effect from 1st July 1890. The contract was extended in 1905 till the 31st December 1932.

(b) From the correspondence on the subject it appears that the decision to hand over the Railway to the Bengal and North-Western Railway was taken on the ground that it was desirable in the interests of the districts through which the line passed and that it was likely to prove generally beneficial to the State.

(c) The Bengal Government was consulted, and the Tirhoot public sent memorials protesting against the proposed transfer. These memorials were received however, after the above decision had been reached.

WORKING OF INCOME-TAX ACT.

77. The HONOURABLE MR. PHIROZE SETHNA : Has the attention of Government been drawn to the omission—

- in section 33 (1) of the Income-tax Act, 1922, of any fixed period within which the Commissioner may, of his own motion, call for the record of any proceeding under the Act ; and
- if such be the case, do Government intend so to amend section 33 (1) as to bring it into line with section 34 of the same Act, according to which the Income-tax Officers' power is limited to one year for assessing or re-assessing any income which has escaped assessment, and with section 35 according to which any mistake can be rectified also within the period of one year ?

The HONOURABLE MR. E. M. COOK : (a) and (b) : Section 33 (1) of the Income-tax Act, 1922 (XI of 1922), follows generally section 23 of the Income-tax Act, 1918 (VII of 1918) which did not prescribe any period within which the Commissioner was to review assessment proceedings of his own motion. As Government have received no complaints about the working of this section, they do not consider it necessary at present to amend the section in the direction suggested by the Honourable Member.

PROGRESS OF REVENUE AND EXPENDITURE.

78. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to make a statement showing the progress of revenue and expenditure during the current financial year up to now with a view to indicate as to how revenues are coming in and if expenditure is keeping within the budgeted amounts ?

The HONOURABLE MR. E. M. COOK : In replying to a similar question asked this time last year by the Honourable Sir Maneckji Dadabhoy, I pointed out the difficulty of making any forecast, at this stage in the financial year, as to how far the budget expectations are likely to be realised. The difficulty arises from the fact that the Central Government's revenues depend almost entirely upon trade conditions, and it would not therefore be safe to draw any inference as to the whole year's collections from the figures of the first four months of the year, which are normally a period of slack trade. Thus, it would be very unsafe to take under any head the revenue collected in the first four months of the year and to multiply that by 3 in order to arrive at the probable revenue for the whole year.

At present our data are the actual figures of revenue and expenditure until the end of July, while for August we have only approximate figures.

Under Customs, we collected about 11½ crores up to the end of July, and this figure would have been higher were it not for refunds made in April on account of certain higher duties collected in March which were omitted from the Finance Bill as finally passed. The figures for August are expected to show an improvement. So far as can be seen at present, assuming that trade generally will at any rate not be materially worse than last cold weather, and taking into account the favourable character of the present monsoon, it is possible that the year's revenue from Customs may fall somewhat short of the budget figure of 45½ crores, though, we may hope, not by more than a crore or two. Any short-fall that may occur is likely to be due to the revenue from sugar, liquors, matches, the so-called "luxuries," miscellaneous articles, hides and skins, and the cotton excise falling short of that estimated. On the other hand, there have been unexpectedly large imports of tobacco ; the piece-goods trade has at last shown a distinct revival, and we ought certainly to reach the budget figure of 560 lakhs ; the new duty on kerosene is also doing well and may bring us in half a crore more than we expected.

The railway returns have been disappointing, although there has been some slight improvement in the last weeks. The gross traffic receipts to the end of August amounted to just under 37 crores. We can no doubt count on some increase in traffic during the coming cold weather, but unless this is much greater than at present can reasonably be expected, it is probable that the gross receipts will fall short by 2 or 3 crores of the budget estimate of 99½ crores. Unlike last year, it is not anticipated that there will be any excess in the budget estimate of working expenses.

As regards Posts and Telegraphs, the increases in the postal rates appear to have affected correspondence substantially during the first two or three months, and for the present it seems probable that the budget estimates of net receipts may have to be reduced by a crore.

Most of our revenue from income-tax is collected in the last few months of the year. For the present all that can be said is that, owing to heavy business losses, the allowances that we shall have to make for bad debts are likely to be greater than anticipated, but it is too early yet to say whether or not the budget estimate will have to be reduced.

On the other hand, it is possible that we shall get more revenue both from opium and salt than we anticipated, and under these two heads we can probably count on an improvement of from ½ crore to a crore.

On the expenditure side, no important variations have so far come to notice, so far as civil expenditure is concerned, except that we are likely to save about ½ crore of our budget provision for interest on debt, owing to the fact that a full half-year's interest on our new loan will not be payable till April the 1st.

Under military expenditure the Finance Member warned the Legislature that the budget provision for the operations in Waziristan would be exceeded ; it is probable that this excess will amount to about a crore and a half. Further, a payment of anything up to 2 crores may have to be made in respect of gratuities to surplus officers in excess of the budget provision of 35 lakhs : I need not add that inconvenient as it may be to have to face this expenditure at the present moment it will lead to a very considerable reduction in our recurring charges for future years.

LIFE-BELTS FOR LASCARS.

79. The HONOURABLE SARDAR JOGENDRA SINGH : Will the Government be pleased to mention if any provision in the way of life-belts and life-boats is made for Lascars on boats which employ Indian crews ?

The HONOURABLE MR. H. A. F. LINDSAY : Under the Life Saving Appliances Rules made under the English Merchant Shipping Act, 1894, every British ship is required to carry a sufficient number of lifeboats to accommodate all persons and one life-jacket for each person on board. These rules apply equally to ships carrying lascar crews.

LASCARS.

80. The HONOURABLE SARDAR JOGENDRA SINGH : Are the Lascars supposed to take to boats with the other crew or after them ?

The HONOURABLE MR. H. A. F. LINDSAY : Each life-boat has its crew allotted to it. No distinction is made between the members of that crew.

PRICE OF FOOD-GRAINS.

81. The HONOURABLE SARDAR JOGENDRA SINGH : How does the Indian prices of food-grains stand to-day in relation to the world prices ?

The HONOURABLE MR. B. N. SARMA : I can inform the Honourable Member that at present prices wheat cannot be landed in England at a profit. More exact information regarding wheat and other grains will be communicated to the Honourable Member later.

The HONOURABLE SARDAR JOGENDRA SINGH : May I ask a supplementary question ? If wheat cannot be landed at a profit, is there any reason for keeping up the embargo by Government.

The HONOURABLE MR. B. N. SARMA : The question is under consideration. It was fully discussed in the Legislative Assembly and Government will decide their policy before very long.

COURT FEES ACT.

82. The HONOURABLE MAHARAJA BAHADUR KESHAVA PRASAD SINGH : Will the Government be pleased to state if Local Governments can interfere with the "Court Fees Act" which is Act No. VII of 1870 ? If so, according to which Law or Regulation or Circular ?

The HONOURABLE MR. H. MONCRIEFF SMITH : The Honourable Member's question presumably refers to the powers of a local Legislature to amend the Court Fees Act, 1870. The Act is not included in the Schedule to the Local Legislatures (Previous Sanction) Rules, and it is therefore open to a Local Legislature, in exercise of its powers under sub-section (2) of section 80-A of the Government of India Act, to amend it without the previous sanction of the Governor General.

SONE BRIDGE.

83. The HONOURABLE MAHARAJA BAHADUR KESHAVA PRASAD SINGH : Will the Government be pleased to state if it is a fact that the Sone Bridge at Koilwar on East Indian Railway has become weak ? If the answer be in the affirmative, when the Railway authorities intend to repair it ? Will the authorities at the time of repair make necessary arrangement for vehicular traffic over the bridge ?

The HONOURABLE MR. H. A. F. LINDSAY : The bridge in question is over 50 years old and not up to modern requirements.

A scheme for its renewal is in hand and funds have been allotted ; work will be undertaken as soon as the plans and estimates have been approved. These are at present under consideration by the Local Government in connection with provision for vehicular traffic.

SALT OPERATIONS IN BIHAR.

84. The HONOURABLE MAHARAJA BAHADUR KESHAVA PRASAD SINGH : Is it a fact that the Secretary of State was pleased in 1914 to transfer all control of salt operations in Bihar from the Government of India to the Provincial Government ? If so, has that actually been done ? If not, when the Government intend to do so ?

The HONOURABLE MR. H. A. F. LINDSAY : The transfer of the preventive work of the Northern India Salt Revenue Department to the Government of Bihar and Orissa was sanctioned by the Secretary of State in 1914, but was postponed on account of the war. The Honourable Member is referred to the answer given in reply to question No. 226* asked by Babu Baidyanath Prasad Sinha at the meeting of the Legislative Assembly on the 27th February 1922. The question of effecting the transfer has been taken up with the Government of Bihar and Orissa.

"FREE EXPORT OF RICE."

85. The HONOURABLE MAHARAJA BAHADUR KESHAVA PRASAD SINGH : Has the attention of the Government been drawn to notes

* Vide page No. 2564, Volume II, Part II.

appearing in *The Modern Review* of Calcutta for June 1922, to the effect "Free Export of Rice" ? If the facts be true, do the Government intend to stop the export ?

The HONOURABLE MR. B. N. SARMA : Government have seen the note. The price of common rice both average and cheapest at Magra hat, the place mentioned in the note, was lower during the first half of August of this year than during the corresponding period of last year. Whatever may have been the facts at the particular place and temporary fluctuations in the prices of particular qualities during a part of the year, Government are satisfied that the general course of the prices of rice does not justify a reconsideration of their decision to remove the restrictions on export : in fact in some parts of the country the price of rice is lower than in March, when the restrictions were removed, though prices of rice are usually higher in September than in March.

GOVERNMENT OF INDIA DEBT.

86. The HONOURABLE MAHARAJA BAHADUR KESHAVA PRASAD SINGH : (a) What is the total amount of the debt of the Government of India (permanent and floating) up to the end of August 1922 ?

(b) What is the total amount of sinking fund ?

(c) How is this amount managed ?

The HONOURABLE MR. E. M. COOK : (a) The total amount of the debt of the Government of India (permanent and floating) up to the end of August 1922 was as follows :

	Permanent.	
Sterling Debt	£216 millions.	
Rupee Debt	Rs. 345 crores.	
	Floating.	
Post Office Cash Certificates	Rs. 4 crores.	
Treasury Bills	Rs. 87 crores (of which 31	
	were with the	
	public and 56	
	in the Paper	
	Currency	
	Reserve).	

(b) Rs. 154 lakhs are set aside annually in India for the purchase and cancellation of the scrip of the two 5 per cent. Loans 1929—47 and 1945—55 so long as the market price of these securities is below the issue price of 95. As regards our sterling liabilities, £500,000 is paid every year to His Majesty's Treasury towards the cancellation of India's liability for that portion of the British Government War Loan 1929—47 which was taken over as part of India's war contribution.

(c) Purchases of scrip in India are made under the management of the Controller of the Currency. As regards England, payments are made direct by the Secretary of State to His Majesty's Treasury.

The HONOURABLE MR. V. G. KALE : Will the Honourable Member state what is the balance of the amount that is still payable to His Majesty's Government on account of the war contribution ?

The HONOURABLE MR. E. M. COOK : I am afraid I cannot answer the question off-hand without notice.

INDIANS ON UGANDA RAILWAY.

87. The HONOURABLE MAHARAJA BAHADUR KESHAVA PRASAD SINGH : (a) Is it a fact that there are many Indian employees in Uganda Railway ?

(b) Has the aforesaid Railway opened out provident fund or widows' or orphans' fund ?

The HONOURABLE MR. B. N. SARMA : (a) It is a fact that many Indians are employed on the Uganda Railway.

(b) The Government of India understand that there is no widows' or orphans' fund on the Railway. It appears from the Administration Report of the Railway for 1920-21 that there is a Provident Fund to which there are 2,429 subscribers, and that it closed the year with a balance of 1,805,901 florins.

STATUS OF INDIANS IN COLONIES.

88. The HONOURABLE MAHARAJA BAHADUR KESHAVA PRASAD SINGH : (a) Will the Government be pleased to state if the Resolution of the Imperial Conference, embodying the important new principle that Indians lawfully domiciled in any parts of the Empire should have the right of citizenship, has been accepted by the different Colonial Governments ?

(b) What are the names of those countries which have accepted the principle and those who have rejected it ?

(c) Is any attempt being made to convince the Colonial Governments, who have refused the principle, for accepting it ?

The HONOURABLE MR. B. N. SARMA : (a) The Resolution of the Imperial Conference referred to by the Honourable Member was accepted by Mr. Winston Churchill on behalf of the British Colonies, subject to certain general remarks as to the method of application. These remarks will be found in the extract from his speech published by the Government of India on October 5th last.

(b) The principle embodied in the Resolution was accepted at the Conference by the representatives of the Dominions of Australia, New Zealand, Canada and Newfoundland and by His Majesty's Government on behalf of the Crown Colonies and Protectorates. The Government of South Africa have expressed their inability to accept the Resolution in view of the exceptional circumstances of the greater part of the Union.

(c) The Government are in correspondence with the Union Government on the subject.

PERSONNEL OF INDIA SECRETARIAT.

89. The HONOURABLE KHAN BAHADUR SIR AHMEDTHAMBY MARICAIR : (a) Will Government be pleased to lay on the table a statement showing :—

- (i) the number of Muslims, Hindus, Europeans and Anglo-Indians, respectively, employed permanently in the Upper Division of the various Departments of the Government of India Secretariat ;

(ii) the proportion of Muslims to non-Muslims in each Department ;

(iii) the total proportion of Muslims to non-Muslims in all the Departments of the Government of India ?

(b) Is it a fact that in the Railway Department out of about 40 men in the Upper Division there is only one permanent Muslim employee ?

The HONOURABLE MR. S. P. O'DONNELL : The information required is being collected and will be laid on the table in due course.

MUSLIMS IN SECRETARIAT.

90. The HONOURABLE KHAN BAHADUR SIR AHMEDTHAMBY MARICAIR : Will the Government be pleased to state how many Muslims have been appointed by the Staff Selection Board in the various offices of the Government of India for the Upper Division since its establishment, and what is the total number of such men of the other communities ?

The HONOURABLE MR. S. P. O'DONNELL : 17 Muhammadans passed the Staff Selection Board's test for the Upper Division. Of these 17, eleven have been appointed to permanent or temporary appointments in the Imperial Secretariat or attached offices ; 3 hold other appointments, one has had his name placed in suspense as he did not reply to an offer of an appointment and two are without appointments at present. Of these two, one has refused a temporary upper division appointment and the other has been employed in a temporary vacancy in the Upper Division but is now available. The total number of non-Muhammadans appointed to the Upper Division is 41.

RECRUITMENT OF MUSLIMS.

91. The HONOURABLE KHAN BAHADUR SIR AHMEDTHAMBY MARICAIR : Will the Government be pleased to state whether they have hitherto issued instructions to the Staff Selection Board to keep an eye on the due representation of Muslims while recruiting officers and clerks for the various offices of the Government of India ?

The HONOURABLE MR. S. P. O'DONNELL : No specific instructions have been issued to the Staff Selection Board for the selection of Muslim candidates for the offices of the Government of India. But the Secretariat Procedure Committee (a copy of whose report has recently been placed in the Council Library), when recommending the constitution of the Board, suggested that the Board should take care that the main sections of the community are adequately represented on the list of selected candidates prepared by the Board, and the Government of India accepted this recommendation in their Resolution of the 15th September 1920 which was published in the Gazette of India.

MUSLIM EMPLOYEES IN SECRETARIAT.

92. The HONOURABLE KHAN BAHADUR SIR AHMEDTHAMBY MARICAIR : In view of the impending retrenchments in the staff of the Government of India Secretariat and in view of the fact that the proportion of Muslim employees to other communities is very inadequate,

do Government intend to pass orders so that the services of Muslim employees are not dispensed with?

The HONOURABLE MR. S. P. O'DONNELL : Government cannot pass orders in the sense desired by the Honourable Member. If any retrenchment of office establishment is carried out, the selection of the men to be reduced must be based on such factors as relative efficiency and the character of the employment, whether temporary or permanent and cannot be governed by communal considerations.

MUHAMMADAN HOLIDAYS.

93. The HONOURABLE KHAN BAHADUR SIR AHMEDTHAMBY MARICAIR : (a) With reference to my Resolution moved at the meeting held on the 20th March 1922, regarding the grant of two hours' holiday for Muhammadan employees of all the Courts and public offices in all the provinces including the Central Government offices for saying their Jumma prayers on Fridays, will Government be pleased to state whether they have forwarded the copies of the Debate to all the Provincial Governments with their comment to take proper steps to provide adequate facilities for their Muhammadan employees to say their Jumma prayers on Fridays, as promised by the Government?

(b) If the answer be in the negative, do Government propose to take steps to safeguard the religious susceptibilities of the Muslims and grant sufficient facilities in the performance of their religious duties?

The HONOURABLE MR. S. P. O'DONNELL : (a) Yes.

(b) The question does not arise.

PAY OF BRITISH ARMY IN INDIA.

94. The HONOURABLE SIR DINSHAW WACHA : (a) Will the Government be pleased to inform the Council of the monthly pay in Rupees, exclusive of exchange, of British Officers of the rank of Subaltern, Captain, Major and Field Officer, and of British soldiers of the rank of Private and Non-Commissioned Officer in the Cavalry, Infantry and Artillery of the British Army in India on 31st March 1912 and 31st March 1921?

(b) What was the annual average rate of exchange in 1911-12 and in 1920-21?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (on behalf of His Excellency the Commander-in-Chief) : (a) Two statements furnishing the information desired by the Honourable Member are laid on the table.

(b) The rate of exchange in 1911-12 was Rs. 15 to the pound. During 1920-21, the rate of exchange fluctuated considerably from time to time. I will hand over to the Honourable Member a statement showing the approximate average rate of exchange for each month of that year. The rates quoted are those which governed transactions between the Government of India and the Imperial Government.

STATEMENT A.

Pay on the 31st March 1912.

Rank.	ARM OF SERVICE.			
	CAVALRY.		ARTILLERY.	INFANTRY.
	Royal Horse Artillery.		Royal Field Artillery, Royal Garrison Artillery and Mountain Artillery.	
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
2nd-Lieutenant ...	250 10 4	250 10 4	215 5 0	202 12 5
Lieutenant ...	305 4 0	305 4 0	265 12 0	256 10 0
Captain ...	473 0 4	473 0 4	417 7 8	415 6 0
Major ...	691 1 0	809 6 4	759 3 0	640 14 0
Major after 2 years' service as such	809 6 4	800 6 4	759 3 0	759 3 0
Bt. Colonel and Lt.-Colonel ...	1,037 0 0	1,037 0 0	1,002 4 0	1,002 4 0

Pay on the 31st March 1921

Rank.	ARM OF SERVICE.			
	Cavalry.		Artillery.	Infantry.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
2nd-Lieutenant ...	425 0 0	425 0 0	425 0 0	425 0 0
2nd-Lieutenant after 2 years' service	475 0 0	475 0 0	475 0 0	475 0 0
Lieutenant ...	475 0 0	475 0 0	475 0 0	475 0 0
Lieutenant after 7 years' service	550 0 0	550 0 0	550 0 0	550 0 0
Captain ...	750 0 0	750 0 0	750 0 0	750 0 0
Captain after 15 years' service	850 0 0	850 0 0	850 0 0	850 0 0
Major ...	950 0 0	950 0 0	950 0 0	950 0 0
Major after 5 years' service as such	1,050 0 0	1,050 0 0	1,050 0 0	1,050 0 0
Lieutenant-Colonel ...	1,250 0 0	1,250 0 0	1,250 0 0	1,250 0 0

The above rates are the fixed rupee rates of pay for service in India and are not affected by the exchange.

STATEMENT B.

Pay on 31st March 1912.

Rank.	ARM OF SERVICE.			
	CAVALRY.		ARTILLERY.	INFANTRY.
	Royal Horse Artillery.		Royal Field Artillery, Royal Garrison Artillery and Mountain Artillery.	
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Private or equivalent rank	26 7 0	*30 6 8	27 9 0	22 13 0
Corporal ...	42 9 8	†28 8 3	57 0 6	38 0 4
Sergeant ...	42 9 8	60 13 4	72 3 0	53 3 8
Squadron or Battery Sergeant Major and Colour Sergeant of a Company of Infantry.	98 13 1	76 0 8	96 10 0	79 13 6
Regimental Sergeant Major	121 10 8	96 13 1	133 1 2	113 1 0

*Gunner, Royal Horse Artillery.

†Driver, Royal Horse Artillery.

Pay on 31st March 1921.

Rank.	Normal rates of pay.	TRADESMEN'S RATES OF PAY FOR MEN QUALIFIED AT A TRADE IN THE UNDERMENTIONED GROUPS.				
		A.	B.	C.	D.	E.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Private or equivalent rank for all arms of the service.	62 11 0	102 10 0	96 14 0	91 4 0	86 8 0	82 11 0
Private or equivalent rank for all arms after 2 years' Service.	79 13 0	125 7 0	119 12 0	114 1 0	108 5 0	79 13 0
Corporal	114 1 0	165 6 0	159 11 0	153 15 0	136 14 0	125 7 0
Sergeant	159 11 0	205 5 0	205 5 0	205 5 0	205 5 0	205 5 0
Battery, Squadron or Company Sergeant-Major.	228 2 0	250 15 0	250 15 0	250 15 0	250 15 0	250 15 0
Regimental Sergeant-Major ...	319 6 0	365 0 0	365 0 0	365 0 0	365 0 0	365 0 0

These rates are the sterling rates of pay laid down in the Royal Warrant, converted at the normal rate of exchange, viz., 1s. 4d. to the rupee.

ROLLING STOCK ON RAILWAYS.

95. The HONOURABLE SIR DINSHAW WACHA : Will the Government be pleased to state for the information of the Council :—

(a) The number of the following on the Indian system of railways (Native States excluded) on 30th June 1914 and on 30th June 1922 :—

- (1) Locomotives,
- (2) Passenger coaches,
- (3) Goods wagons and trucks ; and

(b) the number under repairs on 30th June 1914 and on 30th June 1922 :—

- (1) Locomotives,
- (2) Passenger coaches,
- (3) Goods wagons and trucks ?

The HONOURABLE MR. H. A. F. LINDSAY : As the accounts are prepared for the financial year, the information asked for by the Honourable Member can only be furnished as for the 31st March 1914 and 31st March 1922, and a statement has been prepared giving this information, a copy of which is being furnished to him direct.

SAFETY MEASURES ON RAILWAYS.

96. The HONOURABLE SIR DINSHAW WACHA : What measures, if any, have been adopted or ordered for the necessary safety of life and property on all descriptions of railways in British India ?

The HONOURABLE MR. H. A. F. LINDSAY : The Honourable Member is referred to the provisions made in the Indian Railways Act (Act IX of 1890) under which rules have been framed and are framed as considered desirable.

WATERWAYS IN INDIA.

97. The HONOURABLE SIR DINSHAW WACHA : Will the Government be pleased to place on the table all correspondence, reports and despatches on the subject of the development of the great waterways in the country ?

The HONOURABLE MR. B. N. SARMA : The collection of all correspondence, reports and despatches on the subject of the development of the waterways in India would entail an immense amount of work and research which the Government of India are reluctant to undertake, as it is not evident that the results will be of material value. But if there be any particular waterways in which the Honourable Member is interested, I undertake to supply to him material information on the subject, in so far as it is not of a confidential character.

CIVIL AND PROVINCIAL SERVICES.

98. The HONOURABLE SIR DINSHAW WACHA : Will the Government be pleased to state the number of members of the Indian Civil Service on 30th June, 1914, and on 30th June, 1922 ; and similarly of the Provincial Service ?

The HONOURABLE MR. S. P. O'DONNELL : The information is being collected and will be supplied to the Honourable Member in due course.

RESOLUTION RE COLONY-RETURNED INDIANS.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I beg to move :

“ This Council recommends to the Governor General in Council that steps be taken immediately, in consultation and co-operation with philanthropic and religious bodies, for the readmission into society of Colony-returned Indians, where possible, and for the creation of one or more Settlements for the benefit of such of them as are not so admitted.”

This Resolution simply invites the attention to an aspect of oversea emigration, which gives little scope for serious difference of opinion or controversy. It deals only with the question of the manner of doing our little bit for the Colony-returned emigrant. I am prepared to confess at the outset that my Resolution presents some difficulties. In the first instance, I am prepared to admit that it might be said—and said perhaps with some reason—that the subject is a provincial one and that I was not in order in bringing it before this Council. I quite realise the gravity of that argument. At the same time, I would point out that the policy of emigration has been shaped and dealt with for the last 12 years by the Imperial Government in consultation with the Government of India. Correspondence has hitherto passed on the subject between the Government of India and the Imperial Government to give some measure of relief to the Indian emigrant in foreign colonies, both in Crown Colonies and in the self-governing Dominions, and the question of repatriation has also been taken up by the Government of India with the Imperial Government, and, in pursuance of that policy, a large number of Indian settlers have repatriated to India. It is therefore necessary, and I feel it is necessary, that

[Sir Maneekji Dadabhoy.]

this Resolution should first be considered in the Council of State, so that the Government of India may be able not only to give mere advice and some stirring up to the Provincial Governments, but also some measure of relief from Imperial Revenues. I shall presently show in what manner the Government of India could possibly move in this matter. I may say at once that it is not my object in moving this Resolution to re-open at present the difficult and ticklish question of emigration. His Excellency the Viceroy only the other day at the inaugural opening of the Indian Legislature has settled the question by making the following weighty reference to this matter. His Excellency said :

“ I note your anxiety in watching the fortunes of our Indian brethren overseas. Let me assure you that my Government have been and will be unremitting in asserting their rights and urging their cause in all parts of the Empire. If I do not say more upon this occasion, I hope you will understand that it is not because I am unmindful of the vast importance of the subject. I shall be in a better position to address you more fully when the result of the pending discussions has been reached and can be announced.”

We should therefore allow the general question of emigration to rest at present, and I feel certain that not only the Indian Legislature but the public at large in India will await the pronouncement of His Excellency on the subject with considerable interest. My present Resolution refers to the repatriated Indians. In pursuance of the policy adopted by the Government of India in deference to the wishes of the Indian public, a large number of Indian settlers have been repatriated to India, and a large number are in course of repatriation. Now, Sir, it will be remembered that in the late Imperial Council, in the Legislative Assembly and in this Council, numerous Resolutions from time to time have been passed pressing upon Government the advisability of taking necessary measures to improve the political condition of our fellow-subjects in the various parts of the Empire. We have pressed upon the Government the necessity of obtaining for our fellow-subjects free rights of citizenship, the franchise and various other privileges in other parts of the Empire. This we have incessantly and vigorously done during the last few years. The Right Honourable Sastri is now on his great mission. He has also been moving in the matter and His Excellency the Viceroy also announced to us the other day that he has succeeded in removing in some measure the minor disabilities affecting domiciled Indians. We shall anxiously await the announcement of the full statement of the Right Honourable Srinavasa Sastri when he returns to India, and I know the account of his stewardship will be received with great interest. But, at present, the situation of the repatriated Indians is deplorable. I have no doubt Honourable Members must have read in the papers the distressing and I might say almost the heart-rending information of their present condition. Many of these people have returned to India against their wishes because they have not been able to secure work in the Colonies. I will also quote here a passage from the speech of His Excellency. He says :

“ The condition of the sugar industry in those islands gives us cause for apprehension that Indians in Fiji may no longer be able to earn a living wage, and the Government of India are engaged in arranging, at the cost of that Colony, for facilities for repatriation of all Indians who desire to return.”

Sir, the Government of India is now going to afford all facilities, and at the cost of the Colonial Governments allow the Indian settlers to return to their country. It is therefore necessary and opportune to move this Resolution. You may bring back this large number of people to their native land, but may I ask what they are to do on their arrival here ? May I ask the Honourable Member in charge of Government, what kind; what measure of relief, the Government of India is prepared to give these people in the manner employment, in the manner, at least, of being able to barely maintain themselves ? As regards the condition of these people, I do not propose to dilate on that subject. The Reverend Mr. Andrews found in Natal, I will quote his very words, “ a very large number of the labouring Indian population sinking below the level of the Kaffir in the scale of labourer's wages and living under conditions far worse than those of labourers in India.” In 1917 in Fiji the same reverend gentleman's experience was very bitter. I will quote his words again. He said :

“ Wherever I went, they (Indians) fell at my feet, imploring me to get them ships to go away. They followed me about from place to place with blank looks of despair and with entreaties of every kind.”

This has been their condition in the Colonies. But have we done anything to improve their condition on their repatriation to this country ? We, Indian politicians, we, Members of the Indian Legislature, have brought forward Resolutions asking and imploring Government to claim for them in foreign countries a measure of civic relief and rights of citizenship. But may I ask what have we done for our fellow-subjects in this country ? We talk, we make speeches and we go home and retire into our arm chairs. (*The Honourable Mr. Lalubhai Samaldas* : “ Not all of us ”.) My Honourable friend says, “ not all of us ”. I ask him what action has he taken towards rendering help to these unfortunate people. I think, therefore, the best thing we can do is to set our own house in order. Before we appeal to the Government of India to secure better, and higher privileges for them in foreign countries, we should endeavour in our own country to see that at least they are kept free from starvation on their repatriation.

I read Mr. Andrews' letter only last July in a Calcutta paper in which he stated that five hundred of these repatriated emigrants, for want of food, were awaiting reshipment to the Colonies and willing to undergo again the trials, the difficulties and the disabilities which were attached to their residence abroad, instead of starving in this country. Now, Sir, it might be said that this advocacy in their interest is all well and good. How is the object which I have mentioned to be attained ? I know there are difficulties in the matter. I am conscious that the tyranny of the caste and the strict rules and injunctions of your caste prevent you from taking back under your fold these unfortunate colony-returned Indians. They have all lost their caste. They have become homeless, penniless and friendless.

But, there are ways of affording them help and assistance. I know that the Government of India under the Charter Act of 1833 has to maintain a policy of strict neutrality in religious matters, and the Government of India cannot ask you take measures which will be opposed to your caste rules in any way, but is it too much to expect that some measure of

[Sir Maneckji Dadabhoy.]

relief, some measure of sympathy should come from your great Hindu community to these unfortunate men. You have already got some very useful societies such as the Arya Samaj, the Dev Dharam Samaj and the Khalsa Diwan. Would it be too much to ask you to make an earnest effort for the rehabilitation of the returned emigrant in the village in consultation and in co-operation with religious societies mentioned above? Is it too much to ask that the Imperial Government should ask the Provincial Governments to lay some funds at the disposal of these and other societies for the purpose of helping these starving people? Is it too much to expect that the Government of India should give from the Imperial revenues some small measure of relief for the sustenance and support of these unfortunate people and has not the same thing been done in England? Do not the Poor Laws of England provide means to look after their poor? Are not the Old Age pensions given in England and could not some of our revenues, —however infinitesimal the amount may be, be earmarked for this purpose? Is it a big affair? This cannot be done unless you press upon Government the necessity of adopting such a policy, unless you ask Government that they should move in this matter and supply some measure of relief to these repatriated people. His Excellency the Viceroy told us the other day that in Fiji the people could not get even a living wage. In India they are not able to get a starving wage. They have not been able to secure any employment. Would it not therefore be advisable and politically right and proper for the Government of India to intercede at this juncture and to give some measure of relief to these people, and what has been the policy of Government? The Government is asking the Colonial Governments to repatriate these people and the Government of India is sitting tight and adopting no measures, when these people have arrived in the country, to look after them and to supply them with some employment or some measure of help. I say that this attitude of *non-possumus* will work against this very policy and the Government of India will find it extremely difficult to reconcile their position with the Colonial and other Governments. Sir, the first part of my Resolution only refers to this matter and makes a request that the Government in consultation and co-operation with philanthropic and religious bodies take necessary steps for the readmission into society of these people. Here too the Hindu Community have a great part to play. India is progressing. India's progressive realisation towards responsible government is now set on foot, and India is rapidly marching headway in the matter of industrialisation. Help and assistance should therefore be rendered to these people by industrial bodies co-operating among themselves and finding employment for these unfortunate people. I have no doubt that the Government of India willingly will give a lead in this matter to the Provinces and see that the first part of my Resolution is accorded not only a sympathetic expression of support, but actual material assistance. Sir, the second part of my Resolution refers to the creation of one or more settlements for the benefit of such of them as are not so admitted. If the tyranny of the caste is such that these people should be left perpetually helpless and homeless, is it not the duty of Government to start a settlement for these people? Why should not Provincial Governments supply land to these people to settle down in various parts of the country. Why should not Government give them lands free of rent, free of all charges,—fallow lands in order that they may

settle down and earn their subsistence? In this matter I may remind the Council of one commendable precedent. The Government of India in the past has helped the Salvation Army in the matter of reclaiming criminal and wandering tribes. The Salvation Army, through the assistance which it received from the Government of India has rendered very very useful service to the country in supplying lands and other means of subsistence to criminal and wandering tribes. Why should not a similar experiment be tried in the case of these people? Is it too much for this Council to press upon the Government the advisability of giving lands for the settlement of these unfortunate people? I am sure no one in this Council would grudge the gift of free lands to these unfortunate people who are homeless, in order that they may settle down and carve out their miserable existence. Sir, I shall not detain the Council any further. These are my humble representations. I think it is only right as citizens, specially when we have enunciated and supported a policy of repatriation, to ask Government to take relief measures for these poor emigrants, and see that our fellow subjects who have returned penniless from the Colonies get some measure of support and not be left to walk about the streets of principal towns without food and clothing. I therefore commend my Resolution to your acceptance.

The HONOURABLE RAJA SIR HARNAM SINGH (Punjab : Indian Christian) : Sir, the position and prospects of our Indian brethren overseas has been a matter of serious concern to the Government of India as well as to the Indian public during the last few years. In spite of the recent efforts of the Government to protect the interests of the Indian immigrants in the Colonies, repatriation of a large number of these men has been found necessary. Disappointment and hardship have, in some cases, made many of the free Indian labourers in the colonies think of leaving the countries of their adoption and coming back to India. Economic conditions have also operated against these unfortunate men, and repatriation has been the only course open to them. Referring to the Indians in Fiji, His Excellency the Viceroy said in his opening address to the Indian Legislatures, on the 5th of this month "the condition of the sugar industry in those islands gives us cause for apprehension that Indians in Fiji may no longer be able to earn a living wage, and the Government of India are engaged in arranging at the cost of that Colony, for facilities for repatriation of all Indians who desire to return."

Sir, the fate of those who returned during the last few years has been far from enviable—it was a sad home-coming for them indeed. I have heard reports of how they were treated by their countrymen, on their arrival. Some of these men brought with them considerable sums of money, the savings of lives of hard labour. But they were robbed of the bulk of their fortune within a fortnight after landing, by their unscrupulous and wily countrymen who, scenting the money they had with them, attached themselves to their victims as friends! They were strangers in their own country, and hardly able to protect themselves. Deceived and destitute, when they turned to their own distant villages, a strange reception had been waiting for them. They had lost their caste by crossing the seas, and their villagers would not have them back. Their last hopes lost, they were compelled to drift to the industrial centres of the country where they could find work and bread. They had to submit to the conditions of life, they had learned to detest, earning poorer wages,

[Raja Sir Harnam Singh.]

and were much worse off on the whole than they had ever been in the colonies.

Sir, we have a responsibility to these men. Apart from other considerations, humanity demands that they should have the protection and the ordinary facilities for peaceful and self-respecting lives in their own country when they returned home. It is not a safe policy for the Government to interfere with the social or religious prejudices of the people, I admit; but it is not justice to leave these unfortunate men entirely to their own resources. The idea, therefore, of the creation of one or more Settlements for the benefit of such of them as are not admitted into society appeals to me as not only a feasible, but an effective measure. Such agricultural Settlements would be a great blessing to these men and highly appreciated by them. In answer to the anticipated objection on financial grounds, I would like to point out that these men generally bring with them sufficient money which, if saved from the nefarious attempts of cheats and robbers, would pay for the shelter and land provided. Co-operation of philanthropic and religious bodies may be sought, if necessary, to raise adequate funds for the initial expenditure.

It might be urged, however, that the matter should be dealt with by the Provincial Governments, and not by the Government of India. To this my reply would be that Emigration is an Imperial subject, and the protection of the Indian emigrants from abroad and at home when they are repatriated, should be the duty of the Government of India.

The HONOURABLE DR. GANGANATH JHA (United Provinces : Nominated) : Sir, tempted as one feels to lend support to this very humanitarian Resolution, the wording of the first part of it makes it rather difficult for one to lend that support, inasmuch as it throws the initiative upon the wrong party. The Honourable the Mover himself has made a very eloquent appeal in the course of which he says that before we ask the Government to look after the interests of Indians abroad, it is *our* duty to look after the interests of those people who have returned to this country itself. There lies the whole position. In this matter the initiative lies with *us* and not with the Government; especially as, fortunately or unfortunately, in this country social matters are inextricably mixed up with religious notions and ideas, and in the present temper of the country, it will be rather risky for Government to take the initiative in this matter. I am therefore not prepared to support the first part of the Resolution, and as I suppose the whole Resolution goes together, even though I have nothing to say against the second part, I think I must oppose the Resolution as it stands.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces, Northern : Non-Muhammadan) : Sir, the Resolution consists of two parts. The first part, I beg to submit, relates only to a social and religious matter and I do not think it desirable for the Government to interfere in such a matter, until and unless it reaches such a climax that it becomes a nuisance to the public. So far as my information goes, this matter has not reached such a stage. There are some people who have come back from other countries to this country. But they are taken back to their society without any difficulty now, as compared with conditions that existed in past years. After the war, thousands of people

came back demobilized from the army; all of them went back to their homes and they were taken back to their society. They did not find any difficulty in returning to their society.

As for the second part of the Resolution, I have no objection if Government takes any steps to find out some settlements for those who do not go back to society or to their homes. But there will be difficulties in the way. The first will be in finding out suitable places for such settlers and then the finding of suitable professions. But if Government thinks it necessary, and there is a case made out for it, I have no objection to support the second part. But as regards the first part, I do not think that the matter has reached such a stage as to make it desirable for the Government to take any steps.

The HONOURABLE RAJA V. N. VASUDEVA OF KOLLENGODE (Madras : Nominated Non-Official) : Sir, while I sympathise with and appreciate the sentiments of the Honourable Mover in bringing forward this Resolution, I should express my serious doubt as to the practicability and usefulness of the suggestion contained in the first paragraph of his Resolution. He recommends that Government should take steps, no doubt, in consultation and co-operation with the philanthropic and religious bodies for the admission into society of Colony-returned Indians. I am afraid if Government were to attempt to interfere in social matters of this kind, it will not only be misunderstood by the people, but it will also not achieve the object in view. Any social reform must come from the people themselves and not be forced on them by any outside body and much less by Government. When ignorance, illiteracy and prejudice are dispelled from the country by the gradual spread of education, the necessary social reform will follow of itself. We have also been hearing a good deal of late that every blessed thing should be handed over and worked by the non-officials, and while so, I wonder why in this matter, Government or Official intervention is sought. I deprecate any suggestion of official interference in purely social matters.

With regard to the second part of the Resolution, namely, the creation of one or more settlements for the benefit of such of them as are not so admitted, I have no objection to lend my support. If there are colony-returned people who are unable to get re-admission into society, and if they are labouring under any disadvantages and desire one or more settlements for themselves, it is the duty of Government to give them every facility and protection. So far as Madras is concerned where orthodoxy is even more strict than elsewhere, these disabilities are fast disappearing with the civilizing influence of education. There even the highest class of Brahmins go to Colonies and other parts of the Empire and they are admitted into society without any fuss and sometimes without even the usual prayachitham or expiatory ceremonies. But if the Mover's experience elsewhere is different and if he thinks separate settlements ought to be found for them, I have no hesitation in supporting his demand. But if the Honourable Mover wants, as he amplified in his speech, that free distribution of lands and other privileges should be made to them on their return, I cannot agree to that, as it would be encouraging emigration to an undesirable extent.

[Raja V. N. Vasudeva.]

I think, Sir, it would be well if the Resolution is split up into two parts and they are separately voted on.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I cannot understand why my Honourable friend the Mover seeks legislation in this matter, it being the established policy of Government not to interfere in matters of religion, no effort should be made to get any change in this policy. For this reason, Sir, I can only support the second part of the Resolution of the Honourable Mover, which requests Government to create one or more settlements for the benefit of colony-returned people. The number of these people being rather considerable I think they will be able to form a society for their benefit. These people who have not been well treated by the Colonies do certainly need help from Government, and some funds should also be set apart for the amelioration of the condition of these repatriated emigrants who have come back to India penniless and helpless, without home and without friends. The question of Indian emigration is already receiving careful consideration of Government, and we hope that the prospects of future emigrants will be duly safeguarded to avoid a recurrence of such hardships and misfortunes to these people.

The HONOURABLE COLONEL UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, I do not see how this Resolution is worded and how it is divided. All that is meant by it is that when these unfortunate people come back to India, where are they to go, and from where are they to get food ? The Government, when there is a famine, very kindly see that people do not starve. It is exactly the same thing here. These people were born in India ; they are Indians ; they come back to their own country, and surely it is India's business to provide them with food. Not only India's business but the business of the Government which is governing India. It is also for them to see that these people do not starve. Hitherto, Sir, it has been the practice that whenever there is a big colony, the lands thereof are sold by auction, and naturally it all goes to those who have lots of money already, and with that money they make more money. But when we have got poor people like these, as the Honourable Sir Maneckji Dadabhoy has said, it is our first business to see that they get land here ; if other countries will not have them, we must have them. It is for this reason that I strongly support the Resolution, and I think there should be no Indian who would oppose it—anyhow the principle of it.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member) : If I rise at this stage it is because I feel that discussion on the subject may be facilitated if I explain to the House the attitude of the Government of India and what the Government of India has been doing in this respect during the past 3 or 4 years. The Government fully appreciate the spirit which has induced my Honourable friend, Sir Maneckji Dadabhoy, to move this Resolution. They understand clearly that there is a great feeling of uneasiness in the public mind as to what is becoming of these repatriated Indians, whether these Indians return to India of their own accord freely and willingly with money or without money, or are compelled owing to the peculiar conditions prevailing in the Colonies and Protectorates in which they may have been

settled, to return to India somewhat against their will. The Government of India when they prohibited emigration of unskilled labour a few years ago during the war knew full well that there might be some difficulty and had addressed Provincial Governments to take all the necessary steps to help repatriated Indians by way of finding employment for them, ascertaining and providing for their wants, reporting their condition and seeing that all that has to be done in order to facilitate their settlement on return is being done. The Governments of Madras and the United Provinces are the Governments which are particularly concerned in the matter. They are the provinces from which there is a large emigration to foreign and distant countries. We need hardly allude at the present juncture to the emigration that has been going freely to Ceylon and the Straits Settlements. There is a free flow of labour to and fro between those Colonies and India, and there has never been any difficulty in the way of finding these returned Indians a home in the Madras Presidency, from which place they chiefly go to these parts.

We have then Fiji and the West Indian Colonies chiefly concerned in this respect. There have been about 16,818 emigrants from Fiji and the West Indian Colonies during the year 1920-21, and about 5261 from South Africa during the same period. So far as the Madras Presidency is concerned, we have been anxiously inquiring from that Government as to whether the people who had returned to that Presidency had found any difficulty whatever, what measures they had been taking in this regard, and whether anything more could be done to help these returned emigrants. The reports from the Madras Presidency have been fairly satisfactory. The Government appointed advisory committees in the beginning in the provinces concerned, but found that they were not of much use, and that there was no need to call for any special reports from Collectors because it was not known where these emigrants had gone and it was impossible to ascertain as to the whereabouts of these emigrants, specially because there were no complaints of any serious character or of any character drawing public attention to the inconvenience or the hardships felt by these colonists who had returned to Madras. Not satisfied with the general answer, we directed the Madras Government's attention recently again to the subject and asked them what the returned emigrants needed and what assistance was being rendered. I will read a few lines from one of the latest reports. They say :

" Almost all the repatriates who have arrived here merely wanted to be sent to their native villages and did not require any assistance in seeking employment. Only a very few applied to this office for assistance in securing employment and all possible help was given them. Two repatriates who wanted employment were appointed as peons in the office of the Commissioner of Labour. The scheme so far as this Presidency is concerned worked well, and as almost all repatriates wanted only to resume their old avocations there was no actual difficulty about securing employment for them, as far as this office is aware."

We have an account here in paragraph 5 of what they had done previously. It runs as follows :

" When the first batch arrived in September 1920, references were made to the Collectors of the Districts concerned to ascertain and report whether the repatriates had comfortably settled down in their villages and to give them all possible help in securing employment. This procedure was subsequently abandoned as correct information as to the whereabouts of these men could not be obtained once they left Madras."

[Mr. B. N. Sarma.]

So we have no reason to suppose that, so far as the Madras Presidency is concerned, there is any room for anxiety or anything that can be particularly done in the direction of finding employment for the repatriates to Madras. If Honourable Members can bring to the notice either of the Madras Government or of the Government of India any particular cases of hardship, they may rest assured that every possible attention will be paid to such complaints, that those complaints will be investigated and that the necessary practicable relief will be forthcoming in all deserving cases. The question of caste is not one of great importance in Madras from the fact that the emigrants all belong to castes where the religious feeling of exclusions is not so very strong or does not exist. The depressed classes, namely the Panchamas and others, who contribute in a very large proportion to the emigrant population, do not observe any rigid caste distinctions preventing absorption. The same may be said of some of the lower castes of Hindus in that Presidency. So the caste problem does not present any very great difficulty in that part of India.

Then with regard to the United Provinces, we are not aware that there has been any difficulty whatsoever experienced by that Government, and there is nothing before us to show in what directions we ought to urge the United Provinces Government to move with regard to repatriates to that Province. Our experience and our reports show that most of these repatriates are absorbed in the villages or in the districts from which they originally proceeded to these foreign countries. I am not going to suggest for one moment that the caste difficulty does not exist in the United Provinces or elsewhere and that a few of these unfortunate people, who have returned to this country with great hopes of finding a comfortable home, a home among happy surroundings, welcomed by their friends and relations, have not been disappointed. There is not the slightest doubt that where there were mixed marriages in the case of these people who have emigrated to Fiji and other places, the returned emigrants or their offspring have not been welcomed in the villages owing to the strict caste rules observed amongst the people there, but that is a matter in which society moves very slowly, and Honourable Members have already recognised that there is nothing that the Government can do except to deprecate these unfortunate caste distinctions and to try to do nothing which is likely to encourage the perpetuation of these caste differences. The Honourable Mover himself has distinctly recognised that it is impossible for the Government in any way to depart from their time-honoured policy of absolute neutrality in this regard. They cannot contemplate with equanimity any departure, either in spirit or in action in the slightest degree, from that policy. They do not wish that either by word, by speech or by action they should be understood to interfere with the religious or caste customs and practices and feelings of the people. While they do suggest and welcome co-operation on the part of the people themselves to remove these caste barriers, so far as the Government are concerned, they can adopt only a neutral attitude. Any help by way of encouragement to any philanthropic bodies who wish to do something to settle these people on land or otherwise to promote their social comfort would certainly be given, where possible, but beyond that

I feel that the House recognises that the Government cannot proceed without being gravely misunderstood.

Then, my Honourable friend said the Government have been embarking upon a policy of asking these people to come back to their homes or at any rate of facilitating repatriation, and he asked what they are going to do. In this respect the Government position should not be misunderstood. They do not wish to encourage any repatriation on sentimental or other grounds. They are not going to ask the people who are settled down comfortably in foreign countries to come back to India simply because they are moved by sentimental considerations to come back to their native home. There are provisions in the various Emigration Acts which provide for the repatriation of Indians after a certain number of years whenever they express their desire to come back to India. All that the Government can do is to insist upon the repatriation of those Indians settled in foreign countries, Dominions or Protectorates, if they are desirous to come back to India, and that is their position. If any Indian, who is entitled to be repatriated to India at the expense of a Colony, wishes to do so, then I think it is the inherent duty of the Government of India to see that he is so repatriated, and that is the position which the Government has assumed in this respect and will assume in future. But the Government are not idle. They have provided funds to various societies in order to make the position of these Indians comfortable during the time that may be necessary for them to seek and find employment. A few of them were to be found at Calcutta. Every step was taken to find employment for them, and this has a bearing upon the second part of my Honourable friend's Resolution, there were zemindars who very kindly undertook to settle many of these people on their lands, but those generous offers were not availed of by these returned emigrants. Rs. 15,000 were provided by the Government for the comfort of these people during the intermediate stage. A large portion of this sum was utilised by the Indian Emigrants Friendly Service Committee, which was constituted in Calcutta for this purpose, and many of those who were desirous of returning were helped and encouraged to emigrate back to Fiji and British Guiana. A sum of Rs. 10,000 was provided by the Government for the repatriates from Trinidad and Surinam. The money has not been utilised except to a very small extent, and we have a balance of about Rs. 9,000 odd out of that money still lying unutilised. So it cannot be said that the Government of India have been idle. They have been trying to ascertain the position of these repatriates; they have been trying to find employment for them in various parts of Calcutta and to get them settled on the land. But some of these returned emigrants find the climate unsuitable or have not been accustomed to a particular type of labour and they are not willing to settle on the land and are not willing to work in the various factories and other manufactories where they can readily find employment, that is the reason why the Emigration Act wisely provides that all those who have been in a foreign colony for five years can freely go at any time, assisted or unassisted, to these colonies, without bringing themselves within the prohibitive sections of the Emigration Act.

They can go either unhelped or helped, so nobody can blame the Government of India for placing restrictions in their way and preventing them from going back to these distant colonies from whence they have come

[Mr. B. N. Sarma.]

to India. There does not seem to be much chance of any scheme of colonisation succeeding even if it can be undertaken by the Government of India. But let it be understood distinctly that the Government of India cannot undertake any scheme of colonisation themselves. Colonisation is a provincial subject. It is not within the province of the Government of India to do so, to spend any money from Central revenues for that purpose. They would suggest to the Local Governments the desirability of forming schemes of colonisation, should the conditions require it, and they suggested that such colonisation schemes should be embarked upon during the war for the soldiers returning home. The Local Governments readily came forward to do so, but, on an analysis of the position as stated to us by the Local Governments, we find that in most of the tracts from which emigrants go there are no large areas which can be readily expanded and made suitable for colonisation without much expenditure of money. There are vast tracts of land in Assam and Madras and the United Provinces, somewhat unhealthy, requiring a large amount of capital for development, and I do not think any Honourable Member of this House will consider it a feasible or practical plan to suggest to Local Governments to undertake colonisation schemes, especially when the number that has to be provided for being unabsorbed in the present population is only about 800 or 900, or say 1,000 or 2,000. There is absolutely nothing to show that these men are willing to settle down on land ; but I undertake to ask the Local Governments should they find any of these repatriated Indians helpless and desiring the help of Local Governments, that everything should be done towards facilitating their settlement, if possible, on land ; but I cannot give any encouragement to the hope that any large colonisation schemes would be practicable or necessary having regard to existing conditions. We do not expect any large number of repatriates from South Africa. Such again as are willing to come back could be readily assimilated here. The Punjab can readily absorb the few thousands who have come back, and those who have returned to Madras and the United Provinces ; but I am not sure whether there will be large tracts of land ready to welcome these people as settlers ; but if the provinces are willing to absorb the surplus populations, from other provinces, it will certainly be a welcome feature in the situation. I do not think it is necessary for me to say more. Our thanks are due to the various philanthropic bodies who have been helping the Government in ameliorating the condition of the returned Indians. I think it is my duty to thank the Indian Empire Friendly Services Society and I do so with pleasure. It has done great service to the Government and to the people concerned for nearly a year in Calcutta, and all outside assistance is welcome. The Government would be only too glad, ready and willing to utilise such assistance, should it be forthcoming. I am glad this motion has been made to-day, because it shows, it is an indication, that the public conscience is really touched. I hope that something beyond mere talk will be done towards assisting the Government in the constructive work that has to be undertaken to improve the condition of those who may return to India. I regret, however, that I am unable to accept this Resolution, firstly, because the Government cannot depart from their policy of strict religious neutrality ; secondly, because colonisation is a provincial subject, and thirdly and lastly, because they

do not think the present requirements of the case necessitate any very close investigation into the possibility of colonisation projects.

The HONOURABLE SIR AHMEDTHAMBY MARICAIR (Madras : Muhammadan) : Sir, I quite endorse all that the Honourable Member, on behalf of the Government, said. After all there is very little to say with regard to the first part of the Resolution, which asks the Government to consult and co-operate with philanthropic and religious bodies, for the re-admission into society of Colony-returned Indians. As my Honourable friend on my left (the Raja of Kollengode) has already said, in Madras there are a number of higher class Brahmans who have been to the colonies, and a large number of them on their return have been taken into society after performing certain religious ceremonies. At this stage I do not think any such demand is necessary in the case of coolies who are low caste men, such as Pariahs and Pallaks. In their case there is no need for prayachitam or expiatory ceremonies to be performed, and no difficulty has been experienced in this respect as far as Madras is concerned. As the Honourable Member in charge of the portfolio expressed it, the emigration to the Colonies is mostly from Madras and the United Provinces. With regard to the emigration from Madras, the people who mostly go to Ceylon and Malaya are people who find no such difficulty of staying in the colonies for want of repatriation facilities. They come and go freely. After all, the cost of repatriation does not exceed Rs. 10 to Rs. 25. There is no such difficulty experienced in Madras by people returning from those two colonies in finding employment in their villages. As a matter of fact, the people who return from these two colonies—Ceylon and Malaya—frequently go back with a view to getting jobs there. They are quite willing to go back there to get work ; and as far as my experience is concerned, there is no such difficulty in people who come back from these two Colonies finding employment in their villages or asking for help from the Government. There is always ample work available as long as they remain in their villages, and they are freely going back. One other fact I wish to mention for the information of this House, and that is, that coolies who return from the Colonies and who have no money to go back to their villages are provided by the Emigration authorities in Madras and Negapatam with passages or rather train fares to go to their villages.

And so, Sir, there is no such difficulty in regard to the second portion of the Resolution as to necessitate Government making arrangements for the settlement of these coolies in their villages. I do not know whether the Government of India have got any power to dictate to the Local Governments in regard to their administration. They are doing all they can to ameliorate the conditions concerning this question. I really cannot understand how the Local Government could take action in regard to colonising these coolies in their own villages. Does it mean that they should be confined to their own villages ? Does it mean that they should not be allowed to go wherever they want to go ? I cannot understand how a Local Government or the Government of India could prevent anybody from going where he likes.

And again as the Honourable Member for the Government explained, there is no difficulty whatever and no complaint whatever has been raised. At this stage I do not know whether it is proper for the

[Sir Ahmedthamby Maricair.]

Honourable Mover to press his Resolution. Things are going on so well as the Honourable Member said that the Government of India has already taken up such questions and provided Rs. 10,000 to allow coolies, wherever they were found, to go back. Again, in the new Emigration Act sufficient safeguard has been provided to see that the Indian emigrants who are suffering in distant colonies, such as Fiji and other places, are repatriated at the cost of the colony concerned. We all know the policy of the Government of India. They are quite willing to dictate to other colonies to give facilities at the cost of the colonies themselves and not at the cost of the Government of India, and having known all this, I cannot understand why my Honourable friend thinks it proper to insist upon this Resolution. I am sure it will not be convenient for Government to open its purse to do anything for these unfortunate people. I therefore request the Honourable Mover of this Resolution not to press it.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : It is a matter for congratulation that the pricking of the conscience of the Honourable Sir Maneckji Dadabhoy has made him a philanthropist and made him bring up a Resolution of this kind. I hope he will not end merely by moving Resolutions, but will take some active interest in the subject. He asked me to give some instances of what we had done in that direction. I will give him two specific instances. When the first batch of repatriated Indians, from South Africa voluntarily repatriated as that Government said, and compulsorily repatriated as some of us thought, came, to Bombay they were received by the Indian Imperial Citizenship Association and were feted. They were asked if they wanted any further assistance. We were quite prepared to find the money to take them back to their homes. They said they had their own money and did not require our assistance and that they were grateful for what little we were able to do for them. The second occasion was in connection with the society, to which my Honourable friend, the Revenue Member referred, in Calcutta under the management of Mr. Gourlay. When that society wrote to me and other friends for money we were able to send money for the purpose. I hope Sir Maneckji Dadabhoy will also do some tangible work of that nature to relieve the condition of these returned emigrants and not merely rest satisfied, as he thought all members of the House were, by moving Resolutions or talking in this House. Sir, as regards the caste difficulty, most of my Hindu friends and colleagues said all that could be said, but there is one aspect to which I would invite the attention of the Honourable Sir Maneckji Dadabhoy. We Hindus do not object to take the lead from a member of any other community in social reform movements. As an instance I need name only one distinguished Parsi gentleman, Mr. Malabari. He did not move Resolutions. He did not ask Government to do anything. He led the movement himself. If Sir Maneckji Dadabhoy is prepared to lead the social reform movement himself we will be very glad to follow his lead.

Then, Sir, as regards the difficulty of the emigrants. As the Honourable the Revenue Member has put it clearly, most of them are really

absorbed in the country, in the provinces and villages from which they come. In some cases there have been difficulties. People who came out from Fiji and other places were under the impression that the country was willing to extend to them something like a royal welcome, and they were necessarily disappointed when they did not get it. When these people came back to Calcutta from their villages their difficulties began, and the extract which was quoted by my Honourable friend from Mr. Andrews' letter, which appeared in one of the Calcutta papers, was written at that time. I believe those of us who know Mr. Andrews know very well that he is a very sympathetic and emotional gentleman. When he saw the sufferings of these people he wrote letters which pricked the conscience of my Honourable friend Sir Maneckji Dadabhoy as a result of which he has moved this Resolution to-day. If he is prepared to give the lead in social reform matters and assist in constructive measures, as asked by the Honourable Mr. Sarma, we should feel grateful to Mr. Andrews for having written the letter and to Sir Maneckji for having moved his Resolution. The Resolution as it stands cannot be accepted by the Council.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab : Sikh) : There is just one word that I should like to say in regard to this Resolution. To control supply and demand of labour on a large scale by bringing back the emigrants to India can only prove as ineffective as the Honourable Mr. Sarma's control of wheat.....

The HONOURABLE MR. B. N. SARMA : It was very successful.

The HONOURABLE SARDAR JOGENDRA SINGH : I don't agree. We should be very careful in interfering with the supply and demand of labour. The Honourable Mr. Sarma told us that for twenty thousand people who came back to India the Government of India set aside Rs. 15,000, hardly one day's food. If the Government of India is going to start any large scheme of repatriation they will have to provide enough funds to establish the returned emigrants. They will also have to find land for their settlement.

The opinion of this Council has been very clearly expressed, and I have nothing more to say but to ask Sir Maneckji Dadabhoy to adopt the dignified procedure, of which he is such a strong advocate, of withdrawing his Resolution.

The HONOURABLE SIR MANECKJI DADABHOY : Sir, excepting the very valuable and sympathetic statement made by the Honourable Member in charge of the department, this debate has not raised any point of importance which needs serious refutation. As I expected, Honourable Members, and particularly my Honourable Hindu friends, have contributed to the debate in a manner which we all anticipated. I had in my preliminary address made it abundantly clear, as far as the English language was permissible and capable of, that I had not the remotest intention of transgressing the rules and regulations of caste or to enforce by legislation anything on any community which is opposed to their religions and traditional instincts. In the face of that clear statement of fact, I am rather surprised at the attitude taken up by many Honourable Members that I was making a sort of inroad on their

[Sir Maneckji Dadabhoy.]

religious susceptibilities, and my Resolution cannot be accepted as it was opposed to the past policy of the Government and also opposed to their religious feelings. My Honourable friend, Lala Sukhbir Sinha was one of the foremost in that attack, and it is a matter of regret that my Honourable friend has got such a short memory. On to-day's agenda paper, you will find the fourth Resolution, where my Honourable friend wants to stop the slaughter of cattle for the purpose of food and raise such an important religious question.....

The HONOURABLE LALA SUKHBIR SINHA: My Resolution has nothing to do with religion. It is an economic question.

The HONOURABLE SIR MANECKJI DADABHOY: Again we shall have shortly before the Council the Chelas Bill which he proposes to introduce and the Council will be asked to discuss it.....

The HONOURABLE LALA SUKHBIR SINHA: It has also nothing to do with religion.

The HONOURABLE THE PRESIDENT: Order, order. The Honourable Member must not interrupt.

The HONOURABLE SIR MANECKJI DADABHOY: We will be asked to discuss a Bill affecting the religious susceptibilities of a certain class or section of people. My friend the Honourable Mr. Lalubhai Samaldas has given the Council a treat by a description of the admirable work that he has done as a patriotic citizen of Bombay for the removal of the misery of these people, these repatriated Indians; but there are very few such patriotic citizens like my Honourable friend Mr. Lalubhai Samaldas. Sir, this is the old story. When matters of this nature are brought before the Council, when any Resolution is brought affecting the amelioration of these unfortunate classes of people, when any Resolution is brought in Council about the amelioration of the condition of the depressed classes, this sort of opposition, this sort of clamour is raised. We are tired of hearing such nice speeches, patriotic speeches, showing lip sympathy on behalf of their own countrymen. So, it is further superfluous for me in this connection to occupy the time of the Council. These patriotic citizens will do better if they move in the matter and realise that the progress of their country will depend upon the removal of these caste tyrannies, caste prejudices and the adoption of a little forward policy. Sir, I can only say that we are not going to get responsible government by these narrow-minded methods. We shall have to rise to a higher level as citizens if India wants to claim responsible government. Sir, so far as the Resolution is concerned, I am grateful to the Honourable Member for the sympathetic speech. I am pleased to hear that commendable efforts have been made by the Madras Presidency and the United Provinces in this connection. But my Honourable friend has made one or two remarks which need elucidation. My friend has pointed out that Rs. 15,000 and Rs. 10,000 were provided by Government to render help to these unfortunate repatriated citizens, but they did not avail themselves of the offer of Government. Now, in this connection, I would only remark that many of these repatriated people never know that the Government or anybody is prepared to offer them assistance. The red-tapism of Government, the rules and regulations requiring the presentation of these people at the public offices of the Emigration Department and various other rules make

it extremely difficult for these unfortunate people to avail of the help of Government, and I am not therefore surprised that this money which was ear-marked for the purpose has not been spent. I am grateful to the Honourable Member for his assurance that he is prepared to advise Provincial Governments and sketch out for them schemes of colonization, and if it is found in any province that it is necessary to adopt any particular measures of colonization, that Government would be at liberty to do so. I am also glad that the Government of India is in full sympathy with my Resolution. My real object in moving this Resolution was to pointedly attract the attention of Government to this question. There are about 16 to 20 lakhs of emigrants, Indian settlers, all over the various colonies. If, as is happening, the European settlers in various colonies are making it rather impossible for Indian settlers to work in the same colonies and under similar conditions, and as trade is in a bad way, not only in Europe but in various other countries, we must be prepared to face the situation that will arise. You will find that shortly a large number of these Indian settlers will return back to the country, and it is very necessary that the Government should awake in time to the necessity of taking measures which will relieve these people from their precarious predicament on their return to their motherland. I, Sir, have had the consolation of moving the Resolution, but I have no desire to press this Resolution either to a vote or a division. My object was to secure the attention of the Government of India to this most important question, and I have secured that attention and consideration. I shall therefore ask the leave of the Council to withdraw my Resolution in view of what has fallen from the Honourable Mr. Sarma.

The HONOURABLE MR. B. N. SARMA: Sir, there is one point on which I should like to give greater information to the Council and the outside public with regard to the Rs. 10,000. My Honourable friend suggested that the bureaucratic methods of the Government.....

The HONOURABLE SIR MANECKJI DADABHOY: I did not say 'bureaucratic methods,' I said red-tapism.

The HONOURABLE MR. B. N. SARMA: My friend suggested that the red-tapism of the Government does not enable it to reach the public whom it wishes to reach, and consequently it may be that these destitute repatriates did not know where to seek help. I think the position is not so; it is entirely the other way.....

The HONOURABLE SIR MANECKJI DADABHOY: I am glad to hear it.

The HONOURABLE MR. B. N. SARMA: Some of these men from Surinam and Trinidad were willing to go back. Those colonies were not willing to pay their passages; our Legislature was not willing to pay their passages either. They were in Calcutta. They needed help. So the Government of India were prepared to help them and they placed at the disposal of the committee I mentioned Rs. 10,000 for the purpose of settling these people on suitable areas and on suitable work in India. A few of these emigrants were so settled. The Surinam repatriates on hearing that there was no hope of sending them back, voluntarily left the depot in order to seek, I suppose, fresh fields of employment. So there

[Mr. B. N. Sarma.]

were no destitutes running about the streets of any place, not knowing where to seek help, or left destitute because the Government of India did not assist them. It is because the country has been able to absorb them or because they thought that they could find employment without help from the Government, that they left the depôts. The Government could not do more to help them at that particular time.

The Resolution was, by leave of the Council, withdrawn.

RESOLUTION RE SEPARATION OF POST AND TELEGRAPH ACCOUNTS.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) :
Sir, I beg to move the following Resolution :

" This Council recommends to the Governor General in Council that in view of the repeated complaints regarding the allocation to the Telegraph Department of revenues earned by the Postal Combined Offices on telegraphic messages transmitted through those offices and in view of the differential treatment accorded to the Postal and Telegraph Services, (1) the revenue and expenditure accounts for Postal Combined Offices in relation to the above messages and those of the Departmental Telegraph Offices be separately maintained and shown and the profits that may accrue, as a result of this arrangement in the accounts of the Postal Combined Offices, be credited to the Post Office : and (2) that such profits may be utilised for the improvement of Post Offices and of the conditions, pays and prospects of the Postal employees."

Sir, at the outset it is necessary for me to point out one or two basic facts concerned in the discussion of this Resolution. In the first place, it must be realised that the Post and Telegraph Department is not what is usually called a revenue-earning department. There are departments and services which are called revenue-earning departments ; they are intended for the purpose of raising money from the public. There are other departments which are called spending departments. It is not the business of these departments to earn but to spend money upon the improvement of the condition of the people. Midway, between these two, the earning and the spending departments, stand departments like the Post and Telegraph Department. The object of these departments is to render certain services of very great public importance and benefit, which cannot be undertaken by private agencies, and it is beneficial to the public that Government or other public bodies should undertake the rendering of these highly important services. It is for this reason that in almost all countries the Posts and Telegraphs are managed by the State itself, the object being not to make money, not to raise revenue, but to obtain from the people what may be called prices or fees for the services which are rendered to the public. This is, therefore, an important point which has to be borne in mind in understanding the Resolution. The service rendered by the Government, in this instance, is of the highest value and of the greatest convenience to the public ; and, if there is any department, more than another, which has been rendering very useful service to the public, it must be frankly stated that it is the Postal and Telegraph Department. It has been giving to the public various amenities of life and rendering to them services which no private agency would have been able to undertake. These departments are also of indirect benefit to the Government. Though no direct revenue is obtained by Government through these departments, indirectly they enable the Government to raise money by means of taxation.

The second point to which I wish to draw the attention of the House is that, until the years 1912-1913, the Post and the Telegraph Departments were separate, and it was about that time that the scheme of amalgamation was brought into operation. The accounts of the two departments were, previously to that year, separately maintained, and the profits and the losses on account of those departments were separately shown. We could therefore clearly see whether a department was a paying or a losing department. However, amalgamation was brought about presumably for the purpose of managing the two departments more efficiently instead of duplicating machinery, particularly of the management in the higher grades of those departments, and especially for the purpose of bringing about uniformity and economy in the management of these departments. Probably it was for such reasons that the two departments were amalgamated. Since that year, therefore, the accounts with regard to the profits and losses of the two departments are not separately shown. The public, therefore, has no means of knowing how these departments are working. No doubt in the accounts of the Posts and Telegraphs we are told that the Postal Department earns so much and whether there is a deficit or a surplus. Then, again, we know whether the Telegraph Department is making a profit or is making a loss. But there is one matter in connection with this Resolution which has to be explained at this stage, and it is this. The Telegraph Department has its own independent or 'departmental' offices. At the same time, in the postal branch of the Postal and Telegraph Department after amalgamation there are certain Post offices which are called 'combined offices,' which also do telegraphic work. Telegrams can be despatched either from departmental telegraph offices or from combined offices which combine the two functions of posts and telegraphs. Now, there are about 3,400 combined offices doing postal and telegraphic work, and about one-third of the total earnings of the separate Telegraph Department are derived from the work of the combined offices. The combined offices contribute as much as one-third of the total revenue of the Telegraph Department. For a number of years the Telegraph Department was working at a loss. It is only very recently that we see from the reports that profits are shown against the Telegraph Department. But how are the accounts of the two departments adjusted ? They are adjusted in this way. All charges for the work which the combined postal and telegraph offices perform for the Telegraph Department are borne by the postal branch, while all the revenues which are earned by the combined offices go to the telegraphic branch. I have no objection to an amalgamation of departments provided we find that this amalgamation leads to greater efficiency of administration, but, at the same time, we must clearly know how the branches which are amalgamated into one department are working. I can understand that in many cases it may be necessary for one branch of a department to draw upon another. It is impracticable to make all branches of departments self-supporting, and therefore these branches will have to draw upon one another. So I have no objection to amalgamation, but what I want is that Government should maintain and show separate income, revenue and expenditure accounts in the case of the Posts and Telegraphs, because, as matters now stand, as I have already shown, all the revenues earned by the combined offices for their telegraphic work are allocated to the telegraphic branch ; And

[Mr. V. G. Kale.]

at the same time all the cost incurred on this telegraphic work that is done by the combined offices—all that cost has to be borne by the Postal branch of the Department alone. Now this amalgamation appears to me to be like a joint Hindu family in which one brother takes away the cream of the income of the family for the use of his children, and leaves the others to starve. The motto of the Telegraph Branch appears to me to be : ' Heads I win, tails you lose.' It says to the Postal branch : " I am going to take all the income you derive from the work you do for me, and all the charges of this work I will put on you ". To my mind, that is a very wrong principle, and consequently proper justice has to be done to the Postal Department.

In my Resolution I have referred to the differential treatment accorded to the Postal and Telegraph Services. Now the unfairness involved in the keeping and issuing of the accounts is intensified when we remember that the distinction in the treatment given to the postal employees and to the telegraph employees is, to say the least, most invidious. Take any point with regard to their salaries or the general condition of work of the employees in the different branches. Take the starting pay ; take the time they have to work ; take the house accommodation ; take any feature of the treatment that is accorded to the two branches of the amalgamated Department ; and Honourable Members will find that the postal employees, though they perform equally important work, are equally well trained and make an equally great contribution to the revenues of the amalgamated Department, receive treatment which I will say is, on the part of the amalgamated Department, nothing but stepmotherly. The Telegraph employee seems to be a favourite child—I will not say a spoilt child. He is a favourite child of the Amalgamated Department while the postal employee is the child of another mother. I have to call pointed attention to this invidious distinction which is maintained between the two services. You take a telegraph employee and you will find that he has to work for a definite number of hours. If he works for a few minutes longer, he receives an allowance, an extra allowance, an overtime allowance, pie money allowance, and many other allowances. But a postal employee who does the work of a signaller does not get any of these advantages, any of these facilities. Now a postal signaller is oftentimes called upon to work in a departmental telegraph office and there he is paid only an extra allowance of 20 per cent. of his own salary. The salaries of the employees of the two branches are different. The salary of the postal employee is much lower than the salary of the telegraph employee, so that in the matter of overtime allowance, in the matter of housing and accommodation, in the matter of the hours that have to be put in, in every feature of the position of the postal employees, you will find there is an unfair and unjust distinction, much to the serious disadvantage of the postal branch as against the Telegraph Branch.

Under these circumstances it is necessary that we should try and see if we can possibly improve the position of the postal employees. But the difficulty of the lack of funds will always be adduced, and very rightly adduced, in this connection. If the position of these postal employees cannot be improved owing to lack of funds, we must see exactly whether

the Postal Department is a losing concern. I have tried to show that the cost of the telegraphic work done by the combined offices is thrown on the Post Office, and that is surely unjust. If the accounts are re-cast, re-arranged in the way I have ventured to suggest, it will be found that the Postal Branch has not been a losing concern. On the contrary, for the past few years the Telegraph Department has been a losing concern, and if there are any profits, a large part of those profits comes from the earnings made by the Postal Branch. Under these circumstances, it is necessary to show the accounts separately and to give sufficient credit to the Postal Branch for the work done on account of the Telegraph Branch. At the present moment, retrenchment and economy are in the air, and from the public point of view we have to inquire whether postal facilities which the public enjoys and wants more and more, must be curtailed on that account. There are instances where this kind of economy is proving a serious inconvenience and disadvantage to the public. In the case of the Post Office in Poona City, for instance, the last clearance is now at 7 P.M. You post a letter at 5 minutes past 7 for Bombay, and it reaches not in the early morning of the next day, but late in the afternoon or evening of the next day. The letter takes this long time to travel a distance of 120 miles. The last clearance used to be at 9-15, but it has been pushed back now to 7 P.M. and perhaps it is done in the name of economy. But has the Post Office no funds ? Is it not earning enough that public facilities should be curtailed in this fashion ? What the mercantile community and other sections of the public want is more facilities in the way of post offices. The public is required to pay postal charges. These have now been enhanced. The public therefore is prepared to pay for these facilities, and it does not wish them in any way to be reduced. But if you want to get any idea of the financial position of the Post Office, you must have first of all separate accounts, and when these accounts are separately shown we shall see exactly how the Post Office and the Telegraph Office stand, and then it will be possible for us to suggest improvements in the Post Office. I have suggested that in the first part of my Resolution. In the second part of it I suggest that if there are any profits so accruing, they may be utilised for the improvement of the Post Offices. That is the crying need at the present moment. In our villages such postal facilities as exist are most inadequate. We want expansion in the Post Office, and there are other improvements also that we require. Post Offices are performing various important duties which might be supposed to lie outside the purview of the ordinary Post Office. A hundred and one things are being done by them that are useful both to the Government and the people. If this usefulness is to be enhanced it will require the spending of more money. If there are any profits which accrue, they should, therefore, be utilised, as I have humbly suggested, for the improvement of the Post Office, and, secondly, for the improvement of the conditions, pay and prospects of the postal employees,—especially the prospects of signallers who have to do very hard work with regard to the telegraphs. At present the lot of these signallers is most unsatisfactory. I have already shown that the contrast between the treatment accorded to the postal signaller and that accorded to the regular signaller of the Telegraph Department is most invidious, and most disadvantageous to the postal employee. Now that position will have to be improved out of the profits which are legiti-

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mately earned by the Post Office. I will repeat that I do not want that a hard and fast line should be drawn between one branch of the Department and another. I will repeat that these branches will have to co-operate with one another; but some line will have to be drawn. There will be difficulties no doubt in finding out what is the cost that the Post Office has to bear for doing a certain amount of work on behalf of the

1 P.M. Telegraph Department, and what is really the income of the telegraph branch on account of the work done by the Post Office. We can approximately arrive at some understanding with regard to the cost and the revenues of the two branches and a fair and just allocation of revenue and expenditure between the two sides ought to be made in the interests of improvement of the post office and also on the improvement of the lot of the postal employees. These are then the two main suggestions which are contained in this Resolution, and I hope I have been able to demonstrate that the proposals I have made are not suggestions which in any way go against the spirit of the management of the Postal and Telegraph Departments, especially their amalgamation. Amalgamation may be maintained and ought to be maintained if it leads to efficient management, but at the same time justice and fairness require that the accounts of the Postal and Telegraph branches should be kept separate and that the two branches ought to receive the equitable treatment they deserve. With these words, Sir, I commend this Resolution to the acceptance of this Council.

The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY (West Bengal : Non-Muhammadan) : Sir, the conditions, pay and prospects of the very numerous class of people who are associated with the Postal Department—particularly clerks, post-masters and postal signallers—undoubtedly deserve the kindest consideration of the Government, and I, therefore, think it a public duty to extend my whole-hearted support to the second portion of my friend Professor Kale's motion before you. It is evident that the postal employees, above the class of peons, runners and messengers, have generally very hard life to live and hard conditions of work and service. While generally he has to put at least one year's unpaid apprenticeship, the average postal employee begins his service on terms much less inviting than those sanctioned for men in the Telegraph Department. The 'E' Scale postal employees begin their service on Rs. 40 a month and retire, after 25 years' service, on Rs. 125 a month. The 'A' Scale men, the most favoured employees of the Postal Department, begin with Rs. 50 and end with Rs. 140. In the Telegraph Department, with only a general technical knowledge of the subject and with lesser responsibility and shorter hours of work, with better quarters to live in and higher travelling allowances, the Station Service men—the lowest grade in the Department—begin with Rs. 60—and, at the end of the 20th year, draw Rs. 150 a month. This, undoubtedly, Sir, amounts to a great injustice to the army of His Majesty's postal employees. Sir, I do not intend to cover the ground which my friend, Professor Kale, has so carefully and elaborately gone into to show that it is the Postal Department that gives any profits to the Government,—at any rate more than the Telegraphs. Two years ago, our Finance Minister, Sir Malcolm Hailey, could not definitely tell us what Department gave the State Ex-

chequer a profit, and what the profit was like. But I will not enter into that debatable controversy here, and will confine myself only to making an appeal to the Government to re-examine the conditions of service of the postal employees, and compare their pay and pensions, quarters and allowances, with those of the men in the Telegraph Department, and extend to the postal employees the consideration and justice which they so highly deserve. I am not making this appeal on behalf of the men in the general scales only, but for the Selection Grade Appointments also. It is as well to point out that, at present, the postal employees are not allowed any local allowance, overwork or over-time allowance of any kind, and have nothing for additional work done on holidays and Sundays. This matter also deserves reconsideration. I think it is needless to point out to the House that you can never get good service out of a dissatisfied lot of employees, and, with prices of things having gone up in every possible line, it is not human to expect postal employees to be satisfied with the scales of pay I have mentioned before. While the Government seem to have done more than justice to several classes of their employees in other Departments,—beginning from the Indian Civil Service, the Medical, Educational, Police and Forest Services, not to mention the Special Scientific Departments and the Provincial, Judicial and Executive Services,—it is eminently desirable that the hard-worked men in the Postal Service should be converted into a contented and satisfied lot of men,—more in the interest of the State itself than of anything else.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce) : Sir, we have all listened with great interest to the very lucid way in which my Honourable friend Mr. Kale has spoken to his Resolution. But what I think we should carefully keep before us in this House is that if his Resolution were admitted and the pay of a certain section of postal clerks increased, we should be faced with the whole problem of increasing the pay of postal clerks throughout India. So far as I can understand it, Sir, this question has arisen from a certain amount of jealousy between two sections of the employees of the combined Post and Telegraph Office. It is perfectly true that a number of postal clerks do telegraphic work. It is equally true that the telegraphic employees are paid on a higher scale than the postal employees.

But I understand that the postal employees who do telegraphic work are interchangeable with their fellow employees, and that at any time they may be switched off to do other work and on that account they cannot be given any special consideration in their immediate pay for learning telegraphy. I believe that one of their objects in learning telegraphy is that it does qualify them for higher posts in their service. If these men were given higher pay I think we should immediately have an appeal from those in the postal service who look after money orders, deal with registered letters and many other classes of work which they would claim to be of equal importance. Now, Sir, the mover of this Resolution claims that the Postal Department should not be a revenue-earning department. That I fail to see. To my mind the Postal Department is a means of obtaining revenue throughout the country and in a very far reaching manner, and provided its employees are paid adequately and that the post offices generally throughout the country are kept up to a proper standard, I see

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no reason whatever why any profit made by the Post Office should not go into the general revenue.

Last March we discarded a means of taxing the people generally throughout this country and I fancy thereby threw away something like 5 crores of revenue. Buying postage stamps or rather selling postage stamps is another means of extracting revenue for the country in a most far reaching way, and I see no reason whatever why any profit made by the Post Office should not go into the general funds. As regards the pay of the employees, I think we should bear in mind that this question was very thoroughly sifted by a representative committee, I think only two years ago, possibly three, certainly not longer. On that committee were two post office employees, and it will be generally agreed that the cost of living now is not higher than what it was then, and as the scale of pay was fixed so recently ago and accepted as fair, I see no reason whatever why it should be altered now. We heard to-day in answer to a question from one of our Members, who is unfortunately ill, that the anticipated revenue from the post office is likely to be short by Rs. 1 crore, and the present time is not one in which we should consider increasing the pay of the employees. There is another point. The pay of the employees, I think, should not necessarily go up when the post office is running at a profit. The scale of pay has been fixed on a grade scale. Why should the pay go up with the profits of the post office, unless you are going to reduce it when the post office is working at a loss? I do not think that the pay of the post office employees should be dealt with in that way; they are not entitled to a share of the profits of the Post Office.

There is one other point that I should like to mention, and that is some mention was made that there is no overtime allowed to post office employees, but that overtime is allowed to the telegraph people. I think we can readily understand that overtime in telegraph offices is necessary because the work goes on continuously. It might be argued that it is equally necessary for the post office. I say it is not. I know of nobody who is better capable of spreading out a few hours' work into 8 hours than a clerk in this country and thereby working and claiming overtime. I have no doubt that many gentlemen here have also had a similar experience. Overtime I consider is a very bad way of paying your men. They do not work their hardest during the regular hours, in order to earn extra money for overtime. I have no doubt that most of the members of this Council have received a rather voluminous letter on this question. I am quite sure that the Honourable Member who spoke before me had it, because I recognised many phrases from it. It comes from a Union. It is a very well written letter, but it struck me as presenting only one side of the question. I therefore took an opinion from the other side from one who knows something of the post and telegraph department. As regards the point which Mr. Kale very rightly brought up, *viz.*, the question of accounts, it will be explained that it is practically impossible to separate the revenue received from telegrams in these combined post offices, and it is quite true that such revenue as is received there is credited to the Telegraph Department. I think that was Mr. Kale's point. Mr. Kale's next point was that the cost of running these offices was debited

to the postal department. I quite agree with Mr. Kale and consider that even if you cannot separate the revenue, the cost of running the department should be debited to the telegraph department. I am afraid perhaps I am anticipating the Honourable Member who will reply. I have heard that the minimum pay of the postal employee in Bombay and in one other big district is under consideration. But of course it will be rather difficult for Government to accept a proposal for any increase of pay when we have got this retrenchment looming on the top of us.

Sir, as a whole, I cannot accept the Honourable Mr. Kale's Resolution. As, I have explained, I do not consider that the pay of the postal employees should go on increasing with an increased profitable revenue of the post office any more than they would like to have their pay cut down when the post office is working at a loss; and secondly, the Committee or Commission that we had but two or three years ago decided the pay and fixed it on a fair basis, and I cannot believe that conditions have altered in so short a time as to require revision of the pay now.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, the Honourable Mr. Kale wants modifications and changes to be introduced into the method of keeping accounts in the Postal and Telegraph Departments, mainly with the object of ascertaining what is the correct nett revenue which the post office officials can claim for their share; and with this further object, *viz.*, as to whether anything could be done for improving the conditions of the people employed in the post office, who, he thinks, are not adequately remunerated at the present time chiefly owing to financial conditions, and partly owing to a misunderstanding of the position of the postal revenue, inasmuch as the post office is not given credit for all the revenue that it earns, whereas it is debited with expenditure which, on a proper accounting ought to go to the telegraph share. I shall place the position as it stands in a few words in order that Honourable Members may exactly see what is the condition of the post office and that of the employees relatively to what it was, say, in 1914, as to whether there are any real grounds for complaint on the part of the post office officials as regards their emoluments, and as to whether this system of accounting which he advocates can be adopted either in whole or in part, or whether it is impracticable. The Government of India appointed a Committee to investigate the conditions obtaining in the telegraph offices. They submitted a report which resulted in increased expenditure to the State. Similar complaints were received from the post office employees and another committee was appointed in 1920-21 which went into the whole matter, and they suggested increased expenditure which ultimately came to somewhere about 1 crore and 30 lakhs. The emoluments of the officials in question whom the Honourable Member has in mind, especially signalling clerks included amongst the general grading of clerks, especially drawing pay below Rs. 100, have been substantially increased, so that it may be said that they now draw nearly a hundred per cent. more than what they drew in 1914. I wish just to read a few lines from the Committee's report which would elucidate that point. "In the aggregate" they say, "the scales which we now propose raise the average to 75 as against 40.1 average pay, which means an increase in present pay and allowances of 31 per cent." That is the present

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pay as it stood when the Committee instituted its inquiries. Various improvements have been effected in this matter from time to time. They go on "and on pre-war pay of 88 per cent. If to the direct benefit conferred by the substitution of proposed time scales for grades up to 100 is added the indirect but substantial benefit which accrues from the revision proposed further on in this report of the higher or selection grades, it is not by any means an exaggeration to say that if our proposals are accepted (and they were substantially accepted) the clerks of the department will have gained, as compared with 1914, to the extent of 100 per cent., if not more." I think Honourable Members will realise what it has cost the State and also realise that the cost of living now if anything has fallen below what it stood at in 1920-21 when the members of the Committee drafted and submitted their report and the Government considered it.

The Committee took pains to ascertain the pay and emoluments obtaining in the various corresponding departments and here is what they say they have done in fixing the scale.

"We have in each case considered carefully the scale of pay which should be allowed having regard to the present pay and allowances, to pay recently sanctioned for other services and departments, to rates of pay given to clerks in banks and in merchants' offices, to the recommendations of Postmasters General and to representations made to and evidence recorded by us."

So, having thoroughly exhausted the subject in the way of whatever inquiries they could make, they made certain recommendations which were almost wholly adopted and accepted by Government. Further probing of this subject at the present juncture might facilitate the Finance Department suggesting to us as to whether any more savings could be effected having regard to the scale having been fixed when prices were very high. At any rate a hint was thrown out to me by one of the officers in the Finance Department, and I do not think any inquiry at this stage would facilitate the object which my Honourable friend has in mind. The differentiation between telegraph signallers employed in the ordinary departmental offices and the signallers who are working in the combined offices has no doubt given rise to great heart-burning, especially in the Post Office, and the point was brought prominently to the attention of the Committee of which I was a member for some time. Well, it is not necessary to go into it because it would lead to a very elaborate defence of the Government position in this respect; but, roughly speaking, our advisers have pointed out how greatly the conditions of the signallers in the Post Office and in the departmental offices vary, how a greater scale was fixed in one case and not so much in the other and that various other factors had to be taken into consideration in fixing the pay of the telegraphists. If you are going to adopt the scale that is paid to telegraphists in the ordinary departments on the assumption that the conditions of work are the same, the scale is the same, and so on, which I do not for one moment admit, I am sure that you will have to go in for another one or two crores of rupees additional expenditure. I am only putting it very roughly, for this reason that you cannot stop with the signallers. If the telegraph signallers in the combined offices want a little more

emoluments because they compare themselves with the signallers in the telegraph office and on the ground that they earn a little more revenue, well the money order clerks might get up and say "this money order work is very much more paying than the other branches of the Post Office, so you must pay us a little more"; and so it will go on. Apart from this impossibility of differentiating between one clerk and another clerk in the Post Office, there is no reason why the Government should embark upon this additional expenditure on the ground that perhaps they are paying a little more than was necessary in another department. If my Honourable friend suggests that economies could be effected in another department, well the matter might be investigated, not that I say that they can be effected, because the Government do not accept that position at all; but I say there is no reason why, assuming for the moment that we are paying a little unnecessarily and extravagantly in one department owing to various antecedent circumstances, that the same procedure should be followed here. The point is whether the post office official is not receiving an adequate wage at the present moment. If he is not getting a proper living wage, there is room for an inquiry; but I contend that the figures I have quoted and the comparisons which we have been able to institute as regards other Government departments, justifies me in saying that the Post Office official is getting as much as his due share, and perhaps a little more.

Then, of course my learned friend has not, so far as I have been able to understand it, put his case on the ground that the Post Office employee should be placed on the footing of a profit-sharing member of a private business where emoluments may be regulated by the profits or losses of that concern. He has not put it on that ground and, of course, it is unnecessary to argue it. Government have to pay a living wage whether they earn money or not, because that is a proposition which the Government can controvert. My Honourable friend Sir Arthur Froom has fully gone into the question as to whether it would not be right for the Government to make a little money on the assumption that their employees get a living wage, that all the improvements that can be effected from savings in Post Office administration are effected, that the department is not starved, and that there is a real surplus without affecting the general taxpayer. I think I need not be drawn into a controversy as to the exact nature of this department, as to whether it is a *plus* department or a *minus* department, a revenue-earning department, a commercial department or a money losing department, a non-earning department. I think I have said enough. There is common ground between both of us to this extent that a living wage ought to be paid, and that if the Post Office earns a very large net revenue, possibly their case, when they present one before the Government of India for improvement would stand a better chance than it would if financial conditions are gloomy or if the department as a whole sustains a loss. To this extent there is validity in his argument and I think he puts it only at that.

We come next to the changes that he suggests in the Post Office account keeping. Firstly, there is a good deal of reason on his behalf when he contends that the expenditure incurred in telegraphy in the postal department should be debitable to the Telegraph Department and not be debit-

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able to the Post Office. Certain recommendations have been received by the Government of India from a committee of chartered accountants who were appointed recently to go into this question. They are under consideration, and I daresay the point of view which my Honourable friend has put before us will receive adequate, and I may go further and say, sympathetic consideration. But I am not equally hopeful as to whether his position is correct when he asks us to credit to the Post Office all revenue that is derived by the combined offices for telegrams which are presented at the combined offices or delivered through them.

For this reason, that it is absolutely impossible for us correctly to appropriate to the Post Office or the Combined Post Offices the legitimate share of revenue which they are entitled to. Now, for instance, we know that the total number of telegrams is so many—in 1920-21 it was about 20 millions. Well, the number of telegrams that were presented at the Combined Post Offices was about 10, but the signalling operations in respect of these 20 million telegrams amounted to about 90,477,182. That is to say, in the case of a message which is received at the Combined Post Offices and has to go through several combined and departmental offices, to apportion the revenue resulting, correctly is a matter really impracticable. If you say it is roughly one-fourth and allocate that proportion of the revenue, will it be satisfactory, will it be right?

Then if there are overhead charges, how are we to take account of that? What is the share which is to be apportioned in regard to various other items? It is so very difficult to say; and consequently our advisors think that no good purpose would be served by instituting inquiries of this description. In the first place, it would lead to a considerable increase in the accounts establishment. In the second place, it would be a rough guess-work after all. In the third place, the system of maintaining accounts is not in respect of actuals but in respect of estimates. I shall read just a few lines from a memorandum as to the process which is adopted with regard to these accounts. This is how it is done. Practically the whole of the telegraph revenue is collected in stamps and included in the figures for stamp collection. The total number of telegrams issued is known from an examination of the details of those issued during two particular weeks of a year. The average value of each telegram is calculated. The total amount of telegraph revenue collected in stamps for the whole year is estimated on this average value and from the known value. Telegraph revenue is therefore an estimated and not an actual figure. And what is the object to be gained after all? Not much. It is for the purpose of clearly apportioning the revenue in order to see that the Post Office administration is not starved.

I have already dealt with the position that the Post Office officials have as much as they ought to get. They have received ample and sympathetic consideration during the past few years at the hands of Government with regard to the complaints which they have made at different times; and I therefore regret the Government are unable to accept the Resolution. I have already indicated that an attempt will be made to apportion the expenditure correctly, so that the Post Office may show a correct net revenue as far as possible, that its administration may be improved having regard to the financial conditions which may be shewn as a result of the improvements that may be effected by an examination of the accounts. But I

think no useful purpose will be served by the Honourable Mover pressing the Government to undertake anything further specially at the present juncture, and I hope, therefore, his object having been achieved, namely, to draw public attention to what he considers to be the hardships under which Post Office officials are labouring, I would suggest there is no further need of pressing the question.

The HONOURABLE THE PRESIDENT : The further discussion of this Resolution will stand over to the next non-official day. The subject of the Resolution is not such as to necessitate the attendance of Honourable Members for an afternoon Session. I may say that I do not propose to adjourn the Council till to-morrow, because a very important Bill is to be brought before the Council on Wednesday, and I desire that Honourable Members may have a clear day in order that they may examine that Bill with the care and attention which it deserves.

The Council then adjourned till Eleven of the Clock on Wednesday, the 13th September 1922.

COUNCIL OF STATE.

Wednesday, the 13th September, 1922.

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

QUESTIONS AND ANSWERS.

BOMBAY UNIVERSITY TRAINING CORPS.

99. The HONOURABLE MR. V. G. KALE : (a) Will Government be pleased to state what kinds of ranks have been assigned to those officers of the Bombay University Training Corps who were declared to be Platoon Commanders in the Orders of the Southern Command, Poona ?

(b) Are these officers declared to be Commissioned Officers ?

(c) If so, what kinds of Commissions, the King's or the Viceroy's, have been granted to them ?

(d) If they are declared to be Commissioned Officers, why is it that they have not been given the outfit allowance of Rs. 300 on their first appointment, as sanctioned by the Provisional Regulations relating to University Training Corps, published by Government ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) The question of the form of commission to be granted to, and the designation of the ranks to be held by, officers of the Indian Territorial Force at present forms the subject of correspondence between the Government of India and the Secretary of State.

(b) Yes.

(c) As explained in the reply to part (a) of the Honourable Member's question, certain new proposals are under consideration ; but for the moment the only form of commission that can be granted under the Indian Territorial Force Act, 1920, is a commission under the Indian Army Act to which officers of the Indian Territorial Force are by Statute subject.

(d) The outfit allowance of Rs. 300 is admissible to such officers as apply for it after their appointment has been notified in the Gazette of India.

PAY AND ALLOWANCE OF BOMBAY UNIVERSITY TRAINING CORPS.

100. The HONOURABLE MR. V. G. KALE : Is Government aware that two different scales of pay and allowance are sanctioned for Europeans and Indians who hold commissioned ranks in the Bombay University Training Corps ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The allowances admissible to the two classes of commissioned officers referred to are the same. These officers receive no pay, as the Corps is not liable to embodiment.

REGULATIONS OF UNIVERSITY TRAINING CORPS.

101. The HONOURABLE MR. V. G. KALE : When are the definite regulations of the University Training Corps as regards the outfit, pay and allowances of officers and men in ordinary training and in camps of exercise to be published ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : A number of regulations have been drawn up on the subject from time to time ; they have either been published in the Army Instructions (Indra), or notified to Commands or formations. As the Honourable Member will understand, some time must elapse before a comprehensive set of regulations can be published, as the Force is not yet fully organized.

STATUS OF UNIVERSITY TRAINING CORPS.

102. The HONOURABLE MR. V. G. KALE : (a) Is it a fact that Rules under the Indian Territorial Force Act, 1921, lay down that officers and men of the University Training Corps are to be given better status than that of the officers and men of the Indian Army of the general sections of the Indian Territorial Force ?

(b) If that is a fact, why is it that the lump-sum grant, which was given last year for the camp expenses of the Bombay University Training Corps, was only equivalent to the pay and allowances of the officers and men of the Indian Army ?

(c) Is it not proposed to give to the University Training Corps the same status as the Auxiliary Force as regards ranks, outfit, pay and allowances ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) The reply is in the negative.

(b) The question does not arise.

(c) The question of ranks is still under consideration. Members of the University Training Corps receive the same outfit allowance and other allowances as members of the Auxiliary Force. Members of the University Training Corps do not earn pay as the Corps is not liable to embodiment and the question of comparison of rates of pay consequently does not arise.

INSTRUCTION TO UNIVERSITY TRAINING CORPS.

103. The HONOURABLE MR. V. G. KALE : Will Government be pleased to state whether some actual provision has been made this year for attaching officers of the University Training Corps to regular units for short periods of continuous instruction, as was promised a few months ago ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Provision has been made for such attachment for the purpose of instruction. The posting of officers to such courses rests with the District Commanders.

TERRITORIAL FORCE ADVISORY COMMITTEES.

104. The HONOURABLE MR. V. G. KALE : (a) Will Government be pleased to state whether advisory committees in connection with the Indian Territorial Force, as provided by rules 12 and 29 of the Rules under the Indian Territorial Force Act, 1921, have been formed in the different provinces ?

(b) Will Government be pleased to state the names of the members of the Committee for Bombay ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) The answer is in the affirmative.

(b) The appointment of members of the Advisory Committee rests with the Local Governments, who have not, so far, reported the names of the members who have been nominated.

The SECRETARY OF THE COUNCIL : Sir, there is a message from the Legislative Assembly.

The HONOURABLE THE PRESIDENT : The message may be read.
RE-COMMITTAL OF CANTONMENTS (HOUSE-ACCOMMODATION)
AMENDMENT BILL TO JOINT COMMITTEE.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY of the COUNCIL : " Sir, I am directed to inform the Council of State that the following motion was carried in the Legislative Assembly at their meeting on the 11th September 1922, and to request the concurrence of the Council of State in the recommendation contained therein, namely :—

That the Bill further to amend the Cantonments (House-Accommodation) Act, 1902, be recommitted to the Joint Committee with instructions to prepare a Bill consolidating, with amendments, the existing law."

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : Sir, I am not altogether sure of the reasons which led the Assembly to ask the concurrence of the Council of State in this motion. In the first place, this Chamber concurred in the recommendation from the Assembly that this particular Bill should be referred to a Joint Committee. Thereafter, as I understand the procedure, the Council of State did not come into the matter at all until the Joint Committee had reported to the Assembly and the Assembly had dealt with the Bill and passed it in some form or another. We have not yet reached that stage. The Bill, I understand, went to the Joint Committee, and they found great difficulties in amending the Amending Bill in view of the opinions received on it. In fact, the Amending Bill will be in such form that it will be impossible to understand the law, that is to say, the Act plus the amendments proposed. Therefore, the Joint Committee considered that the best course was to get instructions from the Assembly to prepare a Consolidating Bill to repeal the present law and to re-enact it embodying the amendments proposed since the Bill was introduced. I do not think that the Council of State need have been asked for its concurrence in this matter. Possibly it was thought that it was somewhat unusual for a Joint Committee to be appointed to prepare a Consolidating Bill, but this is not pure consolidation, as there are amendments to be made also. But as we have been asked for our concurrence, I do not think there is any reason why we should not inform the Assembly that we have no objection to their recommendation. I do not know as to whether I am in order in making a motion on the subject now ; it is not on the list of business, and I was not prepared to make a motion as I am not in charge of the Bill at this stage. As a pure Consolidation Bill I should be in charge of it, but as I said, it is not pure consolidation.

[The President.]

The HONOURABLE THE PRESIDENT : I think this raises a question of procedure, and perhaps the Council would like to have my views on the matter. I do not entirely agree with the Honourable Mr. Moncrieff Smith. The position, as I understand it, is this. The Assembly asked and obtained the concurrence of this Chamber that the Bill should be referred to a Joint Committee. That obviously was essential. The Joint Committee apparently did not report, or rather did not report finally, to the Assembly. They really submitted an *ad interim* Report. They desired further instructions, rightly or wrongly, in my opinion rightly, as they thought that the course they wished to adopt would be going beyond the scope of their original reference. The proposal to incorporate their own amendments in the law can hardly be called a Consolidating Bill.

In those circumstances, it does seem to me that, if not essential, it is at any rate very courteous on the part of the Assembly to desire our concurrence to recommitting the Bill to the Joint Committee which had been appointed with the concurrence of this House. I think myself that, when instructions are to be given to a Joint Committee, it would be advisable for this House to adopt the procedure which has in this case been followed by the Assembly. So far from objecting to that procedure, I think it is calculated to prevent friction between the two Houses, and is in itself appropriate and in every way desirable. On the question of the motion, it is of very little importance, and, unless objection is taken on the ground of want of notice, Mr. Moncrieff Smith is at liberty to move his motion.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : Sir I beg to move :

“ That this Council do agree to the recommendation of the Assembly that the Bill further to amend the Cantonments (House-Accommodation) Act, 1902, be re-committed to the Joint Committee with instructions to prepare a Bill consolidating, with amendments, the existing law.”

The HONOURABLE THE PRESIDENT : I take it no Honourable Member objects to this on the ground of want of notice.

The motion was adopted.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : Sir, I beg to move :

“ That the Report of the Joint Committee on the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-Fees Act, 1870, be taken into consideration.”

The Report, Sir, was presented to this House a week ago to-day and on the same day the Report, together with the Bill proposed by the Joint Committee, was circulated to Honourable Members. Up till 4 O'clock yesterday afternoon, I had received notice of no amendments at all, and at that hour I received only those on the list which I believe

is on the table before Honourable Members. It emanated, Sir, from a single Member. So far as I am aware, my Honourable friend, Mr. Khaparde, does not pose as the representative of any particular party in this House ; and I think we may assume, from the fact that he is the only Honourable Member who has found it necessary to give notice of amendments, that the Council as a whole is prepared to accept the Bill proposed by the Joint Committee. Indeed, in the absence of amendments, or, at all events, with so few amendments proposed and those from one Member only, there are only two courses open to the Council. The first is to accept the Bill more or less as it stands, and the second is to throw it out altogether. I may be unduly optimistic, but I hardly anticipate that the Council intends to take the latter course.

I think, Sir, I may assume that, during the week in which the Bill has been in Honourable Members' hands, they have studied it carefully. A casual reader, noting the very numerous clauses or portions of clauses which appear in italics, might be led to the hasty conclusion that the Joint Committee has turned the Bill inside out. But a careful study of the Bill and of the explanatory Notes on Clauses contained in the Report show that this is really very far from being the case. There are few, if any, radical changes made in the Bill by the Joint Committee, and, as a matter of fact, I think I may say that the important changes are very, very few indeed. Many of the amendments made were not regarded by the Joint Committee as of sufficient importance to mention in their Report at all. I think I may venture to say, Sir, that you yourself know only too well the difficulties of drafting that arise in connection with a Bill of this magnitude. Suppose we take just one clause of the Bill, amending one section of the Code. A small amendment is proposed in that clause. Thereupon, the draftsman has to consider not only the effect of that small amendment upon that clause and upon the section which is being amended, but also the effect of the small amendment on the other 150 odd clauses of the Bill and, further than that, the effect of the amendment on the remaining 550 odd clauses of the Code. In these circumstances, Sir, and also having regard to the fact that the Bill is now of very mature age and that it has passed through many hands during its career, it is a matter of no surprise, I think, that the Joint Committee found very numerous slight defects in the Bill which they thought it was their duty to put right. I am sure no one will feel that there is anything derogatory of the work done by the Committee presided over by Sir George Lowndes, who were really the authors of the Bill introduced in this Council, in the fact that the Joint Committee found it necessary to do a good deal of re-drafting.

I might mention one other matter in connection with these amendments. The matter that I have just mentioned is responsible for a very large proportion of the italicised matter appearing in the Bill. There was one other point. The Joint Committee thought that they ought not to encroach upon the functions of the Committee appointed to consider the matter of Racial Distinctions in the Criminal Law. That Committee had been sitting and was nearing the end of its labours at the time when the Joint Committee was convened. This consideration also involved a few amendments in the Bill which, I think, the Council will treat as more or less formal. They will come up at another time.

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Sir, we do not maintain that the Code of Criminal Procedure amended in the manner proposed by the Bill will be at all a perfect measure. But I think we may claim with some confidence that the Bill will effect a great improvement in the law. It is more than ten years ago since the Government of India decided that a general overhaul of the Code was necessary, and the Council is aware of the various reasons which have led to the long delay in bringing an amending measure on the Statute-book. The main reason probably was the Great War, and, following that, there was a general feeling that a Bill of this importance and magnitude ought not to be rushed through in the last days of the moribund Legislative Council of the Governor General. As soon as the reformed Legislature was inaugurated—in fact within three weeks—this Bill was introduced in this Chamber. It was delayed again by certain action taken in another place; but, now, I think we may say that we are within sight of the end and I hope that, within a very short period, we shall have really passed this Bill which has been occupying the attention of this Legislature and of its predecessor for so long.

Sir, I think it is a matter of great satisfaction that the Report of the Joint Committee is, except in a few minor respects, unanimous. And I hope I shall not hurt the feelings of any of my non-official colleagues when I suggest that the matters in which we were unable to achieve unanimity were matters of minor importance. The Bill, Sir, is a very long one indeed,—probably one of the longest we have had before us for many years, and it amends one of the longest enactments on our Statute-book. Moreover, the subject is one which is full of controversy; and I think it is really a matter for congratulation that there are no dissentient or minority reports attached to the Joint Committee's Report. There are, Sir, always two attitudes adopted towards a Bill dealing with the criminal law of the land. There is, of course, first of all, the point of view of those whose chief interest is the maintenance of law and order; and, on the other hand, we have the point of view of those who look at the other side,—I won't call them the friends of the criminal,—but those who think it their duty, and rightly so, to safeguard, and jealously safeguard, the interest of the criminal or the accused person, when he is on trial before the Criminal Courts of the country. I think I may say, Sir, that the Joint Committee kept these points of view very carefully before them throughout their deliberations, and that for the most part they have arrived at a happy compromise in the Bill that they have proposed.

I do not think I need say more as to the changes made by the Joint Committee or the work which they have done. I should like to take this opportunity, Sir, on behalf of the Government, of expressing their gratitude to those non-official Members who gave much of their time, possibly much of their leisure, to come to Simla in June to further the passage of the Bill, and I hope they may shortly see the fruits of their labours in the inclusion in the Statute-book of this most important measure.

Before sitting down, Sir, I should like to refer very briefly to a few of the important changes that will be introduced in the criminal law of

British India by this Bill, and I might remind the Council that the effect of this Bill will be felt beyond the limits of British India because our Code of Criminal Procedure, as amended from time to time, applies automatically in certain administered areas in Indian States—areas that are administered by the Governor General in Council and for which he makes laws in exercise of his powers under the Indian (Foreign Jurisdiction) Order in Council. Moreover, our Code of Criminal Procedure, as amended from time to time, is also taken as a model by many Indian States which make their own laws and do not necessarily slavishly follow the law as it is in force in British India.

One of the most important changes which will be brought about by the Bill is in connection with the procedure in respect of prosecutions for offences which are committed in or in relation to the proceedings before the Courts. I am referring to sections 195 and 476. A glance at any commentary on the Code of Criminal Procedure will, I think, indicate what great difficulties have arisen in the past in putting these two sections into operation. The comments of the High Courts on the defects of these two sections, the correspondence between the Central Government and the Local Governments and the opinions and suggestions received by those Governments from official and non-official sources would fill volumes. The law as it stands at present provides an alternative procedure for the Courts. We have the sanction proceedings under section 195 or direct action by the Courts under section 476. The Government, after very careful study of the question and of the opinions and suggestions which they have received from time to time, decided on the course of action which is now embodied in the Bill. The two sections will now supplement one another.

Section 195 will merely contain the prohibition; section 476 will lay down the procedure to be followed; and it is supplemented by two more sections, 476-A. and 476-B. which provide for appeals against orders making a complaint or refusing to make a complaint. This proposal has been before the country now for a very considerable period, and I think I may safely say, judging by the tenor of the opinions that have been received, that it has met with general approval.

Clause 6 of the Bill introduces a new departure in providing for the establishment of special juvenile Courts. This, I think, is a provision which will be universally welcomed throughout the country.

Clause 14 introduces important amendments in section 88 to provide for the disposal of claims to property which has been attached under that section.

Clause 20 introduces an amendment in section 117. At present, if a Magistrate who has taken proceedings under the preventive sections is of opinion that a breach of the peace is imminent, all he can do is to issue a warrant for arrest. What the Bill proposes to allow him to do is to take an *interim* security from him and to say that, until the proceedings are concluded, he shall give security for keeping the peace or for the maintenance of good behaviour.

There has always been some difficulty in the Courts with regard to the procedure to be adopted by Magistrates in rejecting sureties offered

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under that particular Chapter containing the preventive sections of the Code. Clause 21 of the Bill now lays down a definite procedure which the Magistrate is to follow if he proposes to reject a surety offered or to reject a surety that has been accepted previously by him or by his predecessor. A later clause of the Bill provides for an appeal against these orders.

The sections which deal with the tender of a pardon to an accused person—section 337 and the sections that follow—have been very considerably revised by the Bill, and also the section which lays down the circumstances in which an accused person who has accepted a pardon and who has forfeited that pardon is liable to prosecution, and the procedure which is to be followed when he is prosecuted for the original offence for which he has been pardoned.

Clause 99 amends section 386 so as to enable fines to be recovered by procedure by the Collector against the immoveable property of the offender.

As the House will see, considerable changes have been made in Chapter XXXIV of the Code which deals with lunatics. For the most part the amendments are devised to meet difficulties that have been felt since the Code was amended in 1912 on the passing of the Lunacy Act in that year.

I think I may say, Sir, without breach of confidence that section 526, which deals with the transfer of cases by the High Courts, is a section which gave the Joint Committee a very great deal of trouble, particularly that part of it which requires the Court to postpone the hearing of a case when notice is given of an intention to move the High Court for transfer. What the Bill proposes is that the Courts may—the discretion is with them—postpone a case if notice is given of an intention to apply to the High Court for transfer; and if the person applying gives security that he will within a specified period make that application, then the Courts, with one exception, are bound to adjourn the case in order to give a reasonable opportunity for making the application. The exception is in the case of a Sessions Court which, if it is of opinion that the accused has had a reasonable opportunity of making such an application and has not taken advantage of that opportunity, can refuse to adjourn the case.

The provisions of section 562, which provides for the release of first offenders on probation, have been very considerably liberalised. The Courts have always found the restrictions on their powers in this section very harassing, and I think there is a general feeling too that there was scope in this section for liberalisation. The Bill has effected this.

Sir, I do not think I need refer in detail or labour to explain—I have already spoken longer than I intended—the further changes which the Bill will make in the law of the land. I beg to move, Sir, that the Bill be taken into consideration.

THE HONOURABLE SIR BENODE CHANDRA MITTER (West Bengal : Non-Muhammadan) : Sir, I wish to say a few words on the present occasion.

The revision of certain sections of the Criminal Procedure Code has been engaging the attention of the Government for the last ten years or more. A Committee consisting of Sir George Lowndes, Lord Sinha, the Honourable Mr. Justice Pigott and Mr. Justice Kumaraswamy Sastri and Mr. Walker considered the matter carefully and made their report on the 23rd of December 1916.

The report of this Committee was submitted to the various High Courts, Local Governments and important public bodies and associations. The opinions of these various bodies, together with a very carefully prepared precis of the same, were supplied to the members of the Joint Committee and we carefully considered and discussed these and came to certain conclusions which have been embodied in our report.

I would draw your attention to the fact that we only considered some specific sections of the Criminal Procedure Code which were embodied in the proposed Bill. Apart from the question whether it was at all open to us to consider other sections of the Code, it would have been obviously impracticable to consider the Code as a whole, for that would have necessitated a delay of several years. Such a course most of us thought would be exceedingly impolitic, and we have confined our attention to the sections which have been embodied in the Amending Bill. I would like to say that the official members of the Committee readily accepted most of our suggestions and, in a very few instances where they did not accept our suggestions, they gave reasons for their decisions which we found to be satisfactory, so that in almost all important matters, after full discussion, we were able to arrive at unanimous decisions.

I shall, with the leave of the House, now mention a few instances where, from the popular point of view, the Code can distinctly be said to have been liberalised by the Bill under consideration. If I were to attempt to draw your attention to the various alterations that have been made, it would take considerable time. I will therefore content myself by referring to a few instances only. One of the earlier sections that we have considered in this connection is dealt with in clause 25A of the Bill. That clause refers to the removal of obstructions to public rights. Now, one of the questions that constantly used to arise was where a person who has been proceeded against raised the question that the public has no right to a right of way which was claimed on its behalf and on the proof of which the validity of the proceedings rested. We have altered the section to the effect that, where it appears to the Magistrate that there is any reliable evidence in support of the denial of the public right, the Magistrate shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court. Therefore, that section has been altered in a way which would meet with the public approval.

Then another section which used to be constantly discussed was the section which gave a right of reply to the accused. We have now made it clear by our alterations that the accused will always have his right of reply unless, shortly speaking, he gives substantive evidence himself. That again gives him greater facilities for defending himself. There used to be conflicting decisions upon that question, and that has been set at rest by the amendments which we have introduced. Another thing that ha

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been done by the Joint Committee is that in dealing with clause 88 they have enlarged the list of compoundable offences. There are various offences which although they are triable in a Criminal Court, still, if both the parties agree to compound, there is no reason why the sanction of the Court should not be given. We have therefore added to that list of compoundable offences.

Then, there is another section, namely, section 195, as also sections 476 and 476A to which Mr. Moncrieff Smith has drawn our attention, which also we have taken into consideration. The alterations proposed in the Amending Code, if accepted, will prevent sanctions being given to private prosecutors to prosecute offences against public justice and offences committed in relation to documents given in evidence during the course of judicial proceedings. Sanctions given to private prosecutors with reference to these offences have often led to interminable delay and to oppression, and such prosecutions were often conducted not with a view to vindicate the cause of justice, but merely with a view to extort money. That will now be effectually prevented. We have also given a right of revision in connection with these offences and there again. I am glad to say, our views were accepted by the official members. With your leave, Sir, I will just read five or six lines here :

"The non-official members of the Committee who were present when this clause came under discussion were unanimously of opinion that a revision should be allowed in respect of proceedings under sections 476-A. and 476-B. The official members, on the other hand, thought that this was unnecessary in view of the facts that a right of appeal is allowed under section 476-B. and that there are no revision proceedings in connection with a complaint filed by a private individual. In this connection, however, it was pointed out by non-official members that a Court making a complaint cannot be held directly responsible and cannot be prosecuted under section 211 of the Indian Penal Code; whereas this possibility in the case of a private complainant acts as a safeguard against the indiscriminate filing of complaints. We have amended the Bill in accordance with the opinion of the majority."

After these alterations of sections 195 and 476A and 476B it will be impossible for anybody to suggest that we have allowed prosecutions to be undertaken hastily with regard to offences of this character.

Then, Sir, there is one clause to which I would like to draw the attention of the House specifically, and that is clause 92 which deals with sections 497 and 498, I refer to the sections that deal with the granting of bail. Now, I think Honourable Members who have studied these sections will come to the conclusion that the alterations suggested by the Joint Committee constitute a distinct improvement. Under the existing sections in some cases it has happened that persons have been kept as under-trial prisoners for several months and in the end were acquitted. Such cases naturally cause a great deal of feeling against the prosecution, a notable instance of which in Bengal is the Midnapore Bomb Case: a very large number of well-known citizens of Midnapore consisting of persons on whom Government had conferred high dignities, many of them Zemindars and leading pleaders, were kept in jail as under-trial prisoners and after some weeks they were released on bail by the High Court. The real inquiry into their cases began some months after and the Government of Bengal then sent Sir Satvendra Sinha, the then Advocate-General, to conduct the prosecution. The Advocate-General on

a careful perusal of the papers withdrew from the prosecution of all except three and in the High Court these three were ultimately acquitted. In many cases persons accused of non-bailable offences find great difficulty in obtaining bail from the trying Magistrate on account of the wording of the present section 497, and they have to apply for bail to the Court of Session which often means considerable delay and expense. Until such order is obtained such persons have to remain in prison. Now, the changes we have introduced with regard to section 497 will once for all do away with this inconvenience, and speaking for myself and, I think, for most of my colleagues in the committee, we felt that the Honourable the Home Member met our wishes in this matter very liberally. Those of us who have actual experience of the working of the bail sections know that in practice section 497 has often caused a great deal of harassment to accused persons. The suggested alterations will remove all just grievances in the matter of bails in the future, and I venture to assert that it will no longer be possible to say that our bail provisions, if these alterations are accepted, will be more stringent in any way whatever than similar provisions in England.

There is another clause, the transfer clause, namely, clause 141. Mr. Moncrieff Smith has dealt with that very shortly and succinctly, if I may say so without impertinence, and I cannot add anything to what he has said; but I will say this, that this is a section which has given rise to a great deal of trouble. On the one hand, it is highly desirable that accused persons should not merely in fact be tried by a Court that has no bias in favour of the prosecution but that they should feel that they had been tried by an impartial Court; that is to say, not merely that the trial in fact should be fair, but that the accused should have no reasonable ground for suspecting that the tribunal was not fair or impartial. Now, that no doubt is the right standpoint from which to approach the section. On the other hand, in actual practice we know that that section was very often abused.

With a view to gain time applications are often put in under section 526 and the opinions that were obtained from the Local Governments and the High Courts certainly went to show that this provision was often abused. The result was that the Committee of 1916 made certain suggestions with a view to stop these abuses, but as we thought that such suggestions if accepted in their entirety, may operate harshly against the accused we have made certain material alterations, and I think we have now been able to arrive at a happy solution so far as section 526 is concerned.

Then, Sir, section 562 has been referred to by the Honourable Mr. Moncrieff Smith. That section I shortly refer to as the first offender's section. The offences as dealt with under section 562 as it stands, now are few in number. We have extended that section very widely; in fact to most offences, excepting very serious offences, and discretion is proposed to be given to the trying Court to deal with the first offenders under this section, and the Court will have the power to defer passing sentences on such offenders indefinitely. Speaking from my own personal experience I can say how beneficial such a provision is. During the 7 or 8 years that I had the honour of holding the office of Standing Counsel, I very often had cases where young boys of 17 or 18 years of age were prosecuted on

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charges of having committed offences which did not come under section 562. Everybody felt that it would serve no useful purpose to convict such young boys who probably had committed an offence without fully understanding its nature and very often were led to do so by sudden temptation and without realizing that they were liable to heavy punishment. The inflexible Courts had no option but to convict them and to sentence them to imprisonment. The result was that these boys were sentenced and they had to associate with criminals of the worst character and their career once for all was blasted. They did not come out as better citizens from the jails after they had served out their terms. Now in the High Court, Jenkins C. J. claimed that the High Court had inherited the jurisdiction of the King's Courts in England, and in the well known Khulna Gang Case he gave them a warning and, on their signing certain bonds, the passing of a sentence was deferred. The other Judges of the High Court in trying cases in their original criminal jurisdiction followed that procedure, but some lawyers entertained doubts as to the correctness of the procedure. In any event this procedure was only confined to trials in the sessions of the High Court of Calcutta. Now by this section we are extending the beneficial provisions of section 562 to many other offences, and I must, speaking for myself, say that it is a very great improvement and in many cases Courts will now be able to take sufficient securities and bonds from young people or from their guardians and pass an order that they may come up for sentence if any future occasion arises. I congratulate the Home Member of the Government on his readily agreeing to our suggestions to extend the provisions of section 562.

Sir, there are one or two points which we did not go into in the Joint Committee at all because we all felt that it was very necessary that we should deal with the provisions actually submitted to us, and that it would be highly impolitic to delay the passing of this Bill any further, but I will take the opportunity of drawing the attention of the House so that we may consider the desirability of going into the matter on some future occasion. I did express my views as to what I thought with regard to the powers of the Presidency Magistrates in the Joint Committee. Now it is an anomaly that whereas if a person commits an offence say in Calcutta and gets a sentence of five months, a sentence which involves moral turpitude, a sentence which for ever puts him out of the pale of decent society, he has no right of appeal. This very same person, if he had committed that very same offence in Alipore, at a distance of a mile from Calcutta and sentenced to more than a month he would have a right of appeal. I am not talking of summary cases, but I am talking of the generality of cases. I did broach that subject, and it was pointed out to me, and I think very forcibly, that this committee could not possibly go into a question of that character without obtaining the views of the Local Governments and of the different High Courts. We at once saw the reasonableness of the objection on the part of the official members to go into this question, but I take the opportunity of drawing the attention of Honourable Members of this House to this question.

There is another question that does often strike me, and that is, in many cases the accused comes before the High Court and asks for a transfer of the case from one Magistrate to another, and in the alternative, asks to have his case tried by a Court of Session—I am referring to those

cases which are concurrently triable by a Magistrate as also by a Court of Session. Well, he either succeeds or does not, but to me it seems that we might well bring the law into line with the English law, namely, that where the offence is of a sufficiently heinous character so that the case is triable by the Magistrate as also by a Court of Session, it should be open to the accused to take the risk of trial by the higher Court and get a longer sentence; but as I said, I merely draw the attention of this House to these two matters though they do not come within the purview of the present Amending Bill, and I hope that the Government may see its way to inquire into the matter because I am sure that, if this further right is conceded to the accused, many grievances with regard to section 526 will disappear.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, before this debate proceeds further, there is one little misapprehension which might possibly have been caused in the minds of Honourable Members as a result of the Honourable Mr. Moncrieff Smith's statement with regard to the nature of the amendments which this Bill proposes to make in section 526 of the Code of Criminal Procedure, a misapprehension which, I am afraid, even the speech of my Honourable and learned friend Sir Benode Mitter has not removed. Section 526 of the Code of Criminal Procedure, as the Honourable Mr. Moncrieff Smith informed the Council, deals with the power of the High Court to transfer criminal cases from one Court subordinate to it to another Court having jurisdiction to try the case. The Honourable Mr. Moncrieff Smith, in referring to the amendment which this Bill seeks to make in the law as it stands at present, mentioned that, according to a sub-clause of that clause, when a Court is notified of the intention to submit an application to the High Court for the transfer of a case, a discretion is given to the Court to postpone or adjourn the hearing of that case in order to enable the party giving any such notification opportunity to apply to the High Court, and that in one case it is made obligatory on the Court to adjourn the hearing.

Now, when I look at clause 141 of the present Bill, which is the clause proposing the amendment mentioned by the Honourable Mr. Moncrieff Smith, I find that this clause divides the hearing of a criminal case into two stages. As every Honourable Member must be aware, the hearing of every criminal case is naturally divided into those two stages. The first stage is before the framing of the charge, that is to say before the accused is called upon to enter on his defence; and the second stage is after he has entered on his defence. Now, you will find that the first portion of this sub-clause (8) makes it obligatory on the part of the Court to adjourn the hearing of a criminal case in order to enable the Public Prosecutor, the complainant or the accused person, if he notifies to the Court his intention of applying to the High Court for transfer of that case. There is no discretion given to the Court to grant an adjournment or refuse it. It is absolutely obligatory on the part of the Court to adjourn the case. Then comes the second part of the proposed enactment. That is to say, if application is made to the Court to adjourn the hearing with a view to enable the complainant, the Public Prosecutor, or the accused, to apply to the High Court, after the charge has been framed, it is then and then only that there is any discretion vested in the Court to refuse such an

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adjournment. I do not say complete discretion. For, according to the terms of the section, even then it is obligatory to the Court to adjourn if the accused enters into a bond, making it essential for him to prefer his application to the High Court within a certain period specified. So that there is no discretion in the case of an application being made before the framing of the charge, and, if there is any discretion at all in the case of an application made after the framing of the charge, it is only when the accused does not express his readiness to enter into the bond specified therein. It was necessary, if I may venture to say so, to remove this misapprehension lest the point might trouble the minds of any Honourable Member during the course of the debate on this question.

THE HONOURABLE SIE MANECKJI DADABHOY (Central Provinces : General) : Sir, as one who has taken a minor part in the shaping of this Report, I feel I should not allow this opportunity to pass without giving my blessings to this Bill before it becomes the law of the land. Sir, of all the Indian laws that are on the Statute-book, the one of vast importance to the country—one of great magnitude, one which has unceasingly given trouble to our Judges and to the barristers and lawyers practising before the Courts, is the Criminal Procedure Code. For years past, the Code of Criminal Procedure, in view of the various conflicting decisions of the several High Courts in some of its most important sections, has been, I may say, in a state of uncertainty and chaos, and the amendment of the law was loudly required not only by Judges but by lawyers and by the general public. The present Bill supplies the much-needed reform in the Code of Criminal Procedure. For nearly ten years this Bill has been hanging before the Council. It was first introduced in 1914 and, on account of the preoccupations of the war, the further consideration of the Bill was suspended. In 1916, a committee of eminent lawyers was appointed with instructions to consider the Bill and to revise the various sections and to report their recommendations. Unfortunately, the deliberations of that committee were again suspended, and not till a later stage, when the new reformed Council came into existence, was this Code seriously taken in hand. The second committee was then appointed, and on which there were distinguished lawyers like Sir Benode Mitter and Dr. Tej Bahadur Sapru, our present eminent Law Member,—who have contributed to our deliberations, and we are now in a position to submit to the country and to the Council a Bill which I may say will be acceptable to all. I fully acknowledge and recognise that the various problems that were presented to this committee were of such an eminently difficult nature that, after all, this Bill cannot possibly be regarded as a perfect piece of legislation. But I assure the Council that the committee have done its level best to bring the measure, as far as it is possible, in conformity with English law, with the principles of justice, equity and fairness and will ensure a safer and judicious administration of the Criminal laws. We have endeavoured as far as possible to simplify the procedure, remove all ambiguities, and present the Code in an intelligible form.

My Honourable friend, Mr. Moncrieff Smith, was right in stating that we have made no radical changes. If any radical changes have been made, those changes have been necessitated by the exigencies of the

situation and by the plainer interpretation required by various legal authorities and by the eminent Judges who adorn our High Courts. My friend, Sir Benode Mitter, has relieved me of the task of examining in detail some of the most important provisions of this Bill, but what has fallen from him and from Mr. Moncrieff Smith has made it abundantly clear that the law as contained in the present Bill embodies the cream of recommendations of the various High Courts and the recommendations of the various Local Governments who were pleased to report on this Bill. The provisions regarding the taking of interim security and the power of rejecting sureties at any stage of the trial are suitable provisions. Section 337, which relates to the grant of pardons, has given considerable trouble and difficulty in its administration during all these years, has now been modified in a manner to meet the modern requirements and to ensure the dispensation of justice and also protects the accused person against any undue severity. The provisions regarding the realisation of fines have been placed on a more equitable basis, and the law regarding lunatics has been summarised and codified in a manner that will ensure the interests of that unfortunate demented class. The most important provision in the Code relates to the transfer of cases which has given no amount of trouble and difficulty to Judges has been codified and amended in a manner that will now meet with universal acceptance. My friend, Mian Sir Muhammad Shafi, has already explained that the power to adjourn a case on presentation of an application has now been made obligatory. When an application is made to the Court that there is an intention on the part of the accused to move the High Court, the right to obtain the adjournment of the case is made obligatory. In the case of applications after the charge has been framed, as Mian Sir Muhammad Shafi has pointed out, there is an implied discretion to grant the adjournment. On the whole the powers which are given are ample and sufficient to safeguard all legitimate interests of the accused.

Sir, the various sections of the Code have been brought up to the requirements of the time. The wording of many sections in the old Act are unsatisfactory. It is a matter of pity that the Joint Select Committee was restricted to certain amendments that were placed before it and were not permitted to go beyond the Bill that was before them. My Honourable friend, Sir Benode Mitter, has made that matter abundantly clear, and I hope that at some later stage some of the provisions to which he referred and pressed upon the attention of the Council will be incorporated into the law of the land. Sir, on the whole, I have no doubt, that this Bill will meet with general acceptance, not only in this Council, but outside in the country. There is one more word, Sir, which I wish to say in this connection. Our Honourable friend, Mr. Moncrieff Smith, has referred to the services which the non-official members have rendered in connection with this Bill. Let me reciprocate and say that, but for the valuable assistance of Mr. Moncrieff Smith, his masterly knowledge of the Criminal Procedure Code, his assiduity, his devoted industry, and the untiring patience with which he has tackled many difficult and intricate points and readjusted them, the Joint Committee would not have been in a position to present such a satisfactory report. I therefore, say that the grateful acknowledgments of this Council are due to our Honourable friend Mr. Moncrieff Smith,

[Mian Sir Muhammad Shafi.]

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : Sir, there is one point

The HONOURABLE THE PRESIDENT : I understand the Honourable Member merely wishes to make an explanation to correct his former speech and not to speak again.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : Yes, Sir. When I dealt with section 526 in my former remarks, I read the provisions of the section from the original Bill printed on blue paper and therefore it is necessary for me to correct one little error. Originally it was proposed to divide the proceedings in a criminal case into two stages, (1) before the framing of the charge, and (2) after the framing of the charge. It was intended to make the adjournment obligatory only in the case of applications made before the framing of the charge ; in the case of application made after the framing of the charge, it was intended to make it obligatory only if the accused furnished the required bond. The Joint Committee have gone a little further and they have made it obligatory on the part of a Court to adjourn the case, no matter at what stage the application is made either by the complainant, the Public Prosecutor or the accused. So that the distinction originally sought to be maintained with regard to the two stages of the case has been removed, and adjournment has been made obligatory no matter at what stage during the course of the proceedings such an application is made.

The HONOURABLE SIR LESLIE MILLER (Madras : Nominated Non-official) : Sir, as one who has had nothing whatever to do with the preparation of this Bill in any capacity, minor or major, but as one who has for nearly 40 years been charged with the duty of administering the Code of Criminal Procedure in different capacities from that of a Third Class Magistrate to that of a Judge of a High Court, I thought that possibly it might interest the House to know that I also can pronounce a blessing on the Committee which has devised and perfected this measure of revision. I am far from saying that it is a perfect measure. I could probably put my finger upon points here and there in which the Bill might be improved. But as I do not harbour any intention of endeavouring to throw it out altogether, and as I have not considered it necessary to table any amendment, it seems to me hardly worth while that I should point out to the House any of those little defects. On the whole I am of opinion that the measure as it stands is a great improvement on the law of 1898. But in one point I see a good deal of regret, and that is, in the presence of section 476-B. I believe in that view I may not have the sympathy of anybody in this House, but it has always been to me one of the principal troubles connected with sections 195 and 496, especially the former, that special facilities should be given by the law to forgers and perjurers to evade trial and impede the administration of justice. I had hoped, years ago when this Bill was first brought out, that we should now have nothing more to do with those vexatious impediments, appeals not by persons who have been tried and convicted but merely to decide the question whether a person should take his trial or not. If you, Sir, or I, stand charged with murder or rape or riot or dacoity, and a complaint is made to a Magistrate we have no right to appeal

to anybody to direct that complaint to be withdrawn. But if a person is charged, not by some irresponsible private party but by a Court of Justice, if the presiding officer of a Court of Justice makes a complaint to a Magistrate that somebody in his opinion has committed perjury and desires that person to be tried, the accused can say " Oh, no, wait a little ; let me appeal if necessary as far as the High Court and see whether I am guilty or not, but whether I am to be tried or not." It amounts to this, that in cases of alleged perjury, we may have two or three half trials, for no particular purpose unless it be when the case comes up to the High Courts to enable an Honourable Judge who finds nothing wrong to come to the conclusion that on the evidence there is not likely to be a conviction. I am sorry to say that this state of things, which has always given me much trouble, is perpetuated or rather continued in this Bill. As I have said before, I do not suppose that anybody in this House will sympathise with me in my sorrow. On the whole, the provisions of this Bill are a considerable improvement, though I am certainly not prepared to agree with my Honourable friend Sir Maneckji Dadabhoj that the Judges who have had to administer the criminal law hitherto have found nothing but chaos in the Procedure Codes to be administered. In fact, it is clear that this new Bill does not touch any of the great old principles which we had been accustomed to apply. But what it has touched are certain minor matters, and in these it has effected improvement.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhamadan) : Sir, speaking as a layman, I would like to lend my very strong support to the two suggestions with which the Honourable Sir Benode Mitter wound up his speech. But before doing so I may be permitted to express my great regret at not having been able to attend one single meeting of this Committee on which I was asked and had expressed my willingness to serve. The reason was that the meetings were called in June and long before that date I had to attend to some other important work during that month. Had I known in advance that the meetings would be held at that time of the year, I should certainly have so informed the Honourable Member who thereby would have had a chance of substituting some one else in my stead.

Now, Sir, the Honourable Sir Benode Mitter drew the attention of the House to the anomaly which exists and according to which an accused, if he is sentenced to less than six months by a Presidency Magistrate cannot appeal to the High Court, whereas an accused who is sentenced by a mufassal Magistrate can do so if he is sentenced for a period of one month or more. This state of things might have been alright years ago when perhaps Magistrates were not drawn from the same class as they are to-day, and when Presidency Magistrates were mostly barristers-at-law. Conditions have greatly changed and we find that mufassal Magistrates to-day are very capable men, drawn perhaps from the same class of lawyers and having perhaps an equal education in law as the Presidency Magistrates themselves. That being so, I entirely agree with the Honourable Sir Benode Mitter that Government should consider the question and try to remove the anomaly. I understand that objection could be raised against the

[Mr. Phiroze Sethna.]

suggestion on the ground that the work of the High Court would be very considerably increased by appeals from the Courts of the Presidency Magistrates. At the same time the liberty of the subject has also to be considered, and there is no reason why an accused in a presidency-town should be denied a privilege which is extended to accused in the mufassal.

The second point is also one in which the public take very great interest and from the public point of view I would appeal to Government to give due consideration to it. There are offences for which an accused might be tried before a Magistrate or before the High Court. If an accused wants to be tried in the High Court he has got to make an application to that effect, whereas in England the right rests with the accused himself. Now, Sir, as Sir Benode Mitter explained, it very often happens that the accused prefers to go to the High Court, and why does he do so? Ordinarily the accused is of opinion that in the lower Court, if the police are insistent, they can more easily get a conviction than they might in the Sessions Court. That is what induces the accused to risk a trial before a Court of Session and a jury. But even if he is prepared to take the risk he is not sure whether his application will be successful or not. He should therefore be put in the same position as the accused in England for similar offences who can decide for himself, if he will be tried by a Magistrate or by a Sessions Court. Sir, I hope that both these suggestions will be duly considered by Government and that they will think it fit to bring forward these amendments at a later date.

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, I merely rise to take this opportunity of thanking the Honourable Sir Muhammad Shafi for having attempted to correct certain misapprehensions that may have been caused by a slip in my speech. After listening to the Honourable Member's remarks, I thought I was going to get an opportunity of returning the compliment; but the further explanation that he has given has cut the ground from under my feet. My learned friend, Sir Benode Mitter, supported by the Honourable Mr. Sethna, has made a few suggestions for the consideration of Government. I may assure him that those suggestions will receive due consideration. But as I said in my opening remarks we do not consider the Bill a perfect Bill, and we do not consider that the Code as amended will be perfect. There must, however, be some finality. This question of amending the Code has been going on for years, and each time we thought we had a Bill ready another batch of suggestions came along and we had to get another Bill ready, and in consequence nothing could be done finally all these years. As Sir Benode Mitter pointed out it was explained in the Joint Committee that Government desired some finality now; we thought we must achieve something, and even if we succeed in removing some of the defects that have been pointed out by High Courts and others, we shall have achieved something when we pass this Bill.

The HONOURABLE THE PRESIDENT : The question is :

"That the Report of the Joint Committee on the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-Fees Act, 1870, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT : We shall now proceed to the detailed consideration of the Bill, clause by clause. Honourable Members will find the Bill on white paper printed after the report of the Joint Committee. I shall call each clause by its number and on that I want Honourable Members to make any remarks they have to make. I shall thereafter put the question that the clause in question do stand part of the Bill. We will, as usual, reserve the preamble till the end.

The HONOURABLE THE PRESIDENT : The question is :

"That clauses 1, 2, 3, 4, 5, 6, 7 and 8 stand part of the Bill."

The motion was adopted.

Clauses 1, 2, 3, 4, 5, 6, 7 and 8 were added to the Bill.

The HONOURABLE THE PRESIDENT : I should like to be informed why clause 9 is cut out.

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, clause 9 of the Bill as introduced was cut out by the Joint Committee. The Joint Committee thought that if we re-numbered the whole of the clauses of the Bill, it would be extremely confusing for this Council to follow the Bill. There has been a series of Bills culminating in the Bill of Sir George Lowndes, and Sir George Lowndes' Bill was supplemented by certain clauses. If the Joint Committee had proceeded to re-number at this stage, Honourable Members would have had four or five numbers by which to refer to any particular clause. Therefore, it seemed advisable that we should leave the numbering at this stage and correct it when the form of the Bill was finally settled by a formal motion at a later stage.

The HONOURABLE THE PRESIDENT : A third reading in the other House?

The HONOURABLE MR. H. MONCRIEFF SMITH : Yes.

The HONOURABLE THE PRESIDENT : The question is :

"That clauses 10, 11, 12, 13 and 14 stand part of the Bill."

The motion was adopted.

Clauses 10, 11, 12, 13 and 14 were added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : *Clause 15.*—Sir, I propose that in section 103 of the Criminal Procedure Code, sub-section (1) for the words "locality in" substitute the words "immediate vicinity of." It looks like a verbal change, but it has an importance of its own. Section 103 directs that when a search is made it should be conducted in the presence of two respectable persons of the locality. The word "locality" has given trouble in interpretation. In some cases it was found that the Station House Officer going to the place to search generally took some people with himself from the place where he started, and these two persons acted as the Panch. I objected and said to them, 'You don't belong to the locality'. They replied, 'No, locality means the whole taluka in one locality, the whole of the police range is one locality', and thus these people who happened to be the informers and assistants of the police became the Panch. That threw a great deal of doubt on the property actually found in the search and there was trouble. I thought that the Honourable Sir Benode Mitter also referred to a similar case at Midnapore, in which the High Court ultimately found that it was a very doubtful case, that the police them-

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selves had put things which they wanted or something of that kind happened. Therefore, in order to remove this ambiguity, I propose that the word "locality" be replaced by the words "in the immediate vicinity of" and that will cause no difficulty so far as I can see.

The HONOURABLE MR. C. M. BAKER (Bombay : Nominated Official) : Sir, I should like to point out to my Honourable friend that in considering questions of this kind, it is necessary to think in the vernacular ; and that in my Honourable friend's native language there is no difference whatever between the word "locality" and the word "vicinity", and how he proposes to translate the word "immediate" I really do not know. Perhaps I shall not be in order in asking him this.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I have another objection to the proposal of my Honourable friend, Mr. Khaparde. I think "locality" is a much wider term than the words "in the immediate vicinity of". My experience has been that at times it is found extremely difficult in the immediate vicinity to get people to come forward to form a panch or to do anything, and if you adopt my Honourable friend's proposal it will cause a failure of justice. I have found from experience that in these matters it is much better to leave a much wider latitude and allow people of the locality to be selected.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I am quite in agreement with the proposal made by my Honourable friend, Mr. Khaparde, because the word 'locality' is much wider and it is proposed to replace it by the words 'in the immediate vicinity of'. If you do not remove this word, then the police can take people of their own liking to the place of search, who may be living at a distant place from where the search is to take place actually. Therefore I support the amendment of my Honourable friend, Mr. Khaparde.

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, there would be no particular harm in Mr. Khaparde's amendment if we could be sure that it would always leave it possible to secure search witnesses. If we make a hard and fast rule and introduce the words proposed by the Honourable Mr. Khaparde, it will result in hampering the police in certain cases and making it impossible for them to perform their work. That is the real reason why the Joint Committee did not give effect to the suggestion contained in the various opinions. If Mr. Khaparde will refer to the Report of Sir George Lowndes' Committee, he will see that they also considered the point. They realised that it might be better to substitute the words 'in the immediate vicinity of.' They suggested, however, that executive instructions should be issued that whenever possible persons from the vicinity should be taken. It is not merely witnesses who have to be obtained, but "the law requires that they should be respectable persons" also. Some of these searches take place in isolated houses or hamlets, and it is doubtful whether there will be any respectable persons in the immediate vicinity. I have no doubt that the suggestion of Sir George Lowndes' Committee that further executive instructions should be issued will be considered by Government and something may be done.

The HONOURABLE MR. E. L. L. HAMMOND (Bihar and Orissa : Nominated-Official) : Sir, I think sometimes in cases of this kind perhaps a concrete instance is a better illustration of what is wanted than arguments *a priori*. I remember a case which happened only a year and half ago. It was a case of criminal restraint. The father wished to get his daughter, a widow, back from a respectable family in which she had been unhappily married. He only wanted to get a search warrant for the return of his daughter and grandchildren who were being detained against their will. If it had been a question of the "immediate vicinity," the witnesses who were available would have been entirely under the influence of the accused persons. The parties in the proceedings came forward and asked that the search witnesses might be taken from among the pleaders at the headquarters. That would not be within the immediate vicinity, but it was at the request of the parties themselves that it was granted. Two pleaders from the town, leading gentlemen, went with the Magistrate, the warrant was executed and a search properly made. Had it been limited as proposed by my Honourable friend, Mr. Khaparde, to the immediate vicinity, they would have had to get anybody they could from the people of the neighbourhood, who probably would not have understood what the proceedings were.

The HONOURABLE THE PRESIDENT : The question is :

"That in section 103 of the Criminal Procedure Code, sub-clause (1), for the words 'locality in' the words 'immediate vicinity of' be substituted."

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

"That clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

"That clauses 16, 17, 18 and 19 stand part of the Bill."

The motion was adopted.

Clauses 16, 17, 18 and 19 were added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I propose that the expression "general repute" used in section 117 be defined. These words "general repute" have given rise to a great deal of discussion. I will not quote the cases but the principle of the law is that hearsay evidence is never to be admitted, but many Magistrates have been found, who say, "How is general repute to be proved except by what people say about that particular man?" I submit that these words "general repute" do not mean that any action should be taken by Courts on what people have heard from others, and those people heard from others again, none of whom have actually seen anything or heard anything personally. So I propose that the words "general repute" be defined as the opinion of the deponent or deponents based either on personal knowledge or concrete instances, and that this definition be introduced as an Explanation at the end of the clause.

The HONOURABLE MR. C. M. BAKER : Sir, I should like to point out to my Honourable friend that his amendment consists of a definition of a phrase which is not in the section at all. It is not in the Criminal Procedure Code—it is in the Evidence Act. No doubt, the clause about

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"general repute" in the Evidence Act refers to the section of the Criminal Procedure Code, but it is not in it.

The HONOURABLE THE PRESIDENT: The Honourable Member states that the words "general repute" do not occur in the section?

The HONOURABLE MR. C. M. BAKER: Not as far as I can see, Sir.

The HONOURABLE THE PRESIDENT: The copy I have here certainly, in sub-section (3), contains those words.

The HONOURABLE MR. C. M. BAKER: I was looking at the copy on the table.

The HONOURABLE THE PRESIDENT: Section 117, sub-section (3).

The HONOURABLE MR. C. M. BAKER: I thought this amendment was proposed to section 108.

The HONOURABLE THE PRESIDENT: Does the Honourable Member wish to continue? I think he is wrong on the question of the occurrence in the section of the words "general repute."

The HONOURABLE MR. C. M. BAKER: Yes, Sir, I wish to say something about the amendment itself.

The HONOURABLE THE PRESIDENT: The Honourable Member can continue.

The HONOURABLE MR. C. M. BAKER: I don't think my Honourable friend's definition adds very much to the intelligibility of the section. The expression "general repute" is fairly intelligible in itself. I think almost everybody has a pretty good idea of what is meant by it. But, when you introduce expressions like "personal knowledge" and "concrete instances," you open a field of psychological discussion which is very much beyond the sphere of the ordinary district pleader and of most Sub-divisional Magistrates. I certainly do not understand the definition myself. Personal knowledge of what? And concrete instances of what? And why the antithesis between personal knowledge and concrete instances? Is the personal always abstract and the concrete always impersonal? I think there is certainly a good deal to be guessed at in the definition as it now stands. I imagine that the Honourable Mover's real object was to get rid of hearsay evidence altogether. But his amendment does not effect that object and, if it did, I maintain that it would be wrong. Hearsay evidence has been expressly admitted by the Legislature in cases of this kind and, I think, it has been rightly admitted. For, if you take it away, there is nothing left. If you can prove personal knowledge that a man is a thief or a concrete instance of his committing a theft, then you can convict him under the ordinary section 379 of the Indian Penal Code, and there is no occasion for this security clause at all—it might just as well be abolished.

I expect my Honourable friend wants to make things easier for the accused. I doubt if he really does so. Evidence of general repute must at least be general. It must be the joint opinion of a large number of persons. The opinion of one deponent on the other hand is a very small thing to convict a man on. Besides, the definition really states what is not true. To say that "general repute" means "the opinion of the deponent" is simply incorrect. It does not mean that at all.

When a deponent is giving evidence of general repute, he does not say "I think so." He says "Everybody says so," which is a very different thing indeed. It has been my unfortunate fate to try some thousands of cases under this Chapter, and I admit that a great many wrong decisions have been given. But that was not the fault of the law. The law is clear enough. The reason why wrong decisions are given is because Magistrates are apt to be careless in weighing evidence. To be perfectly plain, it very frequently arises from the fact that they believe the evidence of people who by their position ought to be men of honour but are, as a matter of fact, incorrigible liars. Well, Sir, that is simply the frailty of human nature and cannot be corrected by amendments of this law. They can neither improve the credibility of witnesses nor remove the credulity of Magistrates. No, Sir, I think we had better leave the old law alone. It does pretty well and we do not know how to make it any better.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, I also oppose this amendment. It is already very difficult to obtain convictions under this section. The provision made in this section makes it at times very difficult for Courts of justice to come to any definite conclusion. If you add the words which my Honourable friend proposes by way of amendment, you will absolutely emasculate the section, and you will never be able to get a single conviction under the section. The other absurdity is that, if there are concrete cases and if there is evidence of actual personal knowledge, then the man ought to be tried under the substantive law, the Penal Code, and it is not necessary to proceed under this section. This section is meant to apply to that class of cases where there is no concrete evidence to convict under the substantive law, and the police are obliged to resort to this section and the evidence of general repute is tendered for the purpose of obtaining security for good behaviour. For these reasons, I entirely agree with my Honourable friend, Mr. Baker, and oppose the amendment.

The HONOURABLE MR. H. MONCRIEFF SMITH: Sir, I hope my Honourable friend, Mr. Khaparde, will realise that his laudable attempt to provide a definition of the words "general repute" is not a success. He is not the first person, Sir, to attempt to define these words. The attempt has been made over and over again and it has always led to a decision that it is a hopeless task. We now have a well-established series of rulings as to the meaning of the words and, if we now put in a definition—certainly not Mr. Khaparde's, though we might devise something else—then all these rulings are so much waste paper. The Courts will have to start all over again, and will not know where they are. At present, they have the guidance of many High Courts in interpreting these words. I suggest that Mr. Khaparde should withdraw his motion.

The HONOURABLE SIR BENODE CHANDRA MITTER: Sir, I also oppose this amendment. Evidence of rumour is no doubt mere hearsay evidence and hearsay evidence of a particular fact. Evidence of repute, on the other hand, is a totally different thing. A man's general reputation is the reputation which he bears in the place where he ordinarily resides, and, if it is proved that a man who lives in a particular place is looked upon as a dangerous character by the respectable people generally, that is good evidence of his character,—and good

[Sir Benode Chandra Mitter.]

evidence that he is a man of bad habits and he will then bring himself under this particular section.

Of course we all know that in actual practice, where there is nothing else beyond a mere allegation of general repute, the evidence must be of a strong and overwhelming character. That being so, as the Honourable Mr. Moncrieff Smith has pointed out, we have now a series of authorities which give us a guidance. Mr. Khaparde's amendment will cause more confusion than good. He says :—"The expression 'general repute' is the opinion of the deponent or deponents based either on personal knowledge or concrete instances." That certainly is not the definition of "general repute." You acquire a general repute with your neighbours by your conduct, and if you now seek to define "general repute" to be limited merely to instances based on personal knowledge, you confine the evidence to specific cases of offence, and surely that cannot be the meaning of the words "general repute." Does my learned friend wish to go back upon the series of authorities or does he wish merely to explain? If his object is simply to explain, then his explanation contradicts those cases directly. For these reasons I think we might leave the words "general repute" where they were originally. The Magistrate and the profession at large understand what the meaning of the words now is. This explanation, instead of explaining it, will create more difficulty.

The HONOURABLE MR. G. S. KHAPARDE : Is it permissible to say a few words?

The HONOURABLE THE PRESIDENT : There is no right of reply on an amendment.

Before I put the amendment to the Council I should like to say one word on the practice of sending in amendments to Bills with insufficient notice. I intended to have mentioned this matter before we proceeded to the detailed consideration of the Bill. The difficulty created is at once seen from what has just happened. The amendments before us are very imperfectly drawn, so much so that one speaker has been misled already and doubted whether the words occurred in the section. Had the amendments been handed in in time, the table would have put them in order, and the Council would have been in a better position to appreciate them. And if this discussion, as I think it will, runs on to-morrow, I should desire that the table will see that the amendments are put in proper order, that is to say, in such a manner that Honourable Members will be able to see at a glance where they are intended to come in in the clause affected.

Now, this amendment put to the Council properly would be :

"That in section 117, sub-section (3), at the end, the following explanation shall be added, namely :

'The expression 'general repute' is the opinion of the deponent or deponents based either on personal knowledge or concrete instances'."

The Question is that that amendment be made.

The motion was negatived.

The HONOURABLE THE PRESIDENT : Before I put the Question that clause 20 stand part of the Bill, I should like an explanation of the blank in this clause.

The HONOURABLE MR. H. MONCRIEFF SMITH : The explanation, Sir, is the same that I gave just now. The first amendment proposed by the Bill was to introduce the words in sub-section (2) "nor shall any witness be recalled for cross-examination except with the permission of the Court."

The Joint Committee decided that that amendment should not be made. To avoid re-numbering the sub-clauses, it was decided to leave that sub-clause blank for the time being. The Bill, as you have explained, Sir, will be put into proper shape by formal amendments moved in the Legislative Assembly.

The HONOURABLE THE PRESIDENT : The Question is :

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : Sir, there is one proviso in this section to which I wish to add a further proviso :

"Provided also that orders passed under this and section 117, sub-section (3), shall be appealable."

The reason for this is as follows. What actually happens is that when persons are called upon to give security, they produce two persons. When they produce the two persons it happens sometimes that the Magistrate knows the two persons, and then, if they are respectable, he accepts them, and if they are not respectable, he says : "I know these people; they are not good enough" and then they go away. But in the other case what happens is that they actually send out the two persons to the Tahsildar or some other authority in the place where they live to find out who they are. Under the provisions as at present made, there is no provision as to what is to be done to the men in the meantime. Supposing 'A' is ordered to furnish security and to produce two people. These two people have to be sent by the Magistrate to a subordinate to make inquiries about them. In the meantime is this man to be let out or to be detained? So far as I can see, there is no provision about that matter in this section. Then again, these people may be respectable people, but as it often happens, there may be a conspiracy round about,—to give a dog a bad name is the surest way of killing it,—and people may say that the sureties are bad men, and the whole thing goes out. Local prejudice may work in that way against the person who has been called upon to furnish security. So, I propose that if you provide an appeal, at any rate in the higher Court and in a calmer atmosphere, there would be a chance of these things being looked into. Otherwise the man would be at the mercy of his neighbours. If he is locally an unpopular man—an unpopular man is not always a very bad man—he will be unable to get sureties and will be simply sent off, as has been done before. So, I propose that there should be a remedy for this man to approach the higher Court and explain the circumstances.

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, I must confess that I found a little difficulty in following the Honourable Member's amendment. But I take it that what he wants is an appeal against an order refusing to accept a surety, and if he will look at clause 107 of the Bill, he will find that it provides for one.

[Mr. H. Moncrieff Smith.]

The Amendment was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“ That clauses 21, 22, 23, 23-A., 24, 25, 25-A., 26, 27, 28, 29, 30, 31, 32, and 33 stand part of the Bill.”

The motion was adopted.

Clauses 21, 22, 23, 23-A., 24, 25, 25-A., 26, 27, 28, 29, 30, 31, 32 and 33 were added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I propose that in clause (a) of this clause between the words “ a

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Magistrate shall ” and the words “ before recording ” the following shall be inserted, namely : “ if satisfied that the deponent has been free from police influence for at least a day.”

The reason for this will be found in I.L.R. 6 All. p. 106, in Mr. Justice Straight's judgment ; it is a long judgment and in the course of it it is made out that a Magistrate recording a confession or statement should be satisfied that what the man is deposing to has not been put into his mouth, or that he has not been asked to state it in the hope of an acquittal or anything of that kind owing to the influence of the police. Of course the accused is in the custody of the police ; and the witnesses that are brought in under this section—I do not like to characterise them very harshly—are very much amenable to police influence ; and once the Magistrate records that statement it becomes a judicial record and is always produced against the person. So, I submit there should be an opportunity given to the person to be free from police influence as far as possible, and that is why I propose this amendment.

The HONOURABLE SIR MANECKJI DADABHOY : I oppose this amendment. The words which my Honourable friend wishes to incorporate in the section are of a very wide character and will cause a lot of complication in the administration of the law. Now, the words which he wants to be inserted are “ if satisfied that the deponent has been free from police influence..... ” Pray, what is the definition of “ police influence ” ? The accused must come up before the Magistrate for trial in the custody of the police ; and from the mere fact that he is in the custody of the police, can it be inferred that he is under police influence ? It would raise questions of great complexity, and it will be absolutely impossible for any Magistrate to define or find out the character of police influence in any particular case. On the contrary, I can speak from personal experience and knowledge that in all trials, when a confession is recorded before a Magistrate, he generally questions the accused whether he makes the statement freely and voluntarily and without any pressure, and on his assurance the Magistrate proceeds to record the statement. In view of the salutary changes already made in the existing law, I submit, the proposed incorporation of additional words of such indefinite character would be extremely dangerous and ought to be avoided. I therefore cannot support this amendment.

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, I think that not only as my Honourable friend, Sir Maneckji Dadabhoy, has pointed out, would it be very difficult for Magistrates to observe the proposed

rule, but it would be very difficult for a Magistrate to record a confession at all if these words are put into the Code. As the previous speakers have pointed out, the accused has to be brought before the Court by police agency, and in these circumstances it would be difficult for the Court to hold that the accused had been free from police influence for the past twenty-four hours. How are you going to arrange that he should be taken from police custody twenty-four hours before recording his confession ? Is the Magistrate to go into the jail precincts to record every confession ? It will create most serious complexities if you compel him to do so ; and I do not think the Code will work should it be amended in the manner suggested.

The Amendment was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“ That clause 34 stand part of the Bill.”

The motion was adopted.

Clause 34 was added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : Sir, in clause (1) of this section two lines from the end, I wish to introduce the words “ after recording an order to that effect and showing the same to the person concerned ” between the words “ the grounds of his belief ” and the words “ search of ”. Where the police obtain a search-warrant from a Magistrate it is all right. They have got a warrant and the Magistrate has satisfied himself that there is a necessity for the search and has also probably specified the articles which are to be searched for ; whereas if the police officer going there to search for a sword eventually finds a book, he can take the book and record that he searched for that book in his diary which is usually written at the end of the day.

If it is submitted in the morning, then he finishes it the last thing in the evening. If a police officer really wants something and finds a book, there is nothing to prevent him from taking possession of that book ; he may have gone with one object and he may accomplish another object. It also happens, as has happened before, that these officers who go to effect searches do not have sufficient information whether a particular person has got anything or not. They oftentimes effect a search on the mere expectation of being able to find something. They do not rely upon any particular evidence for that purpose. So my amendment proposes not to curtail their powers. I believe the same is the law in England too, that when a house is to be searched, the house owner is distinctly told that the search is made to find out a particular thing or a particular article and he should be in a position to know why that particular article is wanted. Here the police officer may have one article in mind and he may find another and he may start a new prosecution. That should not be the case, and the law should be that no police officer can effect a search without a search-warrant from the Courts. In India, it is considered necessary in outlying parts where the police are armed with the power of searching houses without warrants. I say that the house owner should have the protection of the written order of the police officer himself which should be given to the house owner before the search is effected. If a man comes to my house, I ask him why he has come. Then he gives me that order, so that I may know what article he wants to search. It should not happen that the police officer comes for one thing, as he

[Mr. G. S. Khaparde.]

happened before, and gets hold of another thing. In one case the police officers came to search a certain article and they found a book called "Swaraj" written in the second century. In those days anything that was said about Swaraj was seditious, and the police took away that book. When I asked them why they took it away, they said 'Oh, this is 'swaraj'. I said 'it was written in the second century, my friend', but they would not listen to me. When it was taken to the Court, I pointed out that it was written in the second century long before anybody had dreamt of section 124, and the Magistrate said 'yes, let it go', and the owner of the book got it after two months. What I want to point out is this. If the search is made by an ordinary Magistrate, there is a warrant. If the police officers carry out the search, they should give a written order stating that they are making the search for such and such a thing; otherwise, they may come with the object of finding out one thing, while they will find out something quite different. So I propose that in cases where these searches are carried out by the police themselves and on their own responsibility, they must give a written order to the owner of the house; if they cannot give the written order in original, they must at least give him a copy of it before searching his house.

The HONOURABLE MR. C. M. BAKER: Sir, my Honourable friend's chief point is that the Police officer should record a written order. To whom is the order to be addressed. Can he address an order to himself? Of course, the idea is that the owner of the house should know what is being searched for. Whether that is a good object or not is rather doubtful, because, if he finds it convenient to hide that article the order will make it easier for him. At any rate, if the object is to be attained, I do not think it can be done by the amendment as now worded.

The HONOURABLE SIR MANECKJI DADABHOY: My Honourable friend Mr. Khaparde as a lawyer of longstanding ought to know that in all cognizable offences where a search is made by a police officer, it is always made in the nature of a surprise visit, and if you go to the house owner and preface your surprise visit by giving him the reason for the visit and preparing him to do away with the property by serving on him an order, I think the object of the section will be defeated. We may rather have no search of any kind at all than give notice to the accused that a search in respect of a particular article is to be made. In other words, Mr. Khaparde's amendment is this, you must give notice to the suspect or to somebody else who may be loitering round about the house to do away with the property before the police officer actually enters the house. Sir, I oppose this amendment.

The HONOURABLE THE PRESIDENT: The question is:

"That in clause 35, sub-clause (1), the following be added after the words 'the grounds of his belief' and before the words 'search of' after recording an order to that effect and showing the same to the person concerned."

The motion was negatived.

The HONOURABLE THE PRESIDENT: The question is:

"That clause 35 stand part of the Bill."

The motion was adopted.

Clause 35 was added to the Bill.

The HONOURABLE THE PRESIDENT: The question is:

"That clauses 36 and 37 stand part of the Bill."

The motion was adopted.

Clauses 36 and 37 were added to the Bill.

The HONOURABLE MR. H. MONCRIEFF SMITH: Sir, my attention has been drawn to the fact that there is a mistake in this clause which might possibly be treated as a misprint. But I think it would be better to correct it by a formal amendment if I have the permission of the Council to move it. I therefore move:

"That in clause 38 for the word 'substituted,' the word 'inserted' be substituted."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is:

"That clause 38, as amended, stand part of the Bill."

The motion was adopted.

Clause 38, as amended, was added to the Bill.

The HONOURABLE THE PRESIDENT: Is the explanation of clause 39 the same?

The HONOURABLE MR. H. MONCRIEFF SMITH: Yes, Sir.

The HONOURABLE THE PRESIDENT: I think this will be a convenient opportunity to break off the discussion till to-morrow.

I understand there are messages from the Assembly which may be read.

MESSAGES FROM THE ASSEMBLY *RE* WORKMEN'S COMPENSATION AND INDIAN BOILERS BILLS.

The SECRETARY OF THE COUNCIL: "Sir I am directed to inform the Council of State that the following motion was carried in the Legislative Assembly at their meeting on the 13th September 1922 and to express the concurrence of the Council of State in the recommendations contained therein, namely:

"That this Assembly do recommend to the Council of State that the Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 22 members."

There is a further message, Sir.

The HONOURABLE THE PRESIDENT: It may be read.

The SECRETARY OF THE COUNCIL: "Sir, I am directed to inform the Council of State that the following motion was carried in the Legislative Assembly at their meeting on the 13th September 1922, and to request the concurrence of the Council of State in the recommendation contained therein, namely:

"That this Assembly do recommend to the Council of State that the Bill to consolidate and amend the law relating to steam boilers in India 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 Council adjourned till Eleven of the Clock on Thursday, the 14th September, 1922.

COUNCIL OF STATE.

Thursday, the 14th September, 1922.

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

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL : Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table the Bills which were passed by the Legislative Assembly at its meeting held on the 13th September, 1922. They are :

1. A Bill further to amend the Court-Fees Act, 1870.
2. A Bill further to amend the Parsi Marriage and Divorce Act, 1865.
3. A Bill further to amend the Official Trustees Act, 1913, and the Administrator General's Act, 1913.

MESSAGE OF CONDOLENCE TO HIS EXCELLENCY THE VICEROY.

The HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-official) : May I request you, Sir, before you commence the business of the day, to express to His Excellency the Viceroy our deep regret at the death of his aged mother. I feel sure that this House will agree with me in conveying to His Excellency our expression of condolence and sympathy in his bereavement, and I therefore move that the Honourable the President will kindly convey to His Excellency the Viceroy this message of expression of our condolence and sympathy with him in his bereavement.

The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU (Madras : Non-Muhammadan) : I cordially support the motion.

The HONOURABLE THE PRESIDENT : It is so obvious that this proposal expresses the unanimous wish of the House that I do not think I need put a formal question. It will be an urgent duty for me to carry out the unanimous wish of the House in this matter.

MESSAGE RE JOINT COMMITTEE ON INDIAN BOILERS AND WORKMEN'S COMPENSATION BILLS.

The HONOURABLE THE PRESIDENT : I understand from a telephonic message I received from the Leader of the House, which I heard very

[The Honourable the President.]

indistinctly, that, as he will be unable to attend at the commencement of the sitting, he desires me to take the two motions regarding the Joint Committee before we resume the consideration of the Bill before us. I think that course will meet with the approval of the House.

INDIAN BOILERS BILL.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, I move :

"That this Council do agree to the recommendation of the Legislative Assembly that the Bill to consolidate and amend the law relating to steam-boilers 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."

The House will not, I think, require from me more than a few words by way of explanation. There are at present seven different Provincial Acts dealing with the regulation of steam-boilers. Between these Acts there are many inconsistencies and in some of the provinces there is no legislation of this kind at all. The object of the present legislation is to consolidate and amend the law as it applies at present in the different provinces, to introduce uniformity in the law, and to apply the law in provinces where it does not apply at present. The Bill is in the hands of Honourable Members and the Statement of Objects and Reasons explains the scope of the Bill.

The motion was adopted.

CONSTITUTION OF JOINT COMMITTEE.

The HONOURABLE MR. H. A. F. LINDSAY : Sir, I move :

"That the following members of the Council of State be nominated to serve on the Joint Committee to consider and report on the Bill to consolidate and amend the law relating to steam-boilers, namely :

'The Honourable Mr. H. Monierieff Smith, the Honourable Mr. Lalubhai Samaldas, the Honourable Sir Arthur Froom, the Honourable Rai Bahadur Lala Ram Saran Das, the Honourable Sardar Jogendra Singh, the Honourable Sir Ahmedthamby Maricair and the Honourable Sir Leslie Miller'."

The motion was adopted.

WORKMEN'S COMPENSATION BILL.

The HONOURABLE MR. H. A. F. LINDSAY : Sir, I move :

"That this Council do agree to the recommendation of the Legislative Assembly that the Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of 22 members."

This Bill also is in the hands of Honourable Members and the Statement of Objects and Reasons to the Bill explains the scope of the Bill. I do not think that any detailed explanation will be required from me at this stage.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhammadan) : Sir, in regard to what has fallen from the Honourable Mr. Lindsay I would like to observe that while in connection with the previous motion he suggested a Joint Committee of only 14 I see that he has increased the number to 22 in the present case. I suppose this matter was not left entirely in the hands of Mr. Lindsay, but I should like to point out that the very object of having a committee is frustrated by having so unwieldy a number, as twenty-two members. If only a small number were chosen to represent different interests, I contend, Sir, that the work of the committee could be carried on as well and better.

The HONOURABLE THE PRESIDENT : Does the Honourable Member intend to move that a message be sent to the other House recommending that the number of the Joint Committee be reduced to such figure as he is prepared to specify ?

The HONOURABLE MR. PHIROZE SETHNA : I had that in mind but I thought that it would unduly prolong the appointment of this particular Committee, I thank you for the suggestion. It was in my mind to make such a suggestion in regard to the future, but if you think, Sir, that it is possible for me to make such a motion on the present occasion, I will certainly do so.

The HONOURABLE THE PRESIDENT : It is certainly competent to the Honourable Member to move such an amendment. Whether he considers it desirable to make such a motion now is a matter for his own consideration.

The HONOURABLE MR. PHIROZE SETHNA : Then I will formally move that a message be sent to the other House that, in the opinion of the Council of State, 14 would suffice as the number to constitute the Joint Committee on this question.

The HONOURABLE THE PRESIDENT : To the question under consideration amendment moved that this House do agree to the appointment of a Joint Committee, but suggest for the consideration of the Legislative Assembly that the number of the committee be reduced from 22 to 14. That is the amendment now under discussion.

The HONOURABLE MR. H. A. F. LINDSAY : I understand fully the objects with which the Honourable Member has moved his amendment, but at the same time I think I can explain why the number is so "excessive" in this particular case. Twenty-two is certainly a large number in comparison with the Resolution in regard to the steam-boilers legislation. That legislation is very much more simple than this now before the House. The principles underlying the Workmen's Compensation Act are very complicated and the members of the Joint Committee were chosen with great care on account of the experience that they bring to bear on all the different principles underlying this legislation. You will find that the interests of the employer as well as the employee have to be considered. Legal advice has to be taken. The experience of insurance experts is also necessary for a full consideration of the various clauses of this Bill. On these grounds I hope the House will reject this amendment.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : I believe the amendment moved by the Honourable Mr. Sethna is very opportune. The Committees when they are big are

[Mr. Lalubhai Samaldas.]

not able to devote as much attention as a small committee would be able to do. The very fact mentioned by Mr. Lindsay, namely, that the Bill is a complicated one, makes it necessary that we should examine it thoroughly and that can only be done by a few men sitting round a table. The larger the committee the greater the difficulties in the case of Bills of more complicated nature. I realise that it is just possible that the other House may not accept this suggestion. Still I think it is right that we should express our opinion that a smaller committee will be able to do the work much better than a large committee. As regards the various interests about which my Honourable friend spoke, they may be as well represented by two instead of four. If there are two employers' representatives they will be able to do the work as well as four or five. As regards the employee's representative, there is perhaps one only, that is the Honourable Mr. Kale. The Honourable Mr. Khaparde can in no sense be called the representative of the employees, unless he wants to take up that rôle. All the others are employers' representatives. Of course we have Major General Edwards.....

The HONOURABLE THE PRESIDENT : The Honourable Member ought not to comment on the personnel of the committee. The question before the House relates to the number of members who are to constitute the Joint Committee.

The HONOURABLE MR. LALUBHAI SAMALDAS : I think, Sir, that all the interests can be represented by a small committee.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, on the question of what ought to be the numerical strength of the Joint Committees generally I am in entire agreement with my Honourable friend, Mr. Sethna. I think Committees as a rule ought to be small, so that the members may be able to attend, and their work may be concentrated and completed within a short time. But I think this particular legislation does require a big Committee. I think Honourable Members must have read the Bill. It is proposed to apply this Act not to all industries but to certain established industries, and if there are no representatives from the various branches of trade on this Committee, it might be said hereafter that they were not represented, and that their special interests were not considered. The Workmen's Compensation Act is a special legislation of great importance ; a new principle is to be introduced into this country in the matter of giving compensation to workmen, and I think that all classes of industries—not only factories of particular kinds—do require the representation of members intimately associated with those industries, to advise and report as to what particular industries should be included and brought within the scope of the Act or not. I am, therefore, in favour of this big Committee. I have already expressed my opinion as regards the numerical strength of other Committees. I think that is sufficient, and my friend, Mr. Sethna, will not deem it advisable, in view of the explanation given by Mr. Lindsay, to press this amendment.

The HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-official) : Sir, I am perfectly indifferent to the number of the Com-

mittee. The truth has to be borne in mind that it is a good practice to put square men into square holes ; but not square men into round holes.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, I oppose the amendment which has been proposed, because I am afraid that the course which has been suggested to us will unduly delay matters. The question involved in the proposed legislation is of great importance, namely, the introduction of a new principle altogether into the industrial organization and conditions of this country, and I do not think that we should take any step which is calculated only to postpone the consideration of the whole matter. I am, however, in favour of the general principle that Committees,—Joint Committees,—should always be small, so that they should not become unwieldy. If I am, therefore, permitted by you, Sir, I would propose an amendment to the amendment of the Honourable Mr. Sethna that this House accedes to the proposal coming from the Legislative Assembly, but at the same time we would like to place it on record that Joint Committees that are appointed to consider Bills should not usually exceed the number 14 in the future.

The HONOURABLE THE PRESIDENT : To the amendment under consideration amendment moved :

“ That this Council do agree to the recommendation of the Legislative Assembly that the Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of 22 members, *but that this House do intimate to that Assembly an expression of its opinion that usually Joint Committees should not exceed 14 in number.* ”

That amendment is now under discussion.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab : Sikh) : I support Mr. Kale, Sir.

The HONOURABLE SIR MANECKJI DADABHOY : May I suggest, Sir, that the word ‘ ordinarily ’ be inserted ?

The HONOURABLE MR. V. G. KALE : I said “ usually ”.

The HONOURABLE MR. H. A. F. LINDSAY : Sir, I am afraid I must rise to question the propriety of the second amendment. Is it not the case that that suggestion would come better as an amendment of the Standing Orders ? I do not know if this House.....

The HONOURABLE THE PRESIDENT : If the Honourable Member asks my opinion, I may say that an amendment of the Standing Orders of this House would be quite infructuous to secure the object of the amendment.

The question is that Mr. Kale's amendment be adopted.

The motion was adopted.

The HONOURABLE THE PRESIDENT That disposes of Mr. Sethna's amendment.

The question is :

“ That this Council do agree to the recommendation of the Legislative Assembly that the Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes

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[The Honourable the President.]

of employers to their workmen of compensation for injury by accident, be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of 22 Members, but that this Council do convey to the Legislative Assembly an expression of its opinion that a Joint Committee should usually not consist of more than 14 Members."

The motion was adopted.

CONSTITUTION OF JOINT COMMITTEE.

The HONOURABLE MR. H. A. F. LINDSAY : Sir, I move :

"That the following Members of the Council of State be nominated to serve on the Joint Committee to consider and report on the Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, namely :

"The Honourable Major-General Sir William Edwards, the Honourable Sir Alexander Murray, the Honourable Mr. Kale, the Honourable Mr. Sethna, the Honourable Mr. Khaparde, the Honourable Sir Arthur Froom, the Honourable Sir Leslie Miller, the Honourable Saiyid Raza Ali, the Honourable Sir Maneckji Dadabhoy, the Honourable Sir Ahmedthamby Maricair, and the Honourable Diwan Tek Chand."

The motion was adopted.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL. (contd.)

The HONOURABLE THE PRESIDENT : We will now resume the further consideration of the Report of the Joint Committee on the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870. We disposed of clause 38 on the last occasion, clause 39 is blank.

The HONOURABLE THE PRESIDENT : The question is :

"That clause 40 stand part of the Bill."

The motion was adopted.

Clause 40 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

"That clauses 41 to 43 stand part of the Bill."

The motion was adopted.

Clauses 41 to 43 were added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

"That clauses 44 to 47 stand part of the Bill."

The motion was adopted.

Clauses 44 to 47 were added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

"That clauses 47-A, 48 and 49 stand part of the Bill."

The motion was adopted.

Clauses 47-A, 48 and 49 were added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

"That clauses 50, 51, 52 53, and 54 stand part of the Bill."

The motion was adopted.

Clauses 50—54 were added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-official) : Sir, I beg to propose that after clause 55 the following clause be inserted, namely :

"55-A. To section 205 of the said Code the following sub-sections shall be Amendment of section 204, Code of Criminal Procedure, 1898. added, namely :

(3) At any stage of an inquiry or trial under this Code, where two or more accused are before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may at any subsequent stage of the proceedings direct the personal attendance of such accused.

(4) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately."

The HONOURABLE THE PRESIDENT : Would the Honourable Member excuse me for asking him why he is amending section 205 of the Code, which is apparently not opened by this Bill ?

The HONOURABLE MR. G. S. KHAPARDE : This amendment, Sir, was originally put in to clause 147 and the section was 510A. But it has been thought that it goes more naturally under section 205 than under section 510A. That is the amendment which I have proposed, and in the drafting it has been made to refer to clause 55. I originally put it in as an amendment to clause 147 ; but now it has been put to clause 55 merely as a matter of arrangement, I think.

The HONOURABLE THE PRESIDENT : I will hear the Honourable Member on the point, whether the amendment is in fact an amendment which is opened by the Bill.

The HONOURABLE MR. G. S. KHAPARDE : That is rather a difficult position for me ; but I originally put it in for clause 147, and I think the change has been properly made. So far as my personal judgment goes, instead of putting it under section 510A, it is better to put it under section 205.

The HONOURABLE THE PRESIDENT : I think if the Honourable Member is not prepared to argue that point, I should like to hear the Honourable Mr. Moncrieff Smith.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : Perhaps, Sir, I can explain the position. What Mr. Khaparde asks us to do is to consolidate this new section of the Code which is introduced by clause 147 with section 205. Section 205 deals with the attendance of accused, and therefore he thinks that the new section should be included in the same Chapter after section 205. I do not think Mr. Khaparde's suggestion is a very sound one, because, if he looks at the heading of Chapter XVII, he will see that it deals with the commencement of proceedings before Magistrates. Under section 205 a Magistrate at the stage at which he ordinarily issue a summons or warrant for the attendance of accused, may direct that the accused need not attend in person. But the new section which we are inserting by clause 147 deals with the case of an

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accused person who has been before the Court from the beginning of the trial, but is prevented from attendance at some stage in the course of a trial. In any case I suggest that an amendment of this nature should not be made now. Undoubtedly we shall have to consolidate the Code. Once this Bill is placed on the Statute-book we can take up the question of consolidation. I would therefore suggest that Mr. Khaparde should withdraw his amendment.

The HONOURABLE MR. G. S. KHAPARDE : Under the circumstances I will withdraw my amendment.

The Amendment was, by leave of the Council, withdrawn.

The HONOURABLE THE PRESIDENT : The question is :

"That clause 55 stand part of the Bill."

The motion was adopted.

Clause 55 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

"That clauses 56, 57, 57-A, 58, 59, 60, 61, 62, 63, 64, 65 and 66 stand part of the Bill."

The motion was adopted.

Clauses 56—66 were added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I move :

"That in clause 67—

(a) in sub-clause (i), in the proposed new sub-section (1) after the words 'the Magistrate may' the words 'on his own motion, or on application by the person concerned,' be inserted ;

(b) in the same sub-clause, to the proposed new sub-section (2-A) the words 'Any compensation awarded under this section shall be recoverable as a fine' be added ; and

(c) to sub-clause (ii) the following words be added, namely :
and the words 'of the second or third class' shall be omitted."

The reason why I propose this amendment is this. The original section 250, as it stands to-day, runs thus :

"250. (1) If, in any case instituted by complaint as defined in this Code, or upon information given to a police officer or to a Magistrate, a person is accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits the accused and is satisfied that the accusation against him was frivolous or vexatious, the Magistrate may, in his discretion, by his order of discharge or acquittal, direct the person upon whose complaint or information the accusation was made to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit."

Here I wish to introduce, after the words "the Magistrate may" the words "on his own motion or on application by the person concerned". It often happens when a person is discharged, that the accused says he has been needlessly prosecuted. By the addition of the words I have suggested, you make it permissible for the person affected by the order to get an opportunity of arguing it out. Beyond that there is nothing further in it. That refers to clause (1).

In clause (2-A) there is a matter of some importance I think because originally compensation of which a Magistrate has ordered payment

under the sub-section would be recoverable as if it were a fine. These words have been omitted in the amended Bill that is before us. So the question will arise as to how this compensation is to be realised, and it may be that when it is a fine the Court has jurisdiction to say on the application of the person, "I give you four days' time to pay the fine, or I give you so much time and so on." Whereas if that word is taken away it cannot be recovered as a fine. The Magistrate may say under the new clause "It is compensation, it is not fine. I cannot give you time. Pay it at once or take the consequence of being sent to jail." That causes practical inconvenience. There is nothing much of principle except a mere matter of convenience. Formerly all these compensation orders were treated as so many fines and the procedure applicable to the recovery of fines was made applicable to the recovery of these compensations. Now, there appears to be a distinction made between compensation given and fine imposed because originally the clause was that it should be recoverable as if it were a fine. That clause has been deliberately taken out. So the Court would be right in saying, "Well, compensation is not the same thing as fine and I have no jurisdiction to give you time to pay compensation. Either you pay it now or you go to jail at once." So it is rather an important point in this way and I wish to bring it before this House to enable them to make up their minds. Personally I think the old practice was the correct one. Everything demanded by a Criminal Court by way of compensation or fine was to be treated as fine, and as fine the Court had jurisdiction to give time to the man to pay it. I humbly submit therefore that this distinction which I think has been unconsciously introduced should be taken away and the old practice of treating fines and compensations in one and the same way should be restored.

Then comes the last clause of this section, I mean clause (ii). "In sub-section (3), for the word and figure 'sub-section (1)' the word and figure 'sub-section (2)' shall be substituted. I propose also and the words 'of the second or third class' shall be omitted. Originally these compensations were looked upon as fine and as the second class Magistrate and the third class Magistrate....."

The HONOURABLE THE PRESIDENT : Is the Honourable Member moving all the amendments ? Would it not be better to dispose of sub-clause (i) first ?

The HONOURABLE MR. G. S. KHAPARDE : I would be very glad. I thought I had to move all the amendments at the same time. Then I take the first amendment, which is covered by clause (a).

The HONOURABLE THE PRESIDENT : You can move the other amendment afterwards.

Amendment moved :

"That in clause 67—

(a) in sub-clause (i), in the proposed new sub-section (1) after the words 'the Magistrate may' the words 'on his own motion, or on application by the person concerned,' be inserted ;

(b) in the same sub-clause, to the proposed new sub-section (2-A) the words 'Any compensation awarded under this section shall be recoverable as a fine' be added."

That Amendment is now under discussion.

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The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): This amendment is merely a drafting amendment. My submission is that the proposed words are superfluous and not necessary. They are covered by the words "by his order of discharge or acquittal." When a Magistrate has passed any such order he has acted either on his own motion or on the application or initiative of the party aggrieved. It matters therefore very little that these words should be expressly added. Action on the part of the Magistrate is implied on the initiative of the applicant. He only takes action on a motion made to him by the applicant or he acts on his own account.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): I support the amendment. Sometimes it happens that the accused approaches certain witnesses during the trial who then say they know nothing about the case. The man who brought the case does not know that his case is going to fail and perhaps has not brought any money with him. Then if he is asked to pay a fine, he has not got the money and he will be sent to prison. That is rather hard. I think it would have been better if the old practice had been continued and the compensation treated as a fine.

The HONOURABLE SIR BENODE CHANDRA MITTER (West Bengal: Non-Muhammadan): I do not think these two amendments are at all necessary. With regard to the first amendment, the section as recommended by the Joint Committee reads as follows:—"The Magistrate by his order of discharge or acquittal" call upon the person and so on. It is sought by the proposed amendment to add these words "of his own motion or on application by the person concerned." The section passed by the Joint Committee, I think, gives right to the person concerned to make the application. When it is said that the Court may do a particular thing it is always open to the litigant to set the Court in motion. If you make that amendment here one has to look carefully at the different other portions of this Code and to see whether by introducing these particular words we may not be prejudicing the rights of the accused person in other sections. We have not had time to go through each section carefully, but I see no necessity for this particular amendment. The section as drafted gives the person who is making an application the full right to do so.

With regard to the second portion of the amendment, I think Honourable Members who have supported the amendment have omitted to look at the additions which have been made to sub-clause (4). Sub-clause (4) says:

"and where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order;"

so that there is no risk of a person against whom an order is made being sent to prison at once.

The HONOURABLE MR. H. MONCRIEFF SMITH: Sir, I think the Council will generally agree with the previous speakers that the Honourable Mr. Khaparde's amendment is unnecessary. In practice Courts are nearly always moved by accused persons or by pleaders on

their behalf to take action under section 250 in every case of acquittal, and I think, as the Honourable Sir Benode Mitter has said, if we add these words in the sub-section, it will throw a doubt on the interpretation of other sections in which they do not occur. It is undoubtedly open to parties to move the Court now to award compensation and it is unnecessary to put these words into the Code.

As regards the second amendment, Sir, I fear once more that the Honourable Mr. Khaparde has overlooked the provisions of the Code. If you look at section 547 of the Code you will find these words:

"Any money (other than a fine) payable by virtue of any order made under this Code, shall be recoverable as if it were a fine."

It was that section which the Joint Committee had in view when they dealt with section 250 of the Code.

The HONOURABLE THE PRESIDENT: The question is that the following amendments be made:—

"That in clause 67—

(a) in sub-clause (i) in the proposed new sub-section (1) after the words 'the Magistrate may' the words 'on his own motion, or on application by the person concerned,' be inserted; and

(b) in the same sub-clause, to the proposed new sub-section (2-4.) the words 'Any compensation awarded under this section shall be recoverable as a fine' be added."

The Amendments were negatived.

The HONOURABLE MR. G. S. KHAPARDE: I move:

"That in clause 67—

To sub-clause (ii), the following words be added, namely:

'and the words 'of the second or third class' shall be omitted'."

Originally in the Code it is as follows:

"A complainant or informant who has been ordered under sub-section (1) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order in so far as the order relates to the payment of compensation as if that complainant or informant had been convicted on a trial."

Under the present section the first class Magistrate has power to inflict a fine of Rs. 50 and there is no appeal permitted from his order.

Under the old Code the first class Magistrate's powers also did not extend beyond Rs. 50 to award as compensation. A fine of Rs. 50 was made appealable only because he could not inflict a fine above Rs. 50 without allowing an appeal. But now the power has been raised to Rs. 100 and under the existing Code that fine of Rs. 100 would be appealable but the compensation of Rs. 100 would not be appealable, whereas in the case of third class Magistrates they cannot pass any unappealable order and therefore an appeal has been permitted. So, to be consistent with this, the Rs. 100 fine which exceeds the powers given by the Code for non-appealable sentences should not be allowed to be made non-appealable here in this way. The powers should be confined ordinarily to the powers that are given in the Code to third, second and first class Magistrates. The first class Magistrate can pass a sentence of Rs. 50 fine and there is no appeal, but if he inflicted a sentence of Rs. 100 there would be an appeal allowed by law. The anomaly comes in this way. The first class Magistrate may not fine more than Rs. 50 but could award Rs. 100 as compensation and there will be no appeal allowed. That introduces an anomaly and also something affecting the symmetry of the whole Code as it was

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originally and as, I believe, it is conceived to be now. The amended Bill permits an appeal on the compensation awarded by third class Magistrates but does not allow an appeal to be preferred against Rs. 100 compensation awarded by the first class Magistrate. By taking away the words 'of the second or third class' we make all compensations awarded by all Magistrates appealable and that restores the harmony of the Code as it was before and as it is intended to be as amended now. Otherwise there would be this anomaly left that the first class Magistrate can only fine Rs. 50 but can award compensation up to Rs. 100 without there being an appeal. I therefore propose this amendment.

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, I do not think that the anomaly to which Mr. Khaparde refers is quite so evident as he suggests. It is quite true that a Magistrate of the first class can impose a non-appealable sentence of fine up to Rs. 50. In the first place the amendment which the Honourable Mr. Khaparde proposes would give an appeal in all cases where compensation is awarded irrespective of the fact whether the amount exceeds Rs. 50 or not. He suggests no limitations in that respect. In the second place, though the amount of compensation awarded is, as was pointed out just now, recoverable as a fine, there is considerable difference between compensation and fine. In the case of the fine, the person has been definitely convicted of an offence and a stigma attaches to his name, and it is necessary in certain cases to give him the right to go to a higher Court and get that stigma removed. In the case of compensation I do not think the same consideration applies at all. The amendment proposed would, I think, have an unfortunate result and I suggest that it should not be made. I would remind the Honourable Member and the Council generally that there is always a right of revision in these cases ; there are sufficient safeguards provided for the particular cases which Mr. Khaparde has in mind.

The HONOURABLE THE PRESIDENT : The question is that the amendment proposed by Mr. Khaparde be made.

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

"That clause 67 stand part of the Bill."

The motion was adopted.

Clause 67 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

"That clauses 67-A. and 68 stand part of the Bill."

The motion was adopted.

Clauses 67-A. and 68 were added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : The amendment that I have proposed to clause 69 does not appear in the papers before me.

The HONOURABLE THE PRESIDENT : The Honourable Member has two amendments to clause 69 on the paper and I should like to know which he intends to move first.

The HONOURABLE MR. G. S. KHAPARDE : I move that :

"in clause 69 after the word 'at' the words 'or before' be inserted or....."

The HONOURABLE THE PRESIDENT : The Honourable Member must move only one amendment at a time.

The HONOURABLE MR. G. S. KHAPARDE : Then I move the first amendment :

"that in clause 69 after the word 'at' the words 'or before' be inserted."

The object of this amendment is like this. The alternative amendment brings it out more clearly. The first does not. For a long time charges were framed after the evidence for the prosecution has been recorded, but Magistrates have got the power to frame a charge at any stage. So they examine one witness and frame a charge. Now the accused has got two rights under the Code as it exists, namely, to cross-examine the witness for the prosecution before the framing of the charge and after the charge is framed. The accused can say "I wish to recall so many witnesses I want to re-cross examine them" and he gets two chances of cross-examining the witnesses for the prosecution but some Magistrates frame a charge after examining the complainant and then they say. "You cross-examine him now or not at all. We have framed a charge. You must avail yourself of this opportunity of cross-examining or you get no right of cross-examining in the case." That leads to a very great practical difficulty. In the mofussil Courts and occasionally I believe even in the High Courts it happens that lawyers get engaged at the last moment and there is not time enough to give them full instructions. So what they would do is this. They would say "Sir, I have been engaged just now. Therefore I shall not cross-examine the witnesses now but I shall cross-examine them as the case goes on."

But in the present state of things, and this is why the amendment

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is now introduced, a lawyer may be engaged at a late stage, or he may have no time to take instructions, then the Magistrate says, 'you are going to appear in the case, this man must be guilty because he has engaged a very eminent lawyer ; therefore he says, you cannot go on with the cross-examination, take your chance.' This has happened at one time, I will not mention names, but it has happened like this, and the Magistrates have it in their power to deprive the accused of both his rights of cross-examination before and after the charge. So I propose to introduce this one word 'in' there which will have that effect, or, in the alternative, the other thing which I wish to propose later on if this fails. It is like this. Take the words..... 'either or forthwith, or if the Magistrate thinks fit at the commencement of the next hearing of the case'. Well, those words, I humbly submit, are difficult to interpret. 'Either forthwith' means as soon as he frames the charge or as soon as the witness is examined, whichever one can take it or at the commencement of the next hearing,—the hearing may take place before a little vacation for drinking water or sweets and he might say, the next hearing is at 3 P.M. and you come and be prepared for the cross-examination. If it is a heavy case, it is not easy to be ready with the cross-examination. So I have put it 'at or before the commencement of the next,' that is to say you get at least a few hours or at least a whole day before you are compelled to have the cross-examination ; and because I thought that this small amendment might be opposed and it is rather difficult to understand,

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it is a little technical in language, which one knows after actual practice at the bar. Therefore, I put in that alternative also. Isn't it ?

The HONOURABLE THE PRESIDENT : I think if the Honourable Member thinks his amendments are the same, he had better speak about the more valuable amendment which will effect the same object ; let him select the one amendment he thinks best and move that.

The HONOURABLE MR. G. S. KHAPARDE : I thought the object would be accomplished by introducing the words ' or before ' after the word ' at,' or if that object can be better brought out by the alternative amendment which I have put in, and which is that the words " if the Magistrate thinks fit " be omitted. I would omit those words ; so it will depend upon how the Honourable Members wish to do it, either by curtailing the discretion of the Magistrate or by putting in another word. I personally, if I was asked, should be in favour of not giving Magistrates this discretion of taking away the right of cross-examination conferred by the Code on the accused ; personally, I prefer the alternative, but I have put in the other easier one as not involving any great curtailment of discretion ; and I commend my amendment because this will be a very important thing and will affect nearly all the trials that take place in the Mufassil.

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, I am afraid there is some confusion as to these amendments. I have tried to follow the Honourable Member's arguments. He attempted to make the point that the accused is going to be deprived of the right of cross-examination. He says that some Magistrates frame charges after hearing the complainant and thereupon ask the accused to state forthwith whether he wishes to cross-examine any witnesses. That is not the case under the present law, because the actual section lays down that the accused shall be required to state whether he wishes to cross-examine any, and, if so, which of the witnesses for the prosecution whose evidence has been taken. No question can be put to the accused in regard to witnesses who have not yet been examined. I do not think there is really any point, Sir, in putting in the words ' or before ' after the word ' at ' because the only occasion when the accused will be able to express his wishes in the matter will be when he next appears before the Court, and that will be the next hearing of the case. So the words ' or before ' will not help matters.

This clause of the Bill came in for a considerable amount of criticism. On the one hand, we had the suggestion that the accused should have an unlimited right of cross-examination—and I think Honourable Members are aware of the dangers of this, how cases are prolonged. Witnesses are brought back probably not because the accused desires further to cross-examine them, but simply and solely because he wishes to annoy the witnesses, and to put off the disposal of his case. On the other hand, the judicial authorities—I think Honourable Members will find, if they look at the papers on the Bill that this is so,—and the executive authorities generally wanted to go very much further than the Bill does ; they wanted to lay it down that the accused should express his wish forthwith

and should have no further opportunity. There is no doubt whatever as to what ' forthwith ' means ; it means after the accused has been asked to plead and he has pleaded or refused to plead. These same authorities also thought that if a further opportunity were given to the accused, the exercise of the right should be subject to the discretion of the Court.

I would suggest that the Bill now before the Council goes quite as far as the accused has a right to expect.

The HONOURABLE THE PRESIDENT : I will put the first amendment. The question is :

" That in clause 69 after the word ' at ' the words ' or before ' be inserted "

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

" that clause 69 stand part of the Bill."

The motion was adopted.

Clause 69 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

" that clauses 70 and 71 stand part of the Bill."

The motion was adopted.

Clauses 70 and 71 were added to the Bill.

The HONOURABLE THE PRESIDENT : Clause 72 stands over for the same reason as clause 9.

The HONOURABLE MR. H. MONCRIEFF SMITH : Exactly the same reason, Sir.

The HONOURABLE THE PRESIDENT : The question is :

" that clauses 73 to 77 stand part of the Bill."

The motion was adopted.

Clauses 73 to 77 were added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

" that clauses 78 to 81 stand part of the Bill."

The motion was adopted.

Clauses 78 to 81 were added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

" that clauses 82 to 87 stand part of the Bill."

The motion was adopted.

Clauses 82 to 87 were added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

" that clauses 88, 89, 90, 91, 92, 92-A, 93, 94, 95, 96, and 97, stand part of the Bill."

The motion was adopted.

Clauses 88—97 were added to the Bill.

The HONOURABLE THE PRESIDENT : Clause 98 is blank.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : The question is :

“ that clauses 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, and 112, stand part of the Bill.”

The motion was adopted.

Clauses 99-112 were added to the Bill.

The HONOURABLE THE PRESIDENT : Clause 113 is blank.

The HONOURABLE MR. G. S. KHAPARDE : Sir, my amendment relates to sub-clause (3) of clause 114. I move, Sir :

“ that in clause 114 the words and figures ‘ or section 144 or proceedings under Chapter XII ’ be omitted.”

This raises a very important question which is much discussed in High Courts and is, I believe, of great public importance. It happens, Sir, when parties are fighting about one and the same piece of land, both claiming possession while one actually is in possession, there is often a chance of disturbance or rioting. The Magistrate in his proceedings, which are generally summary proceedings, comes to the conclusion that so and so is in possession and will continue in possession, while the other party, if he wishes to do anything must bring a civil suit. From the executive point of view the matter ends. What often is the result however, is that these orders under sections 144 and 145, being of a summary nature, are defective, and often the wrong party is maintained in possession. Then, as there is no appeal from such an order, the matter is taken in revision to the High Court, and when it has reached there the High Courts of Calcutta and Madras have said that they had the power to look into the matter and see whether the procedure has been properly carried out and, in other words to see whether the Magistrate had jurisdiction to do what he did. The Allahabad High Court, on the other hand, said that under no circumstances could that procedure be looked into by the High Court. I have noted the rulings which show these different points of view. For instance, in 19 Calcutta, in 16 Calcutta and in 25 Calcutta, the Judges held that they had the power of review ; in 38 Indian Law Reports, Madras and 489 Madras, the same view was taken. But in 15, 16, 17 and 31 Allahabad, the High Court there held that they had not the power to look into these proceedings. It was further affirmed in Calcutta and Madras that the High Court had the power under their Letters Patent, not under the Code ; the Allahabad High Court reads the Letters Patent differently and says it has not the power. Incidentally, Judicial Commissioners and Chief Courts, which exercise all the powers of the High Courts, have not this power of looking into the proceedings under the Code. So, as matters stand at present, in Madras and in Calcutta these matters can be taken to the High Courts ; in the Punjab when it had a Chief Court only they could not be ; in my own Province, as we have a Judicial Commissioner, we have no power ; while in Allahabad I suppose it is open to the people concerned to argue out the question over and over again.

In the case of small properties this is perhaps not of very great importance ; but in the case of large properties, involving heavy litigation, a wrong order under those summary proceedings may put a poor

man to very great expense, and this is a matter of great practical and administrative importance. I am aware that executive officers say that though this order is passed by a Magistrate, it is still an executive order and not a judicial order ; they lay stress on that. To that my reply is that it is an order passed by an executive officer who has magisterial powers, and therefore it is what I may call a mixed order, magisterial as well as executive. If it was purely executive, then it might be passed by a revenue officer having no magisterial powers at all : but such a thing could not be done. Therefore I contend that it is a quasi judicial order properly speaking, because, unless the officer passing it is a Magistrate, he cannot pass such an order at all ; and, since that is so, it should be open to revision by the High Court. On this point, however, as I have shown, there is a conflict between the different High Courts, and this conflict of law has to be settled one way or the other. It has been said that the intention of legislation is to put the practice of the law beyond dispute, and it should be possible to do so here. I submit therefore that this amendment of mine should be taken into careful consideration.

The HONOURABLE SIR MANECKJI DADABHOY : Sir, I am afraid I must oppose this amendment. Under section 435 of the existing Code of Criminal Procedure, powers of revision are given to the High Courts and the Sessions Courts in certain circumstances to call for the proceedings of the lower Courts, and to revise any such order, decree or sentence as the High Court or the Sessions Court deem proper. These powers of revision are confined to certain cases, and by clause (3) of section 435 of the existing Act it is expressly provided that for the purpose of interpretation the word “ proceedings ” shall not include proceedings under Chapter XII, or any act or order passed under section 176 of the Code. Now Chapter XII refers only to disputes as to immoveable property. Magistrates are empowered to make inquiries into questions of possession, not into questions of title, and to pass an order that the party already in possession should retain possession.

These orders are only of an emergent, summary nature for the purpose of preventing a breach of the peace and violence and injury to persons, and the party against whom an order under section 144 is made is entitled to prove his title to the land by a civil suit. Now, what happens is that Courts are simply inundated with applications for being placed in possession. Every Court, every District Officer will tell you that applications of this sort are made in many cases vexatiously and without any cause and for the purpose of obtaining wrongful and speedy possession and avoiding the expensive machinery of a Civil Court. Immediately an adverse order is made the party resorts to the High Court, and the High Court is simply inundated with applications for the revision of such orders. These orders being absolutely of a summary character, and that the High Courts may not be troubled with applications, a clause in the existing Act was inserted to the effect that orders made under sections 143 and 144 and proceedings under Chapter XII and section 176—and section 176 refers to inquiries into the causes of death—should not be regarded as proceedings in which the High Court should exercise its powers of revision. I think it is an absolutely sound law. I have often practised in the District Courts and had much to do with cases of this nature, and I

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can assure the Council that in nine cases out of ten applications under section 144 were made frivolously and vexatiously to obtain wrongful possession. Several petty cases constantly come up before the lower Courts, and it would be no use troubling the High Courts with exercising its revisional powers in such cases. The new clause in the Bill is a replica of the clause in the existing Act, and I do not think that any case has been made out for interference in this matter. We have considered very carefully in this connection the recommendations of the various Local Governments and also the opinions given by legal associations, and we are definitely of opinion that we should preserve the existing clause of the Act. I therefore think that this Council will act wisely in adhering to the present procedure and not making any departure from the existing law and throwing a large quantity of unnecessary work on the High Courts and Sessions Judges by accepting the amendment proposed by my Honourable friend.

The HONOURABLE MR. E. L. L. HAMMOND (Bihar : Nominated Official) : Sir, I should like to associate myself with what has fallen from the Honourable Sir Maneckji Dadabhoy. As I said yesterday, in many cases a concrete instance is the best justification of what is wanted. I do not know if Honourable Members recollect a case which occupied a good deal of space in the Press known as "the Grant case." It was one of these disputes, in which land which had gone below the Ganges came up again and was fit for cultivation. Both the zemindar and his ryots claimed the land. The ryots were of two parties, one of whom was prepared to pay a higher rent to get the land and the others wanted to get it at the existing rent. There was the usual proceeding under section 145 of the Criminal Procedure Code, Chapter XII, which Honourable Members will remember refers to cases where "immediate prevention or speedy remedy"—I would lay stress on these words "speedy remedy"—is necessary. There was the inevitable reference to the High Court. I think I am right in saying that the reference was made in August 1920, —I think I am right in saying that—and in February 1921 that reference had not been disposed of, and in the meanwhile 20 Gurkhas had come by their death owing to this serious land dispute. The effect of the reference was that the proceedings of the Magistrate were held in abeyance, the question of possession was still left undecided, and as is only too often the case it was settled by actual force and violence. In other words, the immediate prevention could not be attained, nor the speedy remedy. What is wanted in these diara lands when disputes occur is that there should be peace, a summary settlement, and no more trouble. But when such a case gets up to the High Court, rightly or wrongly, it is regarded that it is still open to the parties to try and effect possession with violence and that is what is done. So far as I can see, this amendment which the Honourable Mr. Khaparde proposes would encourage resort to the use of the lathi rather than the law Courts.

The HONOURABLE SIR WILLIAM VINCENT (Home Member) : Sir, I should like in the first place to point out that Government have not proposed any change in the existing law on this subject, and the Joint Committee thought on the evidence of men who have experience of this

question for many years that it was inadvisable to make any change in the law. I submit also to this Council that if Mr. Khaparde proposes to suggest any amendment which materially changes the law, he ought to give very good reasons for such a course before this Council will accept it. And now I want to deal, if I may, with the two parts of the amendment separately. The first part deals with section 144. The suggestion is that orders under section 144 which are made, as the last speaker said, only when they are urgently necessary, for the prevention generally of a breach of the peace, should be subject to revision by the High Court. Sir, in order that the High Court may exercise its jurisdiction properly and reasonably it is, in the first place, essential that there should be a record of evidence on which they can act. If you ask the High Court to proceed on reports of police officers, on oral information, often hearsay, or reports in newspapers or any other information you are asking them to perform a function which is really not one for the Court at all but one for the executive, and it is quite impossible for them to accept this duty. I believe further that it would be unfair to ask the High Court to exercise their judgment on such material. I want to put the sort of case that does arise. Take a case such as has recently occurred in Multan, a dispute between the Muhammadans and Hindus as to tazias in a Mohurrum procession. The Magistrate makes an order,—I am not referring to Multan or saying such an order was issued there—but in a case of that kind a Magistrate has often to issue orders on his own knowledge of the actual temper of the town, of the feeling there, often on reports that he has received from the police,—all hearsay evidence and often on reports in the papers. Take another case. I do not know if Honourable Members remember a time when disputes were prevalent between Arya Samaj and others in the Punjab. In circumstances like that it is essential to pass an emergent order. But if the Magistrate's order is subject to revision by the High Court, he must have everything cut and dried, and carefully recorded, if he is to have a chance of success. Moreover it is quite impossible for him in many cases really to produce evidence of a legal character of the reasons for his order. There are many cases in which judgment is formed on his own knowledge and impressions, and to make such orders revisable by the High Court would, in my judgment, be a very great error and it would greatly increase the danger of a breach of the peace, because anything that prevents a Magistrate from making an order which is really necessary in the public interest is fatal. It is true that the propriety of the orders cannot be questioned in some cases. Where however an order is made without jurisdiction I think,—I speak subject to correction from much more eminent lawyers here,—but I believe every High Court has decided that there is a right of revision. I was just looking at some of the cases and here is one :

"But the proceeding must be in intention, in form and in fact a proceeding under Chapter XII by a Magistrate duly empowered; the mere mention of an order as having been made under this section will not of itself make it an order under this section and the High Court will interfere if the order purporting to be one under this section discloses an exercise of powers not conferred by it."

Here is another case in which the Judges say that the High Court would not hesitate to interfere in the exercise of their revisional power where an order is beyond jurisdiction. It is true that the case I cite refers

[Sir William Vincent.]

to Chapter XII. But exactly the same principle, I submit, applies to orders under section 144. Now I want to turn for a short while to deal with this question of section 145. That is really proceedings under Chapter XII. This section 145 is used where there is a dispute likely to cause a breach of the peace as to possession of land between two persons. Here again if the order is beyond jurisdiction any person aggrieved has a right to go to the High Court and get the order set aside. In such cases the difficulty to which I have referred about evidence does not arise in this case. Evidence is recorded, but it is essential that the interests of public tranquillity and safety should be kept in view by giving decisions in such cases finality. If they are left open to revision by the High Court, the inevitable result would be riot, disorder and serious loss of life while the proceedings were pending. These properties are not small in value in many cases. For instance submerged lands come up to the surface in the case of the rivers of Bengal. The possession of those lands is a matter of great importance. Both sides, claiming possession of the land, come up armed with lathies, guns, spears and try to take forcible possession and it is essential that there should be a speedy and immediate decision as to who is actually in possession. If the question is not settled speedily the result would be bloodshed and riot. I would further point out that no man is precluded by any of these orders from exercising his civil rights and bringing a suit. In some cases he can even bring a suit under section 9 of the Specific Relief Act. In certain cases, I think, he can, but in certain cases he cannot. In any case he can always go to the Civil Court in a regular suit and prove hostile when full justice would be done. I submit that in these circumstances this Council would be wise to leave the law which has worked satisfactorily as it is and as it has been for many years.

The HONOURABLE SIR BENODE MITTER (West Bengal : Non-Muhammadan) : I beg to say that the reasons which the Honourable the Home Member has given are of a cogent character. I shall take the two sections separately. Now under section 144 the existence of emergency is a condition precedent to the passing of an order under that section, and if there is no emergency, then the High Court has already got jurisdiction to interfere with an order under that section. Secondly, the ordinary rule is, at least in the Calcutta High Court, that opportunity is given, except in very exceptional cases where if the Magistrate gives an opportunity to show cause why the order should not be made before the final order is made. Thirdly, it may be pointed out that we have made a slight alteration in the Code itself. In dealing with section 144 we have added this sub-clause (5) : "Where such an application is received the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order, and if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing." Therefore opportunity will now be given to the person against whom the order is sought to be made. As a matter of fact we have given effect to some decisions upon this point. Now bearing these facts in mind is it possible really to go further and convert what in substance and in effect is an executive order into a judicial order ? Now the Honourable the Home Member gave an instance in connection with the recent Multan disturbances. Take an ordinary case which

happens almost every day with regard to religious processions. Now if the Magistrate gets information that if a particular procession goes through a particular street there will be bloodshed and riot, what is he going to do ? Is he going to pass his order after taking the statements of witnesses and so on ? He will obviously take some time to do so and in the meantime there will be bloodshed. The fact of the matter is Honourable Members must make up their mind with regard to section 144. If they think that the proceedings under section 144 should be judicial proceedings, then so far as I can see its usefulness in many cases entirely disappears and it will be worthy of consideration whether it is necessary to keep that provision at all. There are a certain number of safeguards already. That is the order must be necessitated by the existence of extreme emergency. That is the very basis of it. If this is wanting the order is without jurisdiction. Whether a particular order is interfered with under the Letters Patent or under section 435 makes very little difference. Even under the Charter, as I understand it, it is a question really of jurisdiction. It has been made clear by the changes proposed to be introduced that opportunity should be given to the person concerned or his pleader to be heard, and if his application is rejected, the reason for so doing is to be recorded. There has been no demand on the High Court, the local bodies and public associations for the amendment proposed although the law has been in this condition hitherto. It will be a mistake to accept the amendment, for it will materially reduce the usefulness of this section. Coming to section 145 no doubt in many instances parties consider that their case has not been properly tried by the Magistrate, but, after all the fact that he cannot go to the High Court is not a serious grievance for the questions involved in section 145 are of a quasi-civil character and he can go to a Civil Court where the question is considered more fully. Section 145 I always regard as being in the nature of a preliminary canter. People gather *lathials* very often. They fight over the possession of land. When one side or the other loses he files a civil suit. Under section 145 in many instances the question is of the utmost urgency. The Magistrate receives credible information that there is going to be a riot over the possession of a plot of land and he has to take action at once, and inasmuch as the right is given to litigate the matter by a civil suit, it is difficult to see what particular object is achieved by allowing the High Court to go into the matter except upon a question of jurisdiction, for the High Court ordinary declines in revision to go into a question of fact. There is only one point that I omitted to mention in connection with section 144 and that is, that after all the order remains in force at most for two months.

The HONOURABLE NAWAB SIR BAHARAM KHAN (Punjab : Nominated Non-official)* : I agree with the Home Member in detail regarding section 145. Whenever there is a landed property contested both the contending parties want to show that either they are in possession or go further to take possession of the disputed property. This invariably leads to bloodshed. Such circumstances in the outlying districts which are bounded on the Frontier generally take more serious aspect, owing to their martial spirit and the ignorance of law. If in these circumstances prompt action is taken by the authorities such a calamity could be averted. Though the authority in a hurry to avert bloodshed may make

* Translation of a speech delivered in the vernacular.

[Nawab Sir Bahram Khan.]

a mistake this could be easily remedied by the Civil Courts, but the above decision will be of great use to the public interests. It is for this that I strongly support that the section should be retained as embodied in the present Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ That the following amendment be made :

‘ That in clause 114 the words and figures ‘ or section 114 or proceedings under Chapter XII ’ be omitted ’.”

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“ that clause 114 stand part of the Bill.”

The motion was adopted.

Clause 114 was added to the Bill.

The HONOURABLE THE PRESIDENT : Clause 115 is blank.

The HONOURABLE THE PRESIDENT : The question is :

“ that clauses 116, 117, 117-A. stand part of the Bill.”

The motion was adopted.

Clauses 116, 117, 117-A. were added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ that clauses 118 to 126 stand part of the Bill.”

The motion was adopted.

Clauses 118 to 126 were added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I beg to move :

“ That for clause 126-A., the following clause be substituted, namely :

‘ 126-A. For section 477 of the Code, the following section shall be substituted, namely :

‘ 477 (1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

(2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code, or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(3) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge ’.”

This, Sir, is not an amendment of substance ; it really I think will come better under the relevant section, and it need not stand by itself as a different thing. That is all I have to say.

The HONOURABLE THE PRESIDENT : Amendment moved :

“ That for clause 126-A., the following clause be substituted, namely :

‘ 126-A. For section 477 of the said Code, the following section shall be substituted, namely :

Substitution of new section for section 477 of the Code of Criminal Procedure, 1898.

‘ 477. (1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

(2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code, or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(3) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge ’.”

The question is that the amendment be made.

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, as the Honourable Mover has said, there is really no substance in the amendment (Laughter) ;—Mr. Khaparde is trying to do some consolidation here. The Bill puts this provision into the Miscellaneous Chapter of the Code simply because that seems to be the best place for it. Mr. Khaparde would put it in the Chapter which deals with proceedings in cases of certain offences affecting the administration of justice, which certainly, to my mind, is a most inappropriate setting for it. In any case I would suggest that it should be left over until the Code is consolidated.

The HONOURABLE THE PRESIDENT : The question is :

“ That the amendment be made.”

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“ that clause 126-A. stand part of the Bill.”

The motion was adopted.

Clause 126-A. was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ that clauses 126-B., 127 and 127-A. stand part of the Bill.”

The motion was adopted.

Clauses 126-B., 127 and 127-A. were added to the Bill.

The HONOURABLE THE PRESIDENT : Clause 128 is blank.

The HONOURABLE THE PRESIDENT : The question is :

“ that clauses 129 to 139 stand part of the Bill.”

The motion was adopted.

Clauses 129 to 139 were added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ that clauses 140 to 146 stand part of the Bill.”

The motion was adopted.

Clauses 140 to 146 were added to the Bill.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : Clause 147. Mr. Khaparde.

The HONOURABLE MR. G. S. KHAPARDE* : This amendment was disposed of by the earlier amendment.

The HONOURABLE THE PRESIDENT : The question is :

“ that clause 147 stand part of the Bill.”

The motion was adopted.

Clause 147 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ that clauses 148 to 150 stand part of the Bill.”

The motion was adopted.

Clauses 148 to 150 were added to the Bill.

The HONOURABLE THE PRESIDENT : Clause 151. Mr. Khaparde.

The HONOURABLE MR. G. S. KHAPARDE : That amendment also has been disposed of under an earlier section.

The HONOURABLE THE PRESIDENT : The question is :

“ that clause 151 stand part of the Bill.”

The motion was adopted.

Clause 151 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ that clauses 152 to 154 stand part of the Bill.”

The motion was adopted.

Clauses 152 to 154 were added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I beg to move :

“ that clause 155 be so amended as to provide in Schedule II that all offences not punishable with death, transportation for life, or imprisonment for more than seven years are bailable.”

I examined this Schedule with considerable care, and I found all through that in the large majority of cases—cases which are not punishable with transportation for life or imprisonment for more than seven years—are bailable. But exceptions have been made in the case of offences referring to property in some places ; in other places it is very difficult to discover wherein the differentiation lay or why it was made except that it is generally in accordance with what has been done before. But, I think, since this Schedule is being revised, the opportunity may be taken to specify that offences punishable in a particular way will be non-bailable and others bailable. That would simplify matters very much. As it is the differentiation seems to be very arbitrary between bailable and non-bailable cases.

* That clause 147 be omitted.

† That for clause 151, the following clause be substituted, namely :

“ 151. Section 559 of the side Code shall be omitted.”

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, I do not know whether Mr. Khaparde has carefully studied and worked out the effect of his amendment. It will affect something like 55 sections of the Code. It will make, in other words, 55 separate offences bailable which are not bailable under the present law. I think the Honourable Mr. Khaparde has ignored the very important amendment that the Joint Committee introduced into the Bill in clause 132, when they were dealing with section 497, which enables bail to be given in certain non-bailable cases. Section 497 as it stands at present lays down that a person charged with a non-bailable offence may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused. Now, what the Joint Committee has done is to lay down that a person accused of a non-bailable offence may be released on bail ; and the only restriction on that is that he shall not be released if it appears that he has been guilty of an offence punishable with death or transportation for life. That is a very great advance in favour of the accused person ; an advance which, I think, I may say, certain executive officers regard with great misgiving. But I think it will go a very long way to meet the point put forward by my Honourable friend, Mr. Khaparde. Some of the offences which his amendment would now make necessarily bailable in every case, are sections dealing with very serious offences : section 115—abetment of an offence punishable with death : 126—depredations on the territory of a foreign power in alliance with His Majesty : 369—kidnapping of a child for the purpose of taking property from the person of the child : 379, 380, 381—thefts : 401 and 402—assembling for the purpose of committing a dacoity : 408—criminal breach of trust : 411—dishonestly receiving stolen property : all the coining sections and most of the burglary sections : particularly section 457—house-breaking by night. All these will become necessarily bailable ; a Magistrate will not be able to keep any person accused of these offences in custody, and I think Mr. Khaparde's suggestion, if adopted, would create a very dangerous situation.

The HONOURABLE THE PRESIDENT : The question is :

“ That the amendment be made.”

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“ That clause 155 stand part of the Bill.”

The motion was adopted.

Clause 155 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ That clauses 156, 157, 158 and 159 stand part of the Bill.”

The motion was adopted.

Clauses 156—159 were added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Preamble stand part of the Bill.”

The motion was adopted.

The Preamble was added to the Bill.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : That concludes the detailed consideration of the Bill before us.

The HONOURABLE MR. H. MONCRIEFF SMITH : Sir, I beg to move :

“ That the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, as amended by the Joint Committee be passed.”

Sir, the discussions that have taken place in the Council in the last two days have made this motion more or less a formality. Though I sympathise with my Honourable friend, Mr. Khaparde, in the ill-success of his attempts to improve the Bill, yet as a member of the Joint Committee I do find a certain amount of satisfaction—and I have no doubt that that feeling is shared by my colleagues on the Committee—in the fact that this Council at all events has found itself able to accept the Bill which the Joint Committee proposed. I hope the Bill will have as good a fate in another place.

I beg to move that the Bill be passed.

The HONOURABLE SIR WILLIAM VINCENT : Sir, I rise to express my great gratitude to the Members of this Council for the assistance given in the Joint Committee on this Bill. I do not think that every one realizes what a tax it is upon the time of Honourable Members to give us this assistance on a heavy Bill. Members had to come up to Simla during the busy time of year and to sit for many consecutive days working out the details of this Bill. I desire therefore on behalf of Government to express my gratitude to those Members of this House who afforded us real assistance by sitting on the Committee on this measure.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I desire to say a few words before we pass this Bill. Although I proposed a number of amendments, that does not mean that I wish to cast any reflection on the Members of the Joint Committee. I recognize that they were human beings ; I also recognize that there were a number of lawyers on the Committee. But realizing the imperfections of human nature, I believe that many things did escape their notice. Law points are often obscure and especially when they relate to matters of this kind. It was not likely, after having made up their minds on these points, that they would change them because I asked them to do so. But my hope is that when this Bill comes up again, the public will have become so educated that they will accept the amendments which I have put forward. But notwithstanding all this, I do appreciate the labours of the Joint Committee in regard to this Bill. I am prepared to admit that they have made a very great advance and that they have improved the old Criminal Procedure Code in very many respects, though they have not reached the point I should have liked them to do.

With these words I have no objection to this Bill being passed.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, as amended be passed.”

The motion was adopted.

The HONOURABLE THE PRESIDENT : Does the Honourable the Leader of the House wish to make any announcement as to the official business which is to come before this Council in the immediate future ?

GOVERNMENT BUSINESS.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : Sir, the List of Business has already gone out for the 15th. On Monday, the 18th, if the non-official business is concluded in time, four Government Resolutions will be discussed. The subject matter of these is as follows :

- (1) Limitation of hours of work in Inland Navigation.
- (2) Recommendations of the General Conference of the International Labour Organization of the League of Nations in regard to fixing minimum age of young persons for employment as trimmers and stokers, and medical examination of such persons employed at sea.
- (3) Recruitment for the Indian Forest Service.
- (4) Application of weekly rest-days in commercial establishments as recommended by the International Labour Organization of the League of Nations.

The Council then adjourned till Eleven of the Clock, on Friday, the 15th September 1922.

COUNCIL OF STATE.

Friday, the 15th September, 1922.

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

QUESTIONS AND ANSWERS.

COST OF SURPLUS STORES.

105. The HONOURABLE MAHARAJA BAHADUR KESHA VA PRASAD SINGH : What are the proceeds from the sale of surplus stores, the property of the Government of India, up to the 31st March 1922 ? To which head of the budget are they credited ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : In order to obtain the information required by the Honourable Member, it would be necessary for each Controller of Military Accounts to undertake a special compilation involving an expenditure of time and labour which would not, in the opinion of the Government of India, be justified by the results. They regret, therefore, that they cannot furnish the figures asked for.

With reference to the second part of the question, I can only say that practically the whole of the proceeds of these sales have been credited to the Army Estimates.

GOVERNMENT SERVANTS AND MEMBERS OF LEGISLATURE.

106. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Is it a fact that Government have issued some instructions to its employees in the different departments prohibiting them to supply any information, even though it may not be of confidential nature, to the members of the Indian Legislature ?

(b) If so, will the Government kindly state which departments have issued such instructions ?

(c) Will a copy of such instructions be laid on the table of this Council ?

The HONOURABLE MR. S. P. O'DONNELL : The attention of the Honourable Member is invited to the orders a copy of which I laid on the table on the 6th instant in reply to Question No. 60 by the Honourable Maharaja Sir Manindra Chandra Nandy.

RAILWAY REVENUE FROM PASSENGER FARES.

107. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state :—

(a) what is the Railway revenue from passenger fares from 1st April to 31st July 1922, and how does it compare with

revenue from passenger fares in the corresponding period of the last year ;

- (b) what is the total number of passengers carried by rail from 1st April 1922 to 31st July 1922, and how does it compare with the number of passengers carried by rail in the corresponding period of the last year ;
- (c) what is the total Railway revenue from goods freight from 1st April to 31st July 1922, and how does it compare with revenue from goods freights in the corresponding period of the last year ;
- (d) what is the total weight of goods carried by rail from 1st April to 31st July 1922 and how does it compare with the total weight carried by rail in the corresponding period of the last year ?

The HONOURABLE MR. H. A. F. LINDSAY : All the information which the Honourable Member wants is not available, but it is hoped that the following will satisfy him.

On the 10 most important railways we carried, between the 1st April and the 12th August 1922, 131,638,000 passengers and 636,162,000 maunds of goods or about 1,600,000 passengers and 26,100,000 maunds respectively less than in the corresponding period of last year.

The earnings on the same lines from coaching and goods traffic were 13.40 crores and 17.58 crores, respectively, being 74 and 156 lakhs respectively greater than in the corresponding period of last year.

POSTAL REVENUE.

108. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state :—

- (a) what is the total postal revenue from 1st April to 31st July 1922, and how does it compare with revenue from this department in the corresponding period of the last year ;
- (b) what is the total number of articles carried by postal department from 1st April to 31st July 1922, and how does it compare with the articles carried in the corresponding period of the last year ?

The HONOURABLE MR. B. N. SARMA : It is regretted that it is not at present possible to reply to either portion of this question. The figures in respect of (a) are not yet available, while those referred to in (b) cannot be calculated as the complete figures for the August enumeration are not yet available.

RENTS IN CANTONMENTS.

109. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Is the Government aware of the fact that owing to the general rise in prices of material, etc., there was recently sanctioned a general increase in rents of bungalows in the cantonment committee areas of Rawalpindi, Peshawar and Ferozepur ?

(b) Have Government considered whether increase of rents on similar grounds in other cantonment areas in the Punjab is not called for ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) and (b). The Government have no information that a general increase has recently been sanctioned in the rents of bungalows in the cantonments named. I may mention that neither the cantonment committee nor the Government have any power to sanction, even in individual cases, an increase in the rent payable by a tenant to a landlord in a cantonment area.

SALT AGENTS IN PUNJAB.

110. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Will the Government kindly give for the information of this Council a statement showing the names of Salt Agents for all the districts of the Punjab, giving their occupations at the time of the grant of agencies ?

(b) Will Government also state the maximum prices for salt fixed in each district ? What is the margin of profits allowed to each of these agents ?

The HONOURABLE MR. H. A. F. LINDSAY : I will make over to the Honourable Member a list of salt agents in the districts of the Punjab. The Government of India have no information as to the previous occupation of the agents. District officers have instructions to appoint salt traders as agents, and it is believed this instruction has in general been followed except in the Hoshiarpur District, in which instead of salt traders four co-operative unions were appointed agents ; this was done with the consent of the Commissioner, Northern India Salt Revenue.

Agents are permitted to sell rock salt at a gross commission of 5½ annas per maund above the charges made by the Salt Department at the Salt Source (Rs. 1-7-6 per maund at Khewra and Warcha and Rs. 1-10-0 per maund at Kalabagh) plus actual railway freight : in the case of Rajputana salt the gross commission is 4½ annas. From this gross commission they meet the cost of bags, of unloading at destination, and of their shops, godowns, and staff : their net profit was intended to be about two annas per maund, but owing to the rise in the price of bags it has in some cases fallen below this figure.

Maximum wholesale prices are fixed by the district officers, and in accordance with the procedure outlined above must vary from locality to locality in accordance with the freight charges from the source. Government has no information as to the wholesale prices fixed for each locality ; retail rates of sale are not controlled.

SALT AGENTS.

111. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will Government kindly state what were the reasons which compelled them to introduce the new system of appointing agents for the sale of salt ?

The HONOURABLE MR. H. A. F. LINDSAY : The Honourable Member is referred to the answers given in the Legislative Assembly in reply to Questions Nos. 696 and 308 asked by Mr. J. C. Chaudhuri and Sardar Gulab Singh on the 28th March 1921 and the 20th March 1922, respectively, which give the necessary information.

I also invite his attention to the article on the subject in the Journal of Industries and Labour for February 1922.

LIFE AND PROPERTY IN FRONTIER PROVINCE.

112. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Is the Government aware that insecurity of life and property in rural areas in the Frontier Province has compelled large numbers of people in such areas to leave their homes and concentrate themselves in town ?

(b) Are they also aware that the insecurity of life and property in rural areas which has compelled people to move into the town of Kohat has caused great diminution in house accommodation in that town, and that consequently rents have gone up very high in the town ?

(c) Has the Local Administration received any representation from the people affected in the town regarding scarcity of house accommodation in the town ? If so, what relief do the Government propose to give them ?

(d) Will the Government also state when is the proposed town extension scheme likely to be taken in hand ?

The HONOURABLE MR. J. P. THOMPSON : Inquiry is being made from the Local Administration and a detailed reply will be furnished to the Honourable Member in due course.

RATES OF BENGAL TELEPHONE COMPANY.

113. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Has the attention of Government been drawn to the objections that have been raised in Calcutta to the recent increase in the rates of the Bengal Telephone Company ?

(b) If so, what steps do Government propose to take in the matter ?

The HONOURABLE MR. B. N. SARMA : (a) Yes.

(b) From clause (3) of the supplementary agreement dated the 11th April, 1922, a copy of which has been placed in the Members Library, it will be seen that the Bengal Telephone Company, Limited, may charge up to Rs. 350 a year for connections. This limit does not appear to have been exceeded. On the contrary, so far as the Government of India are aware, the Company does not propose at present to raise its maximum rate beyond Rs. 300.

The opportunity is taken to invite the Honourable Member's attention to the provisions in the same clause of the agreement to the effect that the rate, so far as it exceeds Rs. 300 is subject to revision upwards or downwards after 5 years, and that one-third of the net profits of the Company in excess of 12½ per cent. in any year is to be divided by way of rebate among the telephone subscribers. The Government of India do not propose to take any steps in the matter.

INCREASE IN POSTAL RATES.

114. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Are Government in a position to state the approximate financial result of the increase in the postal rates for the last few months ?

(b) How far has the number of correspondence been affected by the enhanced postal rates ?

The HONOURABLE MR. B. N. SARMA : (a) and (b). The Honourable Member is referred to the reply given on the 6th September 1922, to the Honourable Lala Sukhbir Sinha's Question No. 13 on the subject.

FALLING OFF OF RAILWAY REVENUE.

115. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) With reference to the falling off of the Railway revenue, since the last revision of rates, are Government in a position to state approximately how far this is attributable to the enhancement of the rates, and how far to accidental or local factors, such as strikes ?

(b) How far has revenue and passenger and goods traffic, respectively, fallen below the budget expectations ?

(c) What remedies do Government propose to apply for the purpose of steadying the railway receipts in the different railways ?

The HONOURABLE MR. H. A. F. LINDSAY : (a), (b) and (c). There has been no falling off in railway revenue since the last revision of rates. On the other hand, the earnings for the current year have been larger than the actuals for 1921-22. There has, however, been a falling off of revenue as compared with budget expectations. Government attribute this mainly to the slump in trade. The information collected in regard to ten of the principal railways shows that up to 12th August last the enhancement of passenger rates had led to an increase of revenue amounting to Rs. 74 lakhs. There have been no strikes since the middle of April, and as I have already stated, the comparatively disappointing results of the railways up to date appear to be mainly due to the general slump in trade. The results of the 21 weeks from 1st April to 26th August show that the gross earnings are Rs. 364 lakhs below the budget estimate for that period. Government do not propose to take any action at present.

TRANSFER OF DACCA SECTION OF ASSAM BENGAL RAILWAY.

116. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) What stage has been reached in the negotiations with the Assam Bengal Railway for transferring the Dacca section of the Eastern Bengal Railway to its management ?

(b) Will Government be pleased to state whether they have consulted any public bodies about the desirability of this measure ? If so, will Government make a brief statement indicating the opinion of each of these bodies ?

(c) What steps have Government taken to consult the general public opinion in the locality served by the Dacca section of the Eastern Bengal Railway ?

(d) What are the financial and other advantages likely to arise from the proposed transfer of management ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The question of the transfer of the Dacca section of the Eastern Bengal Railway to the Assam Bengal Railway is still under consideration.

(b) and (c). Government have consulted the Local Government and various public bodies concerned as to the desirability of this measure but, pending a decision on the point at issue, they are not prepared to make any statement regarding the views expressed.

(d) The advantages as well as the disadvantages involved in the proposal are still under consideration, and the Government of India regret that no statement can yet be made on the subject.

PROJECTED RAILWAYS.

117. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : With reference to the statement laid on the table of the House in reply to my question No. 62 on the 6th September 1921, will Government be pleased to state what further stages have been reached in regard to the different projected railways referred to in the said statement ?

The HONOURABLE MR. H. A. F. LINDSAY : The only project in regard to which a decision has been arrived at is the Serajganj-Mymensingh Railway project which has been definitely abandoned.

TRANSFER OF IMPERIAL LIBRARY, CALCUTTA, TO GOVERNMENT OF BENGAL.

118. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Is it a fact that the question of transferring the Imperial Library, Calcutta, to the administrative control of the Government of Bengal, is under consideration ?

(b) If so, will Government be pleased to make a statement on the subject ?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : (a) and (b). The Council of the Imperial Library, Calcutta, suggested the transfer of the Library to the Government of Bengal. Their suggestion has been referred to the Local Government for opinion. No reply has as yet been received. In the circumstances the Government of India are unable to make any statement on the subject.

IMPERIAL LIBRARY, CALCUTTA.

119. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : What action has been taken in regard to placing the Imperial Library on an equal footing with the British Museum, in the matter of a statutory right to demand duplicate of publications from publishers, since the reply given by Sir Sankaran Nair to a question on the subject in the Indian Legislative Council on the 9th February, 1917 ?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : The Local Governments were consulted and legislation empowering the Imperial Library, Calcutta, to demand copies of books published in India is now under the consideration of the Government of India.

INDIANISATION OF INDIAN GEOLOGICAL SURVEY.

120. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Is it a fact that the Indian Geological Survey is one of the departments which the Islington Commission recommended for Indianisation ?

(b) What was the total number of officers in the Imperial grade of the Indian Geological Survey, and how many of them were Indians, at the time when the Islington Commission reported ; and what are the corresponding numbers at present ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) It is impossible to summarize the conclusions of the Public Services Commission in my reply, and I would therefore ask the Honourable Member to refer to the Report itself.

(b) There were 20 officers at the time the Commission reported, of whom only one was an Indian. At present there are 22 officers, of whom 3 are Indians.

VACANCIES IN INDIAN GEOLOGICAL SURVEY.

121. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) How many vacancies are there in the Imperial grade of the Indian Geological Survey at present ?

(b) Do Government propose to take steps to have all these vacancies filled up by Indians as a step towards a complete Indianisation of the department ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) There are eight vacancies at the present moment.

(b) Owing to the financial stringency and in order to prevent a serious block in promotion in future it has been decided to fill the vacancies only gradually. The Government of India are very anxious to secure suitable and qualified Indian candidates for appointment in the Geological Survey of India, and with this view they intend, so far as the state of finances permit, to establish a School of Mining and Geology at Dhanbad at the earliest possible date. Pending the establishment of the School the Government of India have appointed a Selection Committee with the express object of giving facilities to candidates in India to apply for these posts.

SELECTION COMMITTEE FOR INDIAN GEOLOGICAL SURVEY.

122. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Was a selection committee appointed by Government recently for the purpose of recruiting Indian officers in the Imperial grade of the Indian Geological Survey ; if so, what was the number of applications received and what procedure was followed by the committee in disposing of them ?

(b) How many applicants were there for appointment as Assistant Superintendents, and what were their respective qualifications ?

(c) Were any of these applicants called by the selection committee for personal interview ?

(d) Were the Universities or the Colleges, teaching Geology, asked to nominate any candidates ; if not, why not ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) Yes. A Committee has been appointed on which there are at present two Indian members. The fact was widely published in a Resolution of the Government of India, and applications were invited from all intending candidates. 16 applications were received and the Committee met in Calcutta in April last to scrutinize the applications and make their recommendations.

(b) 16 candidates applied for appointment as Assistant Superintendent. Of these two were graduates who had studied geology along with other subjects for their degree, nine were graduates but had not studied geology, and five held no university degree nor had any experience or training in geology.

(c) The Selection Committee interviewed one candidate, but scrutinized the applications and testimonials of all the candidates,

(d) It was hoped that all educational authorities interested in the subject had seen the Government Resolution I have referred to, but the Government of India have this year specially circularized all colleges in which geology is taught, and it is hoped that a better class of candidates will be forthcoming.

RECRUITMENT OF INDIANS FOR INDIAN GEOLOGICAL SURVEY.

123. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : What procedure do Government propose to follow hereafter for the purpose of recruiting Indians in the Imperial grade of the Indian Geological Survey ?

The HONOURABLE MR. H. A. F. LINDSAY : An answer to this question has already been given under (b) of Question No. 121.

ROCKFELLER FOUNDATION SCHOLARSHIPS.

124. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Is it a fact that five scholarships from the Rockefeller Foundation have been set apart for Indian medical graduates this year ?

(b) If so, will Government be pleased to state the terms and conditions of the scholarships, the procedure followed in selecting candidates, and the subjects in which the selected candidates will carry on research ?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : (a) The answer is in the affirmative.

(b) The terms and conditions are that the fellowships be awarded to specially selected candidates for study in the field of public health and kindred sciences. The candidates should be either graduates or diplomates in Medicine or Science and should be young, keen and preferably holding salaried appointments. They should also be of respectable antecedents and good moral character. Selected candidates will receive a monthly stipend of \$100 from the Rockefeller Foundation, if single, and of \$166.66 if married, in addition to tuition, and travelling expenses to and from the United States. The first part of the training of holders of the fellowships will be in the United States, and the latter part in England or Europe. Local Governments have been asked to nominate candidates and, subject to the approval of the Government of India, the Scientific Advisory Board of the Indian Research Fund Association will make the final selection from amongst those thus recommended. The subjects for research have not yet been definitely settled.

POSTAL SUPERINTENDENTS.

125. The HONOURABLE MR. V. G. KALE : Will Government be pleased to state :—

- (a) What qualifications are insisted on in the case of men selected for direct recruitment of the grade of Superintendents of Post Offices and of the Railway Mail Service ?
- (b) How many appointments of Superintendents were made during the last five years and how many of them were filled with men directly recruited ?
- (c) Of the men directly recruited, how many had high University qualifications and what were the qualifications of the rest and what was their nationality ?

The HONOURABLE MR. B. N. SARMA : (a) Candidates intended for direct appointment as Superintendents of Post Offices and of the Railway Mail Service are generally required to join as Probationary Superintendents. An Indian candidate must ordinarily be a graduate of a recognised university, and in the case of other candidates the possession of adequate educational qualifications is insisted on. Special attention is paid to social standing and physical fitness. No one is confirmed as a Superintendent until he has justified his selection and has passed the prescribed departmental examination.

(b) 63 appointments, of which 26 were filled by direct recruits.

(c) Of the 26 direct recruits, 20 were Indians and 6 non-Indians. Of the 20 Indians 18 had high university qualifications and 2 were selected for good service in the Field. Of the 6 non-Indians, 1 had high university qualifications and 5 were selected as suitable candidates upon the recommendations of Postmasters-General. Of these 5 men, 3 have done good service in the Field since selection.

The HONOURABLE SIR ARTHUR FROMM : Will the Honourable Member be pleased to state whether one of the qualifications for the grade of Superintendent of a Post Office is that he should have a knowledge of telegraphy ?

The HONOURABLE MR. B. N. SARMA : I believe there is no such qualification insisted on.

POONA POST OFFICE.

126. The HONOURABLE MR. V. G. KALE : Will Government be pleased to state whether split duty still continues to be performed by the officials of the Poona Head Post Office where officials have generally to attend the Post Office from a distance of two miles or more ?

(b) If split duty still continues to be performed there, will Government be pleased to state how many officials are affected, what has been done so far to abolish split duty there and what further measures are contemplated in the matter for the immediate future ?

The HONOURABLE MR. B. N. SARMA : (a) Yes.

(b) One Assistant Postmaster, eleven clerks and one reader postman are affected.

The cost of abolishing the "split duty" system altogether in the Post Office was found to be prohibitive and the change would in many cases be unnecessary and in some cases unpopular with the staff. General instructions were issued to adopt all practicable necessary measures to prevent the occurrence of unnecessary inconvenience in the matter.

So far as the Poona Head Office is concerned it has been reported that by the readjustment of the hours of attendance and by strengthening the staff by 2 sorting postmen, it will be possible to abolish "split duty" altogether and arrangements are shortly being made to give effect to the changes.

STUDENTS AND NON-CO-OPERATION.

127. The HONOURABLE SIR AHMEDTHAMBY MARICAIR : (a) Will Government be pleased to lay on the table the number of Muhammadan students who have left schools and colleges on account of non-co-

operation and their percentage when compared to the number of Hindu students and their percentage?

(b) Will Government be pleased to state the number of Muhammadan employees who have resigned their appointments in the service of the Central Government on account of non-co-operation, and how these vacancies were filled and by whom?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : (a) The information asked for as to students is not available, and could not be collected without the expenditure of a great deal of labour both by the Central and the Provincial Governments.

(b) As far as the Government of India are aware there have been no such resignations from the service of the Central Government, but if the Honourable Member wishes I will have further inquiries made.

PRESIDENT ON IRREGULAR QUESTIONS.

The HONOURABLE THE PRESIDENT : Before we proceed to the business of the day, I desire to draw the attention of the House to a matter arising out of a question which appeared on the notice paper of the 9th of September. It related to the export of wheat and stood in the name of the Honourable Lala Sukhbir Sinha. The question was framed with disregard to the rules and I have disallowed it. That in itself would not call for special comment. It contained, however, certain sentences which, as they have been given publicity to by publication in the notice paper, seem to call for some remarks from me as they raise questions of constitutional importance. The sentences in question were as follows :—

“ Is it a fact that the Resolution for removing the embargo on the export of wheat and other food grains was moved in the Assembly on the 7th instant after 4 P.M., the time at which the meeting is ordinarily to terminate under Standing Order No. 6, when it was not fully discussed and several Members who wanted to oppose the motion were not given an opportunity to express their opinion on the subject ? ”

Now, in the first place, it is quite clear that there has been an infringement of the well-established ruling that there can be no reference to debates in the current Session of the other House, with the well-known exception that speeches of Members of the Executive Council, who have the right to speak in both Houses, may be referred to. That is the first point.

The second point is a more serious one. The Honourable Member under the guise of a request for information is in fact making a complaint against the procedure adopted in another Chamber. I much regret that he should have thought it necessary to do so. Such a course, reflection would have shown him is entirely undesirable. The domestic affairs of the two Chambers are their domestic affairs, and it might be regarded in some quarters as an impertinent interference with the right of privilege that the procedure of the other Chamber should be brought into question in this House.

I regret further that the Honourable Member has gone to the length of making an imputation—a distinct reflection—on the conduct of that Chamber and of my Honourable Colleague who so ably presides there,

This Chamber has made itself a well-earned reputation for preserving its own dignity. (Hear, hear.) It is essential that if we stand on our own dignity, we must respect the dignity of others. (Applause.) I trust the Honourable Member will see on reflection the error he has made in this matter.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I had no intention at all of making any reflection on that House. My object was, as the question was not fully discussed there, to learn from the Government whether they would take any action in the matter or not. That was my only object and I had no intention whatever, in asking that question, of making any reflection on the other House.

The HONOURABLE THE PRESIDENT : I am glad to hear the Honourable Member's disavowal. The incident may now be considered to be closed.

INDIAN EXTRADITION (AMENDMENT) BILL.

The HONOURABLE MR. J. P. THOMPSON (Officiating Political Secretary) : I beg to move, Sir, that the Bill further to amend the Indian Extradition Act, 1903, be taken into consideration.

As I explained in introducing this Bill a week ago, the amendment which it seeks to effect is little more than a formal one. Under the Schedule to the Act, desertion from any body of Imperial Service troops is an extradition offence. As the result of certain changes which have been made the term “ Imperial Service Troops ” is now an anachronism. The need, however, for extradition of deserters remains, and we have to find a substitute for it. The way in which the position has arisen is this. The Indian State Forces are now being reorganised and the Princes, with the spirited and generous loyalty of which they have given so many signal proofs, have asked us to assume for the purposes of reorganisation that not only those units which form the flower of their forces and which have for the past 30 years been known as Imperial Service Troops but all their forces and all their resources, so far as they are not required for purposes of State defence shall be at the disposal of His Majesty the King-Emperor in case of emergency. (Hear, hear.) I need not say the Government of India and the Secretary of State have been much gratified to receive this spontaneous assurance, and the reorganisation is now going forward on the assumption which the Princes have asked us to make.

Now several consequences arise from this changed position, and one of them is this—where all the forces of a State are at the disposal of His Majesty for purposes of imperial service, it is obviously illogical and invidious to particularise certain units of those Forces as Imperial Service Troops. We have consequently decided to abandon the use of the term “ Imperial Service Troops ”, and we have to find a substitute because the entry in the Schedule has become meaningless. It is obviously impossible to find an exact equivalent. At the same time we must continue to the States the extradition privileges which they have enjoyed for so many years, and it has seemed to the Government of

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India that the best way of effecting this is to give to the Governor General in Council the power of notifying these units of the State Forces, desertion from which will be in future an extradition offence. That is the proposal which is embodied in the Bill before the Council, and if it is approved, Government will notify those units which correspond approximately to the old Imperial Service Troops in character, in efficiency and in discipline.

I beg to move, Sir, that the Bill be taken into consideration.

The motion was adopted.

The HONOURABLE MR. J. P. THOMPSON : I now move, Sir, that the Bill be passed.

The motion was adopted.

INDIAN MUSEUM (AMENDMENT) BILL.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, I beg to move that the Bill further to amend the Indian Museum Act, 1910, be taken into consideration.

Honourable Members will remember that I explained the object as well as the provisions of this Bill at the introduction stage. The measure is a non-controversial one ; no amendments have been received ; and it is in consequence unnecessary for me on this occasion to add to what I said at the former stage. I beg to move that the Bill be taken into consideration.

The motion was adopted.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : I beg to move that the Bill be now passed.

The motion was adopted.

HINDU CEREMONIAL EMOLUMENTS BILL.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, I beg to move that the Bill to amend the law relating to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies, as passed by the Legislative Assembly, be taken into consideration.

The Bill has already been circulated to Members and it will be seen that it is a very short Bill containing only three clauses. Though the Bill is a very brief one, it is a very important one, because it involves the rights of an important class of the Hindu community and the relations of that class with the large mass of the Hindu population. Sir, I have taken it upon myself to move the Bill in this House because I have always sympathised with the general principle underlying this Bill. I have followed very keenly the discussion which has taken place in the public press and on the public platform, and I have watched with very keen interest the arguments

which have been advanced on the two sides, and I have felt convinced that the principle underlying the Bill is a sound one and the existing law on the question has got to be satisfactorily settled in accordance with that principle. The Bill affects only the Bombay Presidency, particularly certain portions of it, the Marathi speaking population of the Central Provinces and Berar. The law concerning the emoluments claimed by hereditary priests in these two provinces differs fundamentally from the law which governs those emoluments in other provinces. It is, therefore, necessary for me to explain at some length what the position is in the Bombay Presidency, what have been the rulings of the Bombay High Court, what is the trouble that these rulings of the Bombay High Court have given rise to, and how these troubles are sought to be set at rest by the Bill that is now before this House. In order to understand the Bill we have to consider the history of the village organisation in India. I am not myself a lawyer, but I have given some attention to the study of sociological and economic problems of the country, and from my study of Indian sociology, I find that Indian village communities were in the past, and to a certain extent are to-day, self-sufficing organisations. These organisations were administrative units which organised their administration, their social affairs, and their religious affairs on practically a democratic basis, subject, of course, to the consideration of the existence of castes in the villages. This village community being self-sufficient, required the services of a large number of artisans and other servants whose co-operation was necessary in the corporate life of the village community. There were thus village headmen or ' patels ' as they are called in our part of the country, kulkarnis, or karnams as they are called in the southern parts of India ; watchmen were required, goldsmiths, barbers and other servants were required. Among these servants of the community there were spiritual servants, the priests. And these priests, like the other servants of the community, were remunerated by the village community. As their services were indispensable, it had become necessary that security of tenure and security of reward for their labour had to be provided for. Most things in India have become hereditary. There has been a tendency towards all kinds of services becoming hereditary. They have become what are called ' Vatsans,' and the services and the rewards have been inherited from generation to generation. Lands were some times given by communities and rulers rent free, or revenue-free as remuneration for those services, and in this way what are called ' Vatandar ' priests or hereditary priests came into being. It will have been clear that hereditary priests, like other village servants, have also become hereditary and in the Deccan and in Madras for centuries they have been remunerated for their services by the members of the village community. That remuneration, therefore, became a claim upon the village community and those services and that claim have been confined to certain families, so that to-day a few families are well known for their possession of this right of performing certain functions and receiving certain rewards. Rulers in the past representing the community and as entitled to lay down the law, recognised this custom. It was a customary law and that custom was recognised by rulers. What are called ' Sanads ' were often issued to these hereditary priests as to other hereditary servants, and on the strength of those sanads, the authorization given by the ruling powers

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families have been enjoying properties and also the rights of performing certain functions. Now, one of these rights is a right of officiating at religious ceremonies. Whatever the religious ceremonies are, the priest (the family priest or the village priest) has a right of officiating, and when he officiates, he has the right of receiving certain emoluments. Now, this hereditary right has in law become a property. In the Bombay Presidency the priest's right of performing religious rites and ceremonies and of receiving emoluments therefor, has been looked upon as a property right, and being a right of property it has been protected against invasion by others. If a priest is a hereditary priest or a vatandar priest, he can compel the villagers who want priestly services to engage him and him alone. Even though another priest is engaged, the hereditary priest is entitled to his own emoluments. He has got to be indemnified for the loss he has sustained because the *Yajman*, that is the patron, has engaged the services of another priest. Thus it has become a property, and like ordinary property, this so-called intangible property, this claim to emoluments, cannot be invaded. Two classes of cases have come up before the Courts in the Bombay Presidency. The first class of cases consists of those filed by priests against priests. There are priests who claim jurisdiction over a certain area and have a claim to perform the religious rites and ceremonies in that area. Another priest belonging to the same family, perhaps to another branch, might fight with the hereditary priest, dispute his right and may claim remuneration for himself. Numerous cases of this nature have come before the Courts in the Bombay Presidency. Now, these are cases involving the right of property, ordinary property rights and they have been recognised in the case of these emoluments to priests. But there is a second class of cases, I may say even more important, in which a villager may refuse to requisition the services of a priest who calls himself a village priest,—a hereditary priest or a vatandar priest. He may engage the services of another priest, but the hereditary priest files a suit against this *Yajaman* and says : "You have no right to engage another priest. I am the hereditary priest. My family has been enjoying this right for generations together. That is our property. It cannot be invaded. If you engage the services of another priest, I am entitled to be indemnified. You must pay me what ordinarily I would have been entitled to if my services had been requisitioned." Such claims have been put forward and in many cases they have been allowed by the Bombay High Court. The Bombay High Court has taken this view. It is a kind of what is called 'Nibandha' in Hindu law, namely, property, and as property it cannot be encroached upon. If it cannot be invaded, it has got to be protected and the Bombay High Court has protected hereditary priests against invasion by an intruder and also against the desire of the *Yajaman* or patron to engage the services of another priest. But the recent rulings of the Bombay High Court have taken the law to a further stage. The High Court has ruled that only in certain cases can the right of the hereditary priest be recognised, *viz.*, in cases where Brahminical rites are performed.

Where Brahminical rites and ceremonies are performed, the Brahmin priests can legally claim emoluments, on the ground that they are hereditary priests. If rites and ceremonies, which are not Brahminical, are

performed, then the Brahmin priest is not entitled to anything. That is the legal position to-day. But it is not a very satisfactory position, as my Honourable colleagues will realize. It becomes only a question of fact, whether rites are performed, which are not Brahminical and whether the Brahmin priest is not entitled to anything. It is purely a question of fact, and it is very difficult to prove that the rights of the Brahmin priests have been infringed. Consequently, there is a lot of litigation, which has gone on for years and for very small sums, such as for Re. 1, or sometimes for Rs. 2 ; and for such small amounts cases have been taken to the High Court. It will be admitted that this litigation which has gone on for a number of years, is undesirable, and the law in the Bombay Presidency has to be clearly settled once for all, so that the rights of all parties concerned may be satisfactorily disposed of.

Now, it may be suggested that the Bill is the result not of the demand of the numerous people concerned, but of factions agitation carried on by a few non-Brahmins. There is, no doubt, a non-Brahmin movement in the Bombay Presidency, as in certain other Provinces, and it may be contended that some of the non-Brahmins have set up a cry that they do not want Brahmin priests, and wish to perform their religious rites and ceremonies themselves. That is an objection that might be raised. It so happens that I myself am a Brahmin, but I do not want to look at this question from the narrow point of view of caste. I want to take my stand upon principle. I admit that here there are vested interests concerned, which have been sanctioned by the High Court. I admit all that, but the question for consideration before us is this : are you going to repress individual liberty : are you going to compel individuals to engage the services of particular priests, if they do not want to ? The law, as it stands to-day, does compel a man to engage the services of particular priests, and if the services of another are engaged, he gets his remuneration, and the hereditary priest has, besides, to be compensated. This, to my mind, is an invasion of the rights of individual liberty, and consequently the hereditary priests should not be allowed to compel people to engage their services.

It may be said that it is open to the people to perform the rites and ceremonies which are not Brahminical, and then the hereditary priest does not come in the way of anyone ; he does not claim emoluments. But as to who should perform Brahminical rites and who should not, is the question in dispute in our Presidency. Many of those who are not Brahmins want the Brahmin rites and ceremonies to be performed in their houses, at marriage and other ceremonies. Now, can it be suggested for a moment that certain classes of the Hindu community should be prevented from performing Brahminical ceremonies ? It may be said that this is an attack upon religion, but I do not see where the attack upon religion comes in. Have we been able to preserve the Hindu community, its customs, its castes, its privileges, intact ? Have we been able to prevent non-Hindus and non-Brahmins from studying the scriptures ? Everybody is to-day studying the Vedas and other sacred books. The Brahmins at one time performed very important functions. The Brahmin was consequently venerated, venerated for his learning, venerated for his piety and sacrifice, and if the Brahmins want to maintain that position, they can do it by showing those qualities, not by going to

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a Court of law, and not by claiming certain emoluments against the wishes of other members of the community. It is not an interference with religion; on the contrary, the Bill seems to concede religious liberty. This is how religious liberty is sought. Certain members of the Hindu community want to engage particular priests, priests of their own caste. They do not want the predominance of the Brahmin caste, and I do not see why this liberty should not be allowed to them. Already our village community and Hindu society have been disorganized. They do not stand where they did in the past. Important adjustments are absolutely necessary at the present time; and we cannot say that because a certain village organization was found to be useful in the past, therefore, it must be found useful to-day. What do we find in the case of the village organization to-day? Have you got the old village servants? Do they perform the same old village services? Do they receive remuneration in the old way? The Government does not allow it, the Courts do not allow these village servants to claim by right, and legally, remuneration for services which people do not want to receive from them. For example, take the case of the barber (*A voice*: They have a right). My reply to this is, take the case of the barber, the goldsmith, the carpenter, and any other village servant, and you will find that there is no compulsion upon anyone to engage the services of these people and to remunerate them. We find that high caste Hindus, Brahmins, have displaced the services of barbers by shaving themselves. Can a barber claim that it is his duty to shave all people, Brahmins among them—and Brahmins who have now begun to shave themselves—and say that he has a right to emoluments on account of his services? That is no longer the case. Now, the Government of Bombay have recognised the services of a few village servants. These services have been recognised in the Bombay Presidency as services which are required for purposes of administration. They are servants of the Government; and the services rendered to the community have been transferred to the Government which represents the community now in the place of the old village community. If you want to maintain the village organization, as of old, you have not got it; the British Government have changed the village organization, have adjusted it to new requirements and to new changes, and only certain servants who are useful to the village community have been incorporated into the administrative machinery. Other servants of the village useful to the public, have not been so recognised, and for obvious reasons. Under the circumstances, it cannot be contended that the priests shall be allowed to demand their emoluments, in spite of the desire of the people not to engage them. The general public opinion in the Deccan nowadays is that the Brahmins, as a class, should not oppose the demands of the other castes, and I would appeal, as I have appealed before this, to my Brahmin friends to concede to the other classes and other castes the liberties which they claim.

By the true Brahminical qualities of self-sacrifice, of piety, of learning, they can maintain their dignity and their prestige better than by going to the Courts of law and compelling people to give them what they are unwilling to give. That is the attitude that has been taken up in the Bombay Presidency itself by many thoughtful Brahmins. In their newspapers and on their platforms, these views are being advocated. In any

case, it must be confessed that the position to-day is unsatisfactory. How is that position going to be met? There are two ways in which it can be met. In the first place, it will be said: "There is not much demand for this legislation; leave things as they are." What will be the result of this? Discontent and bitterness of feeling between class and class and between caste and caste. (*The Honourable Mr. Lalubhai Samaldas*: "Will this decrease it?") Then, secondly, you can amend the law. My Honourable friend asked me the question whether this friction will be decreased by the amendment of the law. I am not a prophet and cannot say what the result will be; but this much I understand that, if a Brahmin says to the other classes, "Very well, you do what you like in these matters: we give you full liberty", certainly one cause of friction, one cause of bitterness, will disappear. I think that this bitterness will vanish if the conflict is minimised, and the only way in which it can be minimised is to allow the non-Brahmins to engage what priests they like and not to exercise, through law Courts, compulsion upon them.

Opinions have been elicited upon this Bill from all Presidencies. Lawyers, Judges and other people have been consulted and I may say, without going into the individual views, that the majority of those who have given their opinions, are in favour of the Bill. There are many who say that there is not much demand for this Bill; there are a few who say that the vested rights of the priests ought to be protected and should not be allowed to be infringed; but the majority are of opinion that this is an important question of public policy, this is an important question of individual right and liberty, and, consequently, by means of this legislation individual rights and liberties ought to be safeguarded. The Bombay High Court have been compelled to follow what they regarded as the custom and the law of the Province, and the position of that High Court does not seem to be very happy under the numerous cases that come up for decision before it. There are one or two gentlemen—I think one European official of high standing—who says that the Bill is not necessary and that the priests ought to be preserved; and he cites the analogy of the tithes which are paid in England. To whatever religious denomination a person may belong in England, we are told, he is compelled to pay the tithes. Similarly, whatever the dissenters in India may say, whatever non-Brahmins may have to say, they have got to pay for the maintenance of the Hindu religion. I must very humbly point out that this analogy does not hold good, because in England, the priesthood is not hereditary but is open to all classes and communities. What is giving trouble in this country in the Hindu community is that the priesthood is restricted to a particular caste. Other castes have been roused to a consciousness of their own condition and of their own rights, and they want to do away with this monopoly of a particular class. This is a peculiar situation in India and, consequently, if there are the grievances, if there is this discontent, I should think that the Brahmin community itself should come forward and say: "Very well, if you want these rights, you can have and enjoy them." I do not think that the passing of this legislation will have any adverse effect upon the condition of villages. I must also frankly admit that the demand has not come from the majority of villagers. The majority of villagers will continue to requisition the services of priests, and this law does not prevent any man from requiring the services of

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these hereditary priests. Things will go on as they are for years to come. The only result of the passing of this Bill will be that hereditary priests will not be entitled to receive, through law Courts, remuneration from people who do not employ their services. That will be the only effect of this legislation. Otherwise, there will be perfect freedom, perfect liberty given to every one to engage the services of any priest, whether hereditary or not.

I think I have been able to explain what is the object and the scope of this Bill and what will be the results of the Bill, if it is passed. I appeal to the sense of fairness, justice and also individual liberty of Honourable Members of this House, and I ask them to support me in the proposal which I have placed before them.

The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU (Madras : Non-Muhammadian) : Sir, I have very great pleasure in lending my hearty support to the Hindu Ceremonial Emoluments Bill and to request the Council to pass it as has been done by the Legislative Assembly. It is urged by some people that this Bill affects religion and the religious rights of the Priests, but this is not at all true. The peculiar law of Bombay and some parts of the Central Provinces is that even if a Hindu does not require the services of a village Priest, the Priest can get a decree from a Civil Court for what he calls his fees for doing nothing. It is the right of every Hindu to have his religious ceremonies performed with the help of any one he likes ; in this age of freedom and liberty compulsion is out of place. Our Shastras clearly say that our gifts to the Priests must be purely voluntary and must be given to a Brahmin who, we think, is a pure and holy man. It is also said by our Shastras that if we pay a *Dakṣina* to a Priest who is in our opinion not a deserving man, we go to hell. If therefore our law Courts compel us to pay a Priest that we do not consider deserving, it is interfering with our religious duties. This is the view taken by the Madras, Bengal, Allahabad, and Punjab High-Courts. This Bill seeks to lay down the same law for the Maratha Provinces where hitherto the law Courts have held that the Priest can sue for fees even if he is not called to officiate at a religious ceremony. The grievance which the Bill seeks to remedy is a real one and has caused much friction in Hindu Society in the Maratha Country, and the fact that an eminent Brahman gentleman like our colleague the Honourable Mr. Kale supports this Bill, is enough to show that educated Brahmins fully admit the justice of the principle of this Bill. I request the Council to pass the Bill.

The HONOURABLE MR. K. V. RANGASWAMI AYYANGAR (Madras : Non-Muhammadian) : Sir, this is not a question between Brahmins and Non-Brahmins. Even Brahmins are the victims of this priest-craft. The Honourable Mr. Kale has not convinced me quite fully as to the good points of the Bill he has taken up here.

There are two sides to the question. Considering the religious and the social points of view, it is really painful to see that the priest-craft has descended so low as to be classed with the other village crafts, such as the *karman*, etc. : It is very

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painful to see how degenerated this system has become and what the view point was with which such an institution had been established and been in vogue for such a long time. When we see the priest's position to-day and when we notice the degeneration that has crept into their class, it is really heart-rending and depressing to every nationalist and any one who loves the old system of our society. It is for the sake of the dignity of the Brahmins, and of the very priests, and also to avoid friction between the priests and those people for whom these ceremonies are performed, and for the sake of reasonableness that that office should not be thrust on unwilling parties, that this Bill should be supported. But one should see the other side also.

What was the point of view that brought this system in vogue ? In former times the Brahmins were indissolubly connected for the valuable service they rendered to the other communities. It was as indissoluble as the marriage system of the Hindu community and as important as that. On this basis, how are we to do away with an undesirable priest ? Supposing one wants to do away with an undesirable wife, he just institutes divorce proceedings and so also if one doesn't want a priest who is a bad character, he may be made to bring a suit to eject him from that position. This has to be done for he enjoys a right from time immemorial. That would be the proper form for the scope of the present Bill.

It is from other points of view also I am opposed to this Bill. The Honourable Mr. Kale has said that if a village wants a new *karman* or a village munsiff it has the power to throw out the old hereditary *karman* or munsiff and bring in a new *karman* or village munsiff—a *karman* is an accountant.....

The HONOURABLE MR. V. G. KALE : I never said that.

The HONOURABLE MR. K. V. RANGASWAMI AYYANGAR : The hereditary posts have a right behind them. The officers are depending entirely on their profession and they have been neglecting other walks of life with the hope that they would go on earning this paltry remuneration in their hereditary nature. Now suppose a Bill is introduced with one stroke of the pen, what will the *karman* do or the priest do ? He cannot find other works of life immediately. But if the Bill were to provide compensation for his rights and livelihood, then it would have been in a more acceptable form. The Honourable Mr. Kale says he is no lawyer and he is only doing it from the political and other points of view. But we must also consider the legal aspects of the situation. The priest has been enjoying these rights and these rights have been recognised by the Bombay High Court for a long time. That a Bill should all at once be enacted to deprive him of his livelihood, I feel is rather unjust.

My Honourable friend Mr. Naidu, and also the Honourable Mr. Kale expatiated upon freedom and liberty. I too concur with them on that point ; but I do not know whether our friends would go to the extent of depriving a whole class of people of rights which they have hitherto enjoyed and bring forward a Bill to deprive them of these rights. Let me give an example. In Russia the new Bolshevik creed has enacted that the land should be nationalised. Would my Honourable

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friend, Mr. Naidu, agree that the immemorial rights enjoyed by the Zamindars should be done away with by a stroke of the pen? I don't think so; and in these days when the Government needs money it will be a good and proper thing if the permanent settlement of Bengal were done away with.....

The HONOURABLE THE PRESIDENT : Order, order. The Honourable Member must confine his remarks to the Bill.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR : Now, considering the hereditary rights of these men, I am not in favour of this Bill being enacted, without compensation being given to those who will be affected by it. If the Honourable Mr. Kale should lead a movement to approach all these priests and other people to take to other walks of life and of their own accord they are made to discard this pernicious system for their livelihood, this obnoxious and disgusting livelihood that they enjoy, then it would be a great achievement for India. With these words, Sir, I oppose the Bill.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : Sir, I wish to oppose the introduction of this Bill into this House, and that for certain reasons which I believe are cogent. To save time I shall go on with the first, and the first is that the Bill has been based upon a misconception of three kinds,—misconception of law, misconception of fact, and misconception even of terminology. Take it as a battle of terminology. The Bill is described as the Hindu Priests Watan Act. The proposer originally among his grounds says : There are these Watandars and these Watandar priests are resented and they are not liked, and the law in other Provinces is different from the law in Bombay and the Central Provinces. Now all these three are misconceptions, I humbly point out. First of all, in the Bill itself you find these Watandars called hereditary priests. Now a Watandar is very different from an hereditary priest. Hereditary priest may mean that the father was a priest, his son became a priest and his son's son also becomes a priest, and then he is a hereditary priest. Whereas Watandar means that there are certain Watans or certain rights given to him either by the King or the community, or the ruling power. But he is a person to whom a certain thing has been assigned, just the same as a Jagirdar or an Inamdar. Therefore he has property rights. The proposer looked at this entirely from a different point of view. He regarded them merely as priests, and priests in these days, in the twentieth century, having fallen into contempt all over the world, (India is not the only place where a priest is in bad odour) have got no defenders. Therefore the priest has come to be looked down upon in the same way as an artizan. My Honourable friend there compared him to a barber. Somebody else might compare him to the Nama Sudra and so on. However, I should not mention these matters except to show that the proposer of this Bill had no clear notion himself of what a Watandar meant and what a hereditary priest meant.

Another thing about these hereditary priests. They are Joshis against whom this Bill is primarily intended. They are priests of villages

in virtue of certain grants made to them by the ruling power, by the community or by custom, and they are not to be described as merely hereditary priests. They are descended from persons to whom the ruling power at the time consigned certain rights, just the same as in England a man cannot say, "I will not pay any tithes, because I don't care for the established church in Great Britain." And, if in England it can be done like that, why is it possible for a man in India to say, "I don't believe in these things and I don't want to pay." Where did these people, the Indian Dissenters, acquire the right? There is such a right in England. Priests are appointed under the right of advowson. And under that right priests were appointed. Sometimes the Crown appoints them, but generally the landlord, the Squire of the place has the right and he presents the priests to a living as the technical term goes. In India, the princes, the emperors and the zemindars who settled the land, and established these villages grant these rights. Now, if they exercised that right and if they appointed these people, to get up and say, "They are mere artisans, if I do not want their services, I can turn them out, they are like barbers, chamars, etc." That is not very sound, to say the least, coming as it does from my Honourable and learned friend, Mr. Kale. He should have known that these people are not artisans. These are not persons engaged for mere remuneration. They are the spiritual preceptors of the princes, of the zemindars and of the community and these grants were made to them in that capacity. The term hereditary priest has been described as Vataandar; there was confusion in the first Bill that was presented in the other House and the word Vataandar was introduced, and in the third section the words 'hereditary priest' were introduced, without explaining what the difference between the two was. However, the Committee has been working at it, and they have taken out the word Vataandar altogether and called them hereditary priests from beginning to end without defining what a hereditary priest means. In India, as the whole House knows, I believe there are people who worship in a particular temple and they have got the right to worship there, and whoever is there has got certain perquisites attached to that. Is it meant that all these worshippers and all these people are to be swept away? I cannot understand that. If that is so, the Muhammadan community will have something to say to it, because they have got their Mutwalis Kazis and Mullahs and they have their religious institutions and hereditary people doing the work. If that is the case, there is no knowing where it will lead us to. If you pass this for the Hindu community, to-morrow I suppose the Muhammadan dissenters—and there are dissenters in every religion—may get up and you may have to legislate for the Muhammadans, and then for the Parsi community and then for all the communities taken together. That is to say this will be the beginning of the disestablishment of all the religions in India. This is a serious thing to do and I cannot approve of attempting to do this in this light-hearted manner.

Turning to the subject-matter of the Resolution, there are several misconceptions. The first is a misconception with reference to a question of fact. The Mover in his first Statement of Objects and Reasons said that the Non-Brahmin Hindus resent this being enforced against them. Where did he get this idea that this happens in all the provinces and that the Non-Brahmins hate the Brahmins? Where did he get this peculiar idea

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from ? In my province I have lived for 69 years now and I have never come across any ill-feeling of this kind. On the contrary we move hand in hand with them. There is no trouble at all. But the mover says that they resent.....

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras : Non-Muhammadan) : There is such a feeling in Belgaum and other places.

The HONOURABLE MR. G. S. KHAPARDE : He should have said so. He seeks to foster this idea upon the whole of India or upon the whole of the Maharashtra. People read their thoughts in books, and the Honourable Mover, judging by his own feelings of antagonism imagines that the whole world hates the Brahmins. That is a very common misconception and I am unwilling to say anything. There is no resentment of this kind as mentioned by the Central Provinces Government, none as mentioned by Sir B. K. Bose who is an eminent lawyer practising there for 50 years and upwards. He was knighted by Government and he officiated as the Judicial Commissioner. Then there is Mr. Kincaid who was a Member of our House and who used to sit by my side. He has written a history of the Mahrattas and also the life of Shivaji. He is against the Bill and he says that there is no such thing, Mr. Kale's reference to the resentment is just like the Non-co-operation. The Non-co-operators imagine that the whole world is for Non-co-operation. They say that the whole of India is populated with Non-co-operators, and they say that they have succeeded. This is similar to that. What is the proof ? None. They say that they are in a majority. Their position is as Shakespeare puts it : "I am Sir Oracle. When I speak, let no dogs bark." That is the method adopted by the non-co-operators, and this has also been adopted by the learned Mover of the Bill, Mr. Kale. Therefore, I dispute the proposition, first that these are Vatan-dars and not hereditary priests. Secondly, I dispute the fact that in the whole of the Maharashtra there is an anti-Brahmin feeling and that the Brahmins are hated and that the Non-Brahmins resent it. Thirdly, I say that the law has been also misunderstood. It is said that the law is different in other parts of the country. In the other parts no such custom ever existed. Therefore the Courts had no occasion to declare the law. Here the law was declared. It is therefore very inaccurate to say that the law is different in parts of the country. This is a peculiar practice of the Maharashtra. Nowhere does this custom obtain. If a Judge is transferred to Bombay from the United Provinces or other provinces, he will look at the precedents and say that such and such thing is the custom of the province. You cannot say that the law is different. There is no law on this point in any other part of the country, because that custom does not obtain in other parts of the country. The law in my part of the country gives that as the custom, hallowed by the ruling authorities including Muhammadan emperors, Peshwas and great Jagirdars and Inamdars. All law is customary in the beginning. The common law of England is a bit of a custom and everywhere law is based upon custom. There are the general customs and there are some local customs, and this is the local custom of the Maharashtra, and why is that to be condemned in that particular

manner without going into its antecedents, without looking at the interests involved ? I submit that my friend did not examine the law on that point. These things are being taken very lightly. The third misconception is that they can change the law without having to render compensation. The Honourable the Mover begins by saying that he does not want to deal with vested interests. I wonder what he means by vested interests. If lands are given to me by the sanad of the emperor and if the customs have been recognised and the High Courts have recognised, what else is vested interest, I would like to know. Here is a person who sets up a quarrel to do away with the rights that have been conferred by Sanads and recognised by Courts, and yet he says he does not deal with vested interests. At this rate, there are no vested interests in the world. That is not so. These are vested interests of a very cogent type. Some of the sanads go back to the times of Akbar. For centuries people have made a living by these rights. You take away their right of living and their bread, and yet you say, 'I am not interfering with vested interests.' This is very good. It reminds me of a story of an incident that occurred in England, in the days of King Henry VIII. I forget the date, but the story is true. A certain courtier appeared before the King and said, "Sire, I beg to be pardoned." "For what ?" asked the King. "I was walking and displaced the cap from a Bishop's head." "Did you ?" said the King. "I shall certainly grant you a pardon." "But, Sire," said the courtier, "the head also went with the cap." Similarly, Sir, behind this Resolution, I see a hidden attempt to take away all the vested interests that have accrued to these priests for generations and generations. This reminds me of the story I have related. How the incident ended, I don't know, and whether the courtier ultimately received pardon from the King. The head of the Bishop went with the cap, and this is the kind of thing that is attempted to be done here under the specious cry of curtailment of individual liberty and the confiscation of proprietary rights. You say, I will confiscate your proprietary rights. This is my individual liberty to employ what barbers I like, and similarly what priests I like. In reply, I would say, "My friend, you are very much mistaken." A similar case was discussed very lately, and went up to the House of Lords. There used to be a hotel in London, on the Embankment, which was called the "Kaiser" Hotel. When the war broke out, the Government took possession of the hotel and converted it into a convalescent home for officers. Ultimately, the owners of the building made a claim for compensation which the Government were inclined not to grant. The Government stated that they had sovereign rights, and under their rights they had taken possession and would give them nothing. Thereupon this matter was taken to the House of Lords, and it was there decided, as the House will see on a reference to Law Reports, 1920, page 508. It is a very elaborate judgment in which the doctrine propounded by the Lords was to the effect that even a Sovereign acting under a Statute cannot take away private property and decline to give compensation. Such action would ultimately lead to anarchy, and these fundamental rights are necessary in the interests of society itself. In this Bill, Sir, we see such rights treated quite lightly, and no reference is made to them in the Bill at all. They are ignored completely, and

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yet this Bill is sought to be carried through this House. If this judgment which I have referred to was more widely known, that the King even could not take away property without compensation, it will be admitted that such legislation was *ultra vires*. You no doubt have got the power, but it would be unwise to exercise it in a case of this nature, as it would only lead to disobedience, anarchy and the violation of fundamental rights on which society is based. In the first place I would say that this Bill is defective, in so far as it pretends not to deal with vested rights, while it actually seeks to take away such vested rights. In the second place, it is defective in its nomenclature, and defective all through, because it is based on misconceptions. In the next place, there was a committee appointed to consider this Bill, and their opinion was not unanimous. It is significant to find that two of the Members dissented, and they put forward this matter of compensation, but it does not appear to have attracted much attention at the time. One of them said that no such situation existed in his part of the country; that there was no trouble; and inquired why they wanted this piece of legislation, and thus create quarrels and set one community against the other, which is about the worst thing that could happen. I therefore contend that there is no use in setting a bad precedent in this manner and pressing this Resolution.

The dissenting Minute shows that Dr. Gour was one of the dissentients, though he has not signed the Minute, so that I cannot cite him as an authority. Anyhow there are two people who signed the Minute and who dissented from the report of the majority of the Committee.

Then arises the question of opinions, and my Honourable friend opposite explained that there was a majority of opinions in favour of this Bill. I accordingly analysed it this morning and found that Calcutta and Bengal say that as the custom was not prevalent in their provinces, they had no opinion to give. Punjab, the United Provinces, Bihar and Orissa, Assam and the North-West Frontier Province say the same thing. Then comes Bombay, which I have analysed rather more, because Bombay and the Central Provinces are centres of attack, and the Bill is to be made applicable, in the first instance to Bombay and the Central Provinces, but is not applicable to other provinces, which, if they think fit, can get it introduced into their provinces with the concurrence of their Legislative Councils. I ask why is the Central Provinces punished; what offence have they committed that, while other provinces can get their Legislative Councils and local bodies to look into it, the Legislative Council of the Central Provinces have no voice in the matter. This is rather a peculiar situation. In Bombay 22 gentlemen were consulted, and of these 7 are for the Bill, 12 are against it, and 2 are partly in favour and partly not. They do not seem to quite know their minds. One gentleman says that he wishes to remain neutral, and does not want to take part in the controversy at all. If votes were taken we should carry the day. The Bar Association in my province is against it. There were 9 people consulted. Seven were found against it and two in favour; so out of 9, seven are

in my favour. The House will therefore see that there is by no means a majority in favour of the Bill, and that the other provinces do not care to take any interest in it. To say, therefore, that the majority is in favour of the Bill seems to me (to put it mildly) rather an exaggerated claim to make.

Therefore, the legal aspect of it is that it is defective because it does not provide for vested interests. The terminology is bad and the object of it is harmful and based upon misconception.

My friend went on to say that this Bill is very inoffensive, that it will lead to no trouble at all, and that all it wanted was that priests need not be paid for services which they had not rendered. This is very specious when it is put in that way, but when you remember that these priests are the donees of Government and the holders of *watans* the proposition takes on a very different character altogether. In my province, at any rate, it will introduce a quarrel where none exists at present. In my constituency there are hardly more than three or four Brahmins and the rest of them are non-Brahmins. Yet they all voted for me, notwithstanding the fact that the non-co-operators went to their houses and asked them not to vote. Therefore, that feeling is not existent there, at any rate. But this will introduce a quarrel where no quarrel exists, and it is the thin end of the wedge in disestablishing all religions that exist in India. The people might say "these Brahmins are no good at all; these fellows do not understand to read or write, turn them out of their *jagirs* and everything else" just as the monks were turned out of their monasteries in England at the time of the Reformation without any compensation. Well, I think we have progressed now and that cannot be done, and that kind of wholesale confiscation could not be permitted in the present state of India. When there is already a great deal of difference of opinion and quarrelling going on and when we have different communities working in different ways and of different habits, I do not think it would be wise to throw a further bone of contention amongst them, divide them still further and make it still worse. That is from the point of view of expediency.

Then, my friend dwelt upon the anti-Brahmin feeling. I do not want to dwell upon that because that anti-Brahmin feeling is very much like the quarrel related in Aesop's Fables between the different members of the body, where the hand said "I do not want to work while the stomach does nothing," the foot said "I carry the man while the stomach does nothing." Ultimately they decided that the stomach should get nothing. The consequence was that the body began to die and they then realised that the stomach did nothing but distribute food; it carried nourishment to every limb and was, therefore, a very essential part of the body. So these poor Brahmins may be hated, these priests may be hated, but they perform a very great function. Under the British Government there is a Meteorological Department and in every place there is an instrument set up with a clerk to watch it and see in what way the wind blows, what its strength is and when the monsoon is to be expected. In the villages these Brahmins are the meteorological officers of Government and they make their own almanacs, cast their own horoscopes and so forth. I assisted at a ceremony a few days before coming here. They selected a hill, the highest you could get near the village and set up a flag there

[Mr. G. S. Khaparde.]

and watched in what direction the flag was flapping. If it was to the south it meant good rain, if it was to the north-east, it meant bad rain. They watched the flag and they predicted results. They do not write meteorological reports, and meteorological reports, if it is not disrespectful to say so, are not very reliable. I remember reading one which said "rain will be either excessive or it may be deficient or it may be normal." Well, I say where is the difficulty of making a prophecy of that kind? If you give me Rs. 1,000 I shall always write out this prophecy for you. Well the poor old Brahmin does not write out reports in that way. He says "Saturn is in this quarter, Jupiter is in that quarter" and he makes predictions on which the whole village depends and acts. These are meteorological officers and to them these grants were given that knowledge of astrology may be maintained and astronomy may be studied, and that object has been served.

Then, the Honourable the Mover says it is not a question of religion. By this statement I think he cuts the ground from under his feet. If it is not a question of religion, then it is a local question and it is better to decide it in the local Council. It has come here purely because it is regarded as a religious question, and under the Government of India Act religious questions have to come here and be decided by the Central Legislature. Otherwise, I am very willing that the matter should go to the Bombay Legislative Council and to the Central Provinces Legislative Council, and if a majority of people favour it I shall be very glad to know it. They say it is not a religious question and yet they claim it to be a religious question and bring it here to the Central Legislature. These are contradictory grounds and are difficult to understand.

Then the Honourable Mover says civilisation is going on and adjustment should be made. I say, "Yes, make adjustment," but adjustment is not made by killing one of the parties. You have got to give something to him if adjustment is to be made, and, if these people are to be turned out, they must get something else. You may call this an adjustment, but it is not. Adjustment means that both of the contending parties should get something out of it as a solatium and thus to restore peace. This is not the way to do it.

Then the Honourable Member speaks about the general feeling in the Deccan. I do not know the sources of his information he has, but you have these opinions which have been collected, and, if you take these opinions and analyse them, you will find in the Punjab a very able lawyer maintaining that this is a good right and ought to be allowed. I have come across that opinion in the Punjab. I have come across Muhammadan opinion, of Parsi opinion too. Many people who have nothing to do with Hinduism have given opinions to the effect that this Bill was unnecessary and therefore not permissible. I could read these opinions, but I do not think it necessary to do so. They are in print and every Honourable Member has got them. This is not a question on which there is such a great majority as the Honourable Member has claimed.

Then as to the last proposition put forth. I have not the advantage which my Honourable friend has, because, though he is a Brahmin, he says the matter must be looked at impartially. Unfortunately, I am a Brahmin, though not a priest, and I have inherited the civilization which encourages all these things, and, therefore, I claim to know more about

them. I think it would be about the greatest evil if this Bill is allowed to pass, because then quarrels will invade peaceful places, there will be any amount of trouble, and Government will be sorry for having permitted the measure to be brought in.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, the position of the Government in so far as the Bill now before the House is concerned can be summed up in a few words. The Government have no objection to the Bill in the form in which it has come up to us from the Legislative Assembly being adopted by this House, should the House so desire.

Now, let us for a moment examine exactly what the nature of the Bill before the House is. The essence of this measure is to be found in clause 3. What that clause proposes to do is this :

"No suit shall lie in any Court of law for the recovery of any ceremonial emoluments from any person by or on behalf of an hereditary Hindu priest unless such priest has, at the request or with the consent of such person, performed or assisted in the performance of the ceremony in respect of which the emoluments are claimed."

Now, Honourable Members will notice that the clause in so far as its language is concerned, does not seek to put an end to any custom, if such a custom does actually exist, in any part of the territories with which we are concerned and is recognised by the people living in those territories. This Bill does not seek to extinguish or put an end to any such custom. What the Bill does lay down is this. No suit shall lie in a Court of law at the instance of or by an hereditary priest for the recovery of any ceremonial emoluments unless that priest has actually performed those ceremonies or has assisted in the performance of those ceremonies.

In other words, where the priest has actually presided over some ceremonies or assisted in the performance of those ceremonies with the consent of the parties concerned, he may go into a Civil Court and institute a suit for the recovery of his emoluments; but not having performed those ceremonies nor assisted in the performance of those ceremonies, such a priest cannot come before the Court to recover remuneration for something which he has not done, or in the performance of which he has rendered no assistance. In other words, if the ceremonies have been performed at the request and with the consent of the parties concerned, then only can he go to Court to recover remuneration for his services, not otherwise.

I should have thought that the provision embodied in clause 3 being based obviously on principles of equity, justice and good conscience, being broad-based also on principles of liberty and freedom, would be readily agreed to and accepted by an enlightened gentleman like my Honourable friend, Mr. Khaparde. It must be remembered that I am now giving expression only to my individual views. I have already said that so far as the Government is concerned, they leave it to this House to enact this measure into law or not. As I was saying, I should have thought that this being the case, my Honourable friend Mr. Khaparde would have readily agreed to the principle embodied in clause 3. I for one can find no explanation whatever for his opposition except that he himself is a Brahmin, and I understand that this is a Brahminical institution. I can well imagine a priest having a vested interest in property attached to a

[Mian Sir Muhammad Shafi.]

temple of which he may be the hereditary manager. I can also understand a priest having a vested interest in the offerings which may be made by the devotees of the temple of which he is the manager. Further, I can well understand his having the right to preside over the ceremonies, religious ceremonies, which are performed in that temple—that is to say, the temple of which he is manager. But I can find no ground whatever to support this right, this customary right (for after all, the Honourable Mr. Khaparde himself does not place it any higher than that)—the customary right for which, so far as I am aware, there is no religious sanction in Hindu law. I say I can find no justification whatever for a priest demanding remuneration for services which he has not rendered, which somebody else has rendered, and which his client did not want him to render. My Honourable friend said that all religion would be destroyed in this country if such a law as this were passed. I for one entirely fail to see how the passing of this law will result in the destruction of either the Hindu or any other religion. It may destroy monopoly, a customary monopoly not based on any principle of justice or good conscience, but it can in no way whatever result in the destruction of any of our religions in this country. These are in a very few words my own personal views with regard to the measure now before the House. So far as the Government is concerned, they are entirely neutral in this matter.

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras : Non-Muhammadan) : Sir, in this modern democratic age, the age of liberty and justice, religion has been in most cases the choice of the individual, an affair of the heart and a concern for the welfare of the soul which does not allow of dictation from outside. All the religious ceremonies should therefore be determined by the party performing the ceremony—all the details of the ceremony, the kind of priest to officiate, the form, Brahmin or non-Brahmin, to be observed, and the amount of the fees or charity on the occasion, should depend wholly on the free choice of the individual. In the present state of Indian society, there have been a number of deviations from the old world routine. In the grading of society, in the respect given to various ranks by other ranks, in the qualifications and functions of the different grades, great changes have come. These changes have resulted in a desire, on the part of certain sections of society, to throw off the old yokes where they are most irksome.

(At this stage the Honourable Sir Maneckji Dadabhoy took the Chair.)

I welcome this Bill, Sir, and give my whole-hearted support ; it gives every Hindu in India freedom in matters of religion. In Bombay and in the Central Provinces, one can see from a study of the cases in the Courts, that among the non-Brahmins, there is no desire to utilise the services of Brahmin hereditary priests. Possibly they have their own objections to that class of priests. They desire to get rid of a system which forces on them a priest not of their own choice. It is but right that the law should permit the non-Brahmin freedom in the choice of his priest, whether Brahmin or non-Brahmin, the form of ceremony and the fees or charity to be given to him. Such rights are most essential and it is a pity that a class of people should have had to suffer so long, and it is a greater

pity that they should continue to suffer now by legal force. It is therefore high time, Sir, to remedy this state of things. Sir, it is gratifying to note that this Bill is moved by the Honourable Mr. Kale, who is a Brahmin himself, and a Brahmin from the Province of Bombay. It shows how just is the cause of the non-Brahmins.

It is a happy augury for it proves that the better sense of both the communities is in favour of the Bill and is a sign of the harmony in which the two communities will work after the Bill is passed. Sir, much has been said by my friends, the Honourable Mr. Kale and the Honourable Mr. Ayyangar about the vested interests of the Brahmin priests. They have told us that the Brahmins' vested rights on which they depend for their livelihood and on which they counted when they prepared themselves, their sons and their grandsons for the work of priests, should not be interfered with. But this vested right of a small class of people slowly changing for new walks of life should not stand against the primary right of freedom of religion for the majority of the Hindu population. Again, Sir, the Honourable Mr. Khaparde has told us that this is a piece of class legislation and it would tend to alienate class from class and set them against each other. But, I submit, in truth that it is to avoid a class war, a war by the priest with his hereditary monopoly on the modern victims of an old world custom that this Bill is now brought in

The HONOURABLE MR. LALUBHAI SAMALDAS : Who started the war ?

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR : It may be the non-Brahmins, why ? because they did not like such sorts of priests. Sir, this Bill will not, if passed, I submit, create a class war, but would pave the way for amity and concord between the several classes of the society.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, let me premise by saying that I am a Brahmin ; but mine is I believe the only community that cannot be priests nor can it receive any alms or *dakshina*. I am therefore indifferent personally as regards myself or as regards my community whether this Bill is passed or not. Coming to the general constitutional question raised by my Honourable friend, Mr. Khaparde, I also do not understand why the Mover of the Bill has not adopted the straight course of taking it in the Local Council. In the Local Council people know what the actual state of affairs is. There they would have been able, if they had a right, to get the support of the local people and they could have carried this Bill. Perhaps it is the fear that they would not be able to carry it through in the Local Council that has induced my friend to bring it up here. But what I object to in the procedure is that it is taking away the rights of the Bombay Legislature. It practically takes away the right both of the local Legislature of Bombay and that of the Legislature in the Central Provinces, while the Bill allows that right in the case of the other local Legislatures. That is the first reason for my opposition to the Bill.

The Honourable Mr. Kale referred to the village organisation. I am not as capable a student as he is, but I have somewhat studied the question of village economy and village organisation. I would like to take the Council to the original times when there was no organisation and it was necessary

[Mr. Lalubhai Samaldas.]

for the rulers of those times to establish villages and to start village communities. I am now talking of my part of the country, Gujarat, to which this Bill does not apply. But, I believe, the village organisation system is the same in the Deccan as it is there. Whenever a village is established or started or whenever people congregate together, they want certain services, such as Takurdwara, that is the place of worship and a Brahmin to perform their religious ceremonies, and other services such as those of artisans, barbers, and others whom my Honourable friend referred to. These people were brought from outside the village and given assurances that they would get those perquisites either in the form of Vatana or in the form of certain cesses from the village community. They came and established themselves there and they performed these duties for years together. The village community, my Honourable friend, Mr. Kale, says is disorganised. But I think on the whole the village organisation should be revived and not destroyed. My friend, Mr. Khaparde suggested that adjustment does not mean killing. I say adjustment does not mean further disorganisation. If my Honourable friend, Mr. Kale's Resolution wants that the village community should be reorganised, wherever it is disorganised, then it is up to him to suggest methods of organisation and not of further disorganisation. Sir, much has been said about the feeling between the Brahmin and the non-Brahmin. It is a sad thing, Sir. It was unfortunately started in my Province, not in British India, but in an Indian State, because a priest would not perform a Vedic ceremony. In the chief it was then that this movement was started. It has spread to all parts of my presidency, all over the Madras presidency and Mysore also. As a Brahmin, I regret it as much as any non-Brahmin would do. There ought to be as much harmony as possible between these communities if India is to progress in peace and happiness. But if this sort of feeling between the Brahmins and the non-Brahmins is to continue or is to be increased by this Bill, I would ask my Honourable friend, Mr. Kale, to withdraw it.

(At this stage the Honourable the President resumed his seat.)

My friend, Mr. Chettiyar, said that it will bring more harmony. If

I had believed it—if I could honestly believe that this Bill will lead to more harmony in the villages, I would surely support it. I moreover believe that it will, on the contrary, lead to a breach of the peace, and it is because of that that I want to oppose it. I recognise that from the point of view of individual liberty the Bill may be fully justified, but we are talking not of individual liberty but of village communities, and the village community is an organization that ought to be continued and ought not to be destroyed. This Bill will further disorganize village communities, and on that ground I oppose it.

The HONOURABLE S^R LESLIE MILLER (Madras : Nominated Non-Official): Sir, I will not detain the House long. I am not a Brahmin but I agree with the Honourable Mr. Khaparde that this House should not take this Bill into consideration as it stands. I should not have spoken, but that I entertain some apprehension as to the effect of some of the words spoken by the Leader of the House. He seemed to me to be rather lightly inclined to accept the principle that you can sweep away a customary monopoly without making compensation to the holder. Now,

I believe it is the position of the mover, that at least is how I understood him, that the right of the Vatan priest to collect fees and emoluments for certain ceremonies, whether he has performed them or not, provided they are performed within the locality to which his monopoly extends, is a legal right recognised by the law in places in which these *rathans* are found; and if that is so, then it seems quite clear to me that this measure is a measure of confiscation as it stands. It may be that there are monopolies which are so vicious, so demoralizing, and so economically unsound that legislation may be justified for sweeping them away without compensation. I venture to think that this ancient monopoly so to call it is not one of these. It is, I understand, found, in the places where it is met with, for a long time past. It is a privilege attached to one of those who may be called the village servants. It may be—and I have nothing to say against it—that any one who desires to employ the services of someone other than the person, whom I may call the village priest, has a perfect right to do so. But while the priest's monopoly exists, and while the law enforces it, he must pay the customary fee to the person who is entitled to demand it. Now, this Bill says that they shall not be required to do that; that the law shall not enforce a demand of that kind. It seems to me clear that in those circumstances the Bill is a measure of confiscation, and I venture to think that the House will not take it into consideration as it stands, without a provision for some sort of compensation to those persons who are losers by it.

The HONOURABLE MAHAMAHOPADHYAYA DR. GANGA NATH JHA (United Provinces : Nominated Official): There are two points in connection with this dispute that need consideration; viz., that this right has existed for a long time, which is indisputable. There were two parties to this understanding that certain duties had to be performed, and certain dues had to be paid. Under the circumstances if a penalty is to be inflicted, it should be inflicted on the party who is not prepared to carry out its own part of the undertaking. Capital has been made of the proviso, and it has been said that if the man has not performed the ceremonies, he is not entitled to his dues. What this proviso means is that if a man refuses to have the priest, the priest will not be paid. I could have understood this if the priest refused to perform a ceremony, but it is the other party who does not want the priest to perform the ceremony. Under these conditions is it the priest that is to be penalised?

The other point to be considered in this regard is that this right of the hereditary priest in the Bombay Presidency seems to stand on a different footing. It does not stand on the same footing as the rights of the village barber or other artisans, as is quite clear from the fact that these rights have been enforced by the highest Court of law in the Presidency. Under the circumstances, Sir, it seems somewhat out of the way to ask this House, consisting of 60 members, and of whom barely half a dozen know anything of these rights, or the effect of the present custom upon the people, to pronounce judgment on this question. Most of us don't know really in what way these rights are being exercised; how far they are unpopular; how far they are resented. We have got contradictory opinions from the two members from Bombay and the Central Provinces, and under those circumstances it does not seem to me

[Dr. Ganga Nath Jha.]

fair to ask us to deprive people of rights which they have enjoyed for generations, and which have been enforced by the highest Court of law. The Honourable Mover asked us, "Are we to invade the liberty of the individual?" In the same way I would ask him, "Are we to invade the rights which have been granted for generations and have been enforced by the highest Court of law?"

The HONOURABLE MAJOR MAHOMED AKBAR KHAN (North-West Frontier Province : Nominated Non-Official) : Sir, as a Muhammadan I ought not perhaps to speak on a Hindu Bill ; I had therefore no intention to participate in the debate, but I would say that what has been styled here the hereditary rights seems to me not quite clear. I do not understand how they could be hereditary rights as the property and other emoluments were originally given for the performance of certain religious services. The land was not given to these people with hereditary rights for not performing their religious services. The land was granted to them on the condition that they would perform some sort of religious service. If the priests do not perform the service, the purpose for which the land was given to them does not exist, and I do not see how this constitutes the confiscation of property. (*A voice* : They don't refuse to perform). Some of them may not refuse. I don't know about Hindu Brahmins, but among the Muhammadans there are certain Mullahs and Peers who refuse to perform their duties and look upon the property as hereditary one in spite of doing no religious service to the community. I think therefore that I can support the proposer of this motion in his attempt to secure individual liberty. In the Muhammadan religion there is the Wakf property, which is a religious endowment, and according to the Muhammadan religion, it is quite permissible that if a priest does not perform his religious duties, the property can be taken away, and he is given only a livelihood. I support the Resolution strongly. I don't know what is the Hindu law about it, but according to us, Muhammadans, the property can be taken back from the priest if he refuses to perform his religious duties.

The HONOURABLE SIR BENODE CHANDRA MITTER (West Bengal : Non-Muhammadan) : Sir, I rise to support this Resolution. Sir, I support it on the short ground that every one should have the utmost liberty of choosing his own preceptor in religious matters. Sir, I think that a fee which is paid by the disciple to the priest or preceptor is a voluntary contribution. It ought merely to be a question of conscience between the disciple and the priest, and it is a matter worthy of consideration that this custom which is said to obtain in Bombay does not obtain in any other province in India. The other High Courts have not recognised this custom. In the Madras Presidency which one may say is the great seat of Brahminical learning the High Court has characterized this custom as being against public policy. Sir, I venture to think that all services should be voluntary ; there should be no compulsion upon a person to employ any other person. Sir, in matters spiritual this is of even more importance, because spiritual slavery is very often one of the worst forms of slavery. (Hear, hear.) I will give you an illustration. Supposing it is the custom in a particular village that a particular family should

serve as servants another family. Supposing that custom had gone on for centuries past, are we here to sanction such a custom. (*A voice* : "Yes.") My Honourable friend says "yes." I emphatically say "no," because such a custom recognises in effect the validity of slavery. It is of the utmost importance that individual liberty of action should be given in every sphere of life so long as that liberty is not subversive of the well-being of the community at large, and I ask again what form of slavery is more tyrannical than the form of spiritual slavery? What form of undue influence is more subtle, is more cruel, is more difficult to withstand than the influence that the priest often exercises over his disciple?

Sir, then it has been said that the demand for this Bill has not come from the majority of the people concerned. Is that a sufficient argument? May I remind this House that the demand for the reforms in the Legislatures did not come from the masses who are vitally concerned. Are not the persons who lead the masses the right persons to inaugurate reforms? Almost every reform in its initiation has been stoutly opposed by those who were most vitally concerned.

Then, Sir, there seems to be a misunderstanding in this matter. Some of my Honourable Colleagues seem to think that there is a grant of land to the priesthood and that the land has been taken away. There is no question that any land has been granted by the ruling powers at any time and that that land is being sought to be taken away, and, therefore, compensation must be given. It is a question whether this Council is to recognise the right of the priest to this monopoly. Whether he is a good man or a bad man ; whether he is a religious man or an irreligious man ; whether he is a drunkard or not ; he has got to be retained by his disciple, and, if the disciple should be bold enough to say "no, I have no faith in your instructions, I believe you are a bad man," the law will continue to tell him "You must pay adequate compensation before you can get your proper religious instruction." Supposing a man is poor, and unable to pay adequate compensation is he to be deprived of his religious instruction simply because, in the name of vested right, an appeal is made to this enlightened Council that the Bill is a confiscation Bill. What is this vested right? When and how did the right come into existence? The vested right analysed is this that, whether the disciple wishes to retain the priest or not in his service, he must retain him. Is this a right which this Council is going to recognise as being a custom that is consistent with morality? The Madras High Court has said it is opposed to public policy. The fact that none of the other High Courts have found the existence of such a custom is a significant fact.

Then, we are told that it is a Statute of confiscation and that, as a matter of fact, compensation must be given. On what scale, on what basis? Is it to be paid by the individual or out of the national revenue? We have not heard a word about it. Well, if that matter is discussed later on, we shall form our judgment, but we have not heard yet upon what basis compensation is to be assessed.

Then, Sir, it has been said that the rights of the individual have also got to be taken into consideration, namely, the rights of the priest. That puts the question merely in another form. What is the right, I ask?

[The Honourable the President.]

not carried, then we come back to the original motion on which the Honourable Member will then have an opportunity of speaking.

The HONOURABLE SIR MANECKJI DADABHOY : I submit, Sir, that it will serve no useful purpose to postpone further consideration of this Bill. I think the matter has been fully discussed, and it should be disposed of one way or the other. I personally think that a Bill of this nature ought not to have been moved in this Council, ought not to have been brought up either before the Legislative Assembly or the Council of State. My Honourable friend, Sir Benode Mitter, has said.....

The HONOURABLE THE PRESIDENT : The sole matter before the Council, I may explain again, is the motion for postponement of the present discussion. The Honourable Member must confine his remarks to that.

The HONOURABLE SIR MANECKJI DADABHOY : Then I have nothing further to say on that point.

The HONOURABLE MR. C. M. BAKER (Bombay : Nominated Official) : Sir, I support the amendment. I am not very much impressed by other arguments against the Bill, but the argument as to compensation is a serious one, and the question of how compensation is to be arranged is a very difficult question indeed, on which we cannot possibly form any opinion on to-day. It may very likely end in a request to the long-suffering Bombay Government to pay the compensation out of the land revenue. They already spend about a crore on that sort of compensation, and I do not think this House can possibly form any decision on this subject without at least consulting the Bombay Government.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce) : Sir, when my Honourable friend, Mr. Sethna moved this amendment I noticed he said that the postponement of this discussion would be for a few weeks only. I think I am right in saying, Sir, that there has been no decision as to a meeting of this Council in November or at any other date.

The HONOURABLE THE PRESIDENT : The Honourable Member is perfectly correct.

The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY (West Bengal : Non-Muhammadan) : I support the motion for postponement.

The HONOURABLE THE PRESIDENT : To the original motion an amendment has been moved by the Honourable Mr. Sethna that the further consideration of this Bill be postponed till the Council meeting in the cold weather.

The motion was adopted.

The HONOURABLE THE PRESIDENT : That disposes of the motion under consideration and also of the Honourable Mr. Kale's next motion* on the paper.

* That the Bill as passed by the Legislative Assembly be passed.

RESOLUTION *RE* AMENDMENTS IN ELECTORAL RULES.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I beg to move the following Resolution :

" This Council recommends to the Governor General in Council that he may be pleased to appoint a Committee to examine and report to him on the amendments which are desirable in the electoral rules relating to the Council of State, the Legislative Assembly and the Provincial Legislative Councils apart from questions affecting the franchise and the constituencies of the various Chambers."

As Honourable Members will remember, the Joint Parliamentary Committee on the Government of India Bill recommended that the franchise as settled by the rules should not be altered for ten years. The Committee, however, proposed by this Resolution is not to be concerned with questions relating to the franchise, but rather with the electoral machinery set up by the rules. The existing rules were drawn up after the passing of the Government of India Act, 1919—that is, after December 1919 ; and those rules had to be passed by Parliament and passed in time to enable the elections to be held in November 1920. It will therefore be realised that the time available for drafting them was strictly limited. I think, Sir, that those of us who were concerned with the drafting of those rules may congratulate ourselves on the fact that on the whole they have stood very well the test of the first elections. Nevertheless, as we anticipated, experience has disclosed certain defects and deficiencies, and it is desirable that these should be removed.

It is also desirable that a decision should be arrived at, as early as possible, as to the precise amendments that are required. The amendments must be laid before Parliament, and also, it must be remembered, some of the defects disclosed are in the Regulations made under the Rules, and obviously the amendment of the rules must precede the amendment of the regulations. Then, of course, time must be allowed also for the preparation of the electoral rolls, which must be in accordance with the amended rules. For these reasons, it is very desirable that an early decision should be arrived at as to any amendments that may be required. Local Governments have already been consulted in the matter and their opinions have been examined by my friend the Honourable Mr. Hammond, who has an unrivalled knowledge of this subject. At the same time, Government are anxious to have the opinion also of the elected Members of the Legislature. Members of the Legislature are directly interested in this matter and they have to look to personal experience of the elections. It is therefore proposed that a Committee should be appointed to examine the amendments needed, and that this Committee should include Members of this Council and of the Legislative Assembly. It will also include the Honourable Mr. Hammond, and an officer of the Home Department, and perhaps an officer of the Legislative Department. I hope the Council will see its way to accept the Resolution.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I heartily support this Resolution, and I think it has been

[Sir Maneckji Dadabhoy.]

moved in this Council none too soon. It is a very important matter, and in view of the forthcoming elections next year, it should be taken in hand at once. I would also suggest that this Committee when examining the present rules should also give their attention to the several election petition reports. We have had several petitions made during the last 18 months contesting the various elections, and some of the pronouncements of the committees are essentially important. Many irregularities have been brought to light, and I think the Committee will do well therefore to give their very best attention to the reports of committees which were appointed to decide election disputes. I, therefore, support this Resolution.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadian) : Sir, I heartily support this Resolution, because I find from experience that a lot of changes are required to be made in the election rules. For instance, in the last election we found that the polling stations were not as many as there ought to have been. The second point is that the voters do not receive any notice that their names are registered and do not know what they have to do. There are many such things that require consideration, and I therefore strongly support this motion that a Committee should be appointed to consider all the rules and suggest changes in them.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhammadian) : Sir, I would also like to support this Resolution. I hope the Committee will give some attention to one particular question, namely, the question of residential qualification. I am sure the provinces at whose instance this rule was introduced will be the first now to get that rule altered, which, if done, the Legislative Councils of those Provinces will be greatly strengthened as compared with what they are to-day.

The HONOURABLE SIR AHMEDTHAMBY MARICAIR (Madras : Muhammadian) : Sir, I also support the Resolution, because I have my own experience in the last election. It is the custom for a number of undeserving candidates to oppose the deserving candidates. I suppose the Committee appointed will make such a rule as to prevent such undesirable people who are unnecessarily opposing and causing unnecessary expenditure in the election from standing. After all, I know many instances in which a candidate stood for 4 or 5 constituencies for nothing at all but simply with a view to—I do not want to express it here. I will explain it to the Committee. I hope the Committee will rectify all these defects in the near future. I support the Resolution.

The HONOURABLE THE PRESIDENT : The question is :

“ This Council recommends to the Governor General in Council that he may be pleased to appoint a Committee to examine and report to him on the amendments which are desirable in the electoral rules relating to the Council of State, the Legislative Assembly and the Provincial Legislative Councils apart from questions affecting the franchise and the constituencies of the various Chambers.”

The motion was adopted.

PANELS FOR ADVISORY STANDING COMMITTEES.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I beg to move :

“ That this Council do proceed to elect in the manner described in the Rules published in the Home Department Notification No. F-49, dated the 22nd August, 1922,

PANELS FOR ADVISORY STANDING COMMITTEES.

a panel of four members from which the members of the Standing Committee to advise on subjects in the Home Department will be nominated :

‘ a panel of six members from which the members of the Standing Committee to advise on subjects in the Departments of Commerce and Industries will be nominated ;

‘ a panel of six members from which the members of the Standing Committee to advise on subjects in the Department of Revenue and Agriculture will be nominated ; and

‘ a panel of four members from which the members of the Standing Committee to advise on subjects in the Department of Education and Health will be nominated ’.”

As the Council is doubtless aware, in January last a Resolution was passed by the Assembly recommending that Standing Committees be associated with the Departments of the Government of India, except the Army and Foreign and Political Departments. That recommendation has since been very carefully considered. It will be remembered that the Joint Committee of Parliament on the Government of India Bill recommended that the rules regarding the appointment, composition and rules governing the procedure of these Committees should be matters exclusively within the discretion of the Governor General. The decision of His Excellency the Governor General has been announced in the rules which were recently published and of which I think all Honourable Members have copies. The main features of these rules are that Committees are to be appointed to advise on certain subjects in the Home Department, the Department of Revenue and Agriculture, the Department of Commerce and Industry and the Department of Education and Health. Each Standing Committee is to consist of five members, of whom two are to be members of the Council of State and three members of the Legislative Assembly. The Members are nominated by the Member in Charge of the Department with the approval of His Excellency the Governor General from panels elected by the Chambers. The subjects to be laid before the Committee are indicated in the rules, and I do not think that I need recapitulate them. The motion I have brought forward is that the Council do proceed to elect these panels, and I hope that it will be accepted. It is recognised of course that Honourable Members who are willing to serve on the Committees, will have to give up a good deal of their time for this purpose, but it is hoped that members will be found who will be willing to serve on them and assist the Government with their advice.

The HONOURABLE THE PRESIDENT : The question is :

“ That this Council do proceed to elect in the manner described in the Rules published in the Home Department Notification No. F-49, dated the 22nd August, 1922, a panel of four members from which the members of the Standing Committee to advise on subjects in the Home Department will be nominated :

‘ a panel of six members from which the members of the Standing Committee to advise on subjects in the Departments of Commerce and Industries will be nominated ;

‘ a panel of six members from which the members of the Standing Committee to advise on subjects in the Department of Revenue and Agriculture will be nominated ; and

‘ a panel of four members from which the members of the Standing Committee to advise on subjects in the Department of Education and Health will be nominated ’.”

The motion was adopted.

NOMINATIONS FOR ELECTION TO PANELS.

The HONOURABLE THE PRESIDENT : I propose in connection with the motion which has just been passed by the Council to fix Monday as the last day on which nominations for election to these panels should be received. Honourable Members therefore will kindly send in to the Secretary before 11 A.M. on Monday any nominations which they wish to make. When those nominations are received and if it is necessary to hold an election, then the election will be held as the last piece of business on the agenda at the meeting on Wednesday, the 20th. Nominations must be in writing, legibly written and signed.

DISPOSAL OF FURTHER BUSINESS.

The HONOURABLE THE PRESIDENT : With reference to the remaining piece of business on our list to-day, I am informed by the Honourable Mr. Monerieff Smith that it will be possible to give an early date, and thus avoid an afternoon sitting. I leave the matter with the Honourable Mr. Kale. If he prefers to go on, we will go on.

The HONOURABLE MR. V. G. KALE : I agree to the proposal provided the question is taken up at an early date.

The HONOURABLE THE PRESIDENT : Perhaps the Honourable Mr. Monerieff Smith will say approximately when it will be possible to take up the matter.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : I am almost certain, Sir, that time will be found for the Honourable Mr. Kale's motion on the 20th.

The HONOURABLE MR. V. G. KALE : Under those circumstances, I accept the suggestion of the Honourable the President.

The Council then adjourned till Eleven of the Clock on Monday, the 18th September, 1922.

COUNCIL OF STATE.

Monday, the 18th September, 1922.

The Council met in the Council Chamber at Viceregal Lodge at Eleven of the Clock. The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

INCHCAPE COMMITTEE.

128. The HONOURABLE MR. PHIROZE SETHNA : Will Government be pleased to say if in the references to the Inchcape Retrenchment Committee is also submitted the question of doing away with the annual exodus to Simla on the score of economy ?

The HONOURABLE MR. E. M. COOK : The terms of reference to Lord Inchcape's Committee are quite general, and the Committee will be free to examine, and to make recommendations regarding, any item of expenditure in the Central Government's budget. I have no doubt that the Committee will give their attention to the particular matter referred to in the Honourable Member's question.

EMIGRATION TO FIJI.

129. The HONOURABLE MR. LALUBHAI SAMALDAS : Will the Government be pleased to say whether they have received any requisition to allow a large number of coolies to emigrate annually to Fiji and, if so, what answer have they given to such a requisition ?

The HONOURABLE MR. B. N. SARMA : The Government of India believe that the colony of Fiji is anxious to obtain Indian labour which would work on plantations on first arrival, but no requisition for labourers has been received. Before deciding the question whether the emigration of unskilled labour to the colony should be resumed or not, the Government of India propose to await the report of the deputation which they sent to the colony to inquire into the conditions of the Indians already there and the suitability of the country for Indian colonization.

The HONOURABLE MR. LALUBHAI SAMALDAS : Has the attention of the Government been drawn to the statement that appeared in the daily papers that the Fiji Government has applied for the emigration of coolies ?

The HONOURABLE MR. B. N. SARMA : We are aware that they desire it, but there has been no formal requisition.

POLITICAL PRISONERS, NORTH-WEST FRONTIER PROVINCE.

130. The HONOURABLE SAIYID RAZA ALI : Will Government be pleased to lay on the table a statement regarding political prisoners under-

going imprisonment in the North-West Frontier Province jails on the 1st September 1922, showing :—

- (a) the total number of political prisoners and the name of each ;
- (b) the law under which he was undergoing imprisonment ;
- (c) the sentence or order, together with a specification whether the imprisonment was simple or rigorous ; and
- (d) the weight of each prisoner when admitted to jail together with his present weight ?

The HONOURABLE MR. S. P. O'DONNELL : The Government of India have not the information asked for but inquiry is being made, and the results will be communicated to the Honourable Member when available.

POLITICAL PRISONERS, NORTH-WEST FRONTIER PROVINCE.

131. The HONOURABLE SAIYID RAZA ALI : (a) What is the treatment accorded to political prisoners in the North-West Frontier Province ? Are they treated like ordinary prisoners or is there any distinction made in their case ?

(b) Are persons sentenced to simple imprisonment allowed to put on their own clothes or is it obligatory on them to wear jail clothing ?

The HONOURABLE MR. S. P. O'DONNELL : (a) It is understood that so far no concessions have been extended to these prisoners. The treatment to be accorded to them is however, under consideration, and the Government of India are addressing the Chief Commissioner on the subject.

(b) All prisoners other than habituals sentenced to simple imprisonment are allowed to wear their own clothes. Superintendents of Jails, however, can in the exercise of their discretion deprive them of this privilege.

The HONOURABLE SAIYID RAZA ALI : I did not catch the last words. What is the discretion that is vested in the Superintendents of Jails ?

The HONOURABLE MR. S. P. O'DONNELL : The Superintendents of Jails can, in the exercise of their discretion, deprive them of the privilege of wearing their own clothes—I understand for disciplinary reasons.

The HONOURABLE SAIYID RAZA ALI : Are there any cases on record in which the Superintendent of a Jail has exercised his discretion, of depriving a prisoner of wearing his own clothes and has insisted on his wearing Jail clothing ?

The HONOURABLE MR. S. P. O'DONNELL : I do not know that there are any specific cases like that. I understand the position is this, that, if a prisoner misbehaves or is guilty of a breach of discipline, this might be one of the penalties.

MALIK KHUDA BAKHSH.

132. The HONOURABLE SAIYID RAZA ALI : (a) In how many jails has Malik Khuda Bakhsh, B.A., LL.B., Vakil of Bannu, been kept since his incarceration on the 30th March 1921 ? What is the reason of so many transfers ?

(b) Is it true, as alleged in the Vernacular Press, that though sentenced to simple imprisonment he was kept in solitary confinement for several weeks ?

(c) Is it also true that he was relieved of his cap bearing the crescent mark, that his clothes were forcibly taken off his body and prison clothing offered in their place, and that he was also deprived of his holy Quran and *Jānamāz* (prayer-mat) ? Will Government be pleased to make a full statement ?

The HONOURABLE MR. J. P. THOMPSON : Inquiry is being made from the Local Administration, and a detailed reply will be furnished to the Honourable Member in due course.

The HONOURABLE SAIYID RAZA ALI : May I inquire, Sir, whether the answer may be expected to reach me before the end of the current Session ?

The HONOURABLE MR. J. P. THOMPSON : I hope that Government will be in a position to supply the Honourable Member with the reply before the close of the present Session.

PRISONERS IN PESHAWAR JAIL.

133. The HONOURABLE SAIYID RAZA ALI : (a) Is Nawab Arbab Dost Muhammad Khan a Visitor of the Peshawar Jail ? Did he visit the jail and make any suggestions during the last 18 months regarding the treatment of political prisoners ? Will Government be pleased to state what those suggestions were and what action, if any, has been taken with reference to them ?

(b) Is it a fact that barley bread is supplied to the political prisoners in Peshawar Jail and that many of them, including Haji Karam Ilahi, Abdul Aziz and Bashir Ahmad, have considerably lost in weight ?

(c) Is it also a fact that twelve political prisoners under sentence of simple imprisonment and ten such prisoners under sentence of rigorous imprisonment were kept in solitary confinement in May last in Peshawar Jail ? If so, what was the reason ?

The HONOURABLE MR. S. P. O'DONNELL : The Government of India have no information but inquiry is being made, and the results will be communicated to the Honourable Member when available.

The HONOURABLE SAIYID RAZA ALI : I take it that this reply is with respect to all the three parts of my question, (a), (b) and (c) ?

The HONOURABLE MR. S. P. O'DONNELL : Yes.

ABDUL GHAFFAR KHAN.

134. The HONOURABLE SAIYID RAZA ALI : (a) Has Abdul Ghaffar Khan, Khan of Utmanzai, been given three years' rigorous imprisonment under Section 40 of the Frontier Crimes Regulation ? What is his social position and family status in the Frontier Province ?

(b) Was he kept in solitary confinement for several weeks in Peshawar Jail before being transferred to another district ? Is it true that he has decreased 33 pounds in weight since his incarceration ?

The HONOURABLE MR. J. P. THOMPSON : (a) On 17th December last Abdul Ghaffar Khan was sentenced to three years rigorous imprisonment in default of furnishing security under Section 40, Frontier Crimes Regulation. He is the son of a substantial landowner in the Peshawar district.

As regards (b) inquiry is being made and information will be furnished to the Honourable Member in due course.

LICENCE TO BENGAL TELEPHONE COMPANY.

135 The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Will the Government be pleased to lay on the table the conditions under which they have granted a license to the Bengal Telephone Company and the circumstances under which they have allowed the company to increase, in the future, their rates by nearly seventy per cent. over existing tariff ?

The HONOURABLE MR. B. N. SARMA : The Honourable Member's attention is invited to the copy of the agreement, dated the 11th April 1922, placed in the Members' Library. The Government of India were satisfied on a consideration of all aspects of the case that, subject to the conditions laid down in clause (3) of the agreement, the sanctioned increase in the maximum rate of subscription from Rs. 250 to Rs. 350 was necessary if the Company were to raise such new capital as is needed to carry out the extensions and improvements contemplated by it, without prejudice to the rights of existing shareholders. So far as the Government are aware, the Company does not at present propose to charge more than Rs. 300 for any connection.

INCREASE IN RATES OF BENGAL TELEPHONE COMPANY.

136. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY : Has the attention of the Government been drawn to the indignation caused in Calcutta, particularly in the commercial, industrial and mercantile world, by the announcement of the increases contemplated by the Bengal Telephone Company in their schedule of rates, and, in view of the above, does the Government intend to call upon the company to reconsider the proposed rates ?

The HONOURABLE MR. B. N. SARMA : The Honourable Member is referred to the reply given on the 15th September 1922 to the Honourable Maharaja S. K. A. Chaudhuri's question No. 113.

LOCAL RESOURCES IN INDIA.

137. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Is it correct to assume that it is the aim of the Government of India to encourage the development of the local resources of the country, and that, with that end in view, it is the duty of Government Departments, such as the Horticultural Department, to ascertain in a practical manner how and what local resources can best be utilised, and whether any necessary industry can be put on a commercial basis ?

(b) Having conducted such experiments to a successful issue, is it not the policy of the Government of India that private enterprise (if forthcoming) should be allowed to develop any necessary industry and that the Government Department concerned would then cease their operations in that line to avoid the possibility of Government competing against such private enterprise in the open market ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The assumption made in the first sentence of the Honourable Member's question is correct. As regards the second sentence, I would remind the Honourable Member that the development of industries based on local resources is mainly a transferred provincial subject, and the extent to which practical experiments in such a direction are made depends, in the first place, upon the policy of the Ministers who are in charge of that subject in the provinces. It may not be necessary or desirable that the initial experiment should be made by Government in any particular case. The development of an industry can only be undertaken by the Government of India in particular cases which have been specifically declared to be Central in consultation with the local Government or Governments concerned.

There is no Department called the Horticultural Department but if the Honourable Member means the Agricultural Department he is reminded that agriculture is also a transferred provincial subject.

(b) The Honourable Member has correctly interpreted the general policy of Government in the matter of pioneer industrial undertakings. In such cases Government generally follows the policy recommended by the Indian Industrial Commission as laid down in paragraph 205 of their report.

COMMUNICATION FROM HIS EXCELLENCY THE VICEROY REGARDING THE MESSAGE OF CONDOLENCE.

The HONOURABLE THE PRESIDENT : In obedience to the direction of the House I conveyed to His Excellency Lord Reading the sentiments of the House on his recent bereavement and I have received the following communication from the Private Secretary to the Viceroy :—
“ Sir,

I am directed by His Excellency the Viceroy to convey his appreciation of the kind sympathy which the Members of the Council of State have conveyed to him in his bereavement through you.”

MESSAGE REGARDING VISIT OF EARL WINTERTON.

The HONOURABLE THE PRESIDENT : I have also received a telegram from Earl Winterton which runs as follows :—

“ I should be grateful if you would kindly convey my grateful thanks to the non-official members of the Council of State for their kind telegram of welcome.

(Sd.) Winterton.”

[Mr. H. A. F. Lindsay.]

STATEMENT LAID ON THE TABLE.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, I lay on the table the reply to part (b) of the Question asked by the Honourable Mr. Sethna on the 6th September, 1922, on the subject of the deputation from the Sheffield Chamber of Commerce to the Secretary of State in regard to purchases for Indian Railways.

The HONOURABLE MR. H. A. F. LINDSAY : The Government of India have received a copy of the proceedings of the deputation. The proceedings were informal and no report was published. The deputation expressed their disappointment that orders for Indian railway materials were not sent in any quantity to Sheffield. They laid stress on the unemployment in the town and on the grave handicap caused to Sheffield manufacturers by taxation due directly to the war, and suggested that India should view the difficulties of English manufacturers and English workmen sympathetically. They represented further that it would be to India's advantage in the long run to continue her connection with manufacturers who had been producing for India for a very long time, with the result that in many cases, particularly in the case of railway materials, the product of leading British manufacturers was greatly superior in reliability and durability to the product of manufacturers on the Continent. Their main point was that whatever test was applied to materials manufactured on the Continent, there was no guarantee that such materials had the same life as those of a similar character produced in England as the result of years of experience. In the matter of durability they represented that the only guarantee was the reliability and experience of the firms who for many years had been turning out materials for Indian railways with a knowledge of Indian requirements. The Secretary of State promised that he would bring the representation to the notice of the Government of India, and the Government of India have again examined the instructions which they issued to the High Commissioner in December last. A copy of these instructions has already been published. In paragraph 8 of that letter the Government of India, while they instructed the High Commissioner that in placing contracts for stores and materials required for Government Departments in India he must revert to the ordinary business principle of accepting the lowest satisfactory tender, went on to say that they had no desire to fetter his discretion in deciding between tenders on the principles laid down, and expressly stated that in making such decision he should, of course, take fully into account such considerations as quality, reliability, ease of inspection, time of delivery and the like. The Government of India consider that they cannot add usefully anything to the instructions they have already given to the High Commissioner regarding the points on which the deputation laid most stress, and they have informed the Secretary of State accordingly.

RESOLUTION RE SEPARATION OF POST AND TELEGRAPH ACCOUNTS—(concl'd).

The HONOURABLE THE PRESIDENT : The Council will now resume the further discussion on the Resolution* moved by the Honourable Mr. Kale on the 11th September.

* This Council recommends to the Governor General in Council that in view of the repeated complaints regarding the allocation to the Telegraph Department of

revenues earned by the Postal Combined Offices on telegraphic messages transmitted through those offices and in view of the differential treatment accorded to the Postal and Telegraph Services, (1) the revenue and expenditure accounts for Postal Combined Offices in relation to the above messages and those of the Departmental Telegraph Offices be separately maintained and shown and the profits that may accrue, as a result of this arrangement in the accounts of the Postal Combined Offices, be credited to the Post Office; and (2) that such profits may be utilised for the improvement of Post Offices and of the conditions, pays and prospects of the Postal employees.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadian) : Sir, the Honourable Mr. Kale has asked definitely for two things. The first is purely a question of accounting. He says that the revenue and expenditure accounts of the combined offices—Postal Combined Offices as they are called—in relation to messages sent by these offices should be credited and debited to the Post Office; that is to say, that the income should be credited to the Post Office and the expenditure also should be debited to the Post Office. This, Sir, is purely a question of accounting, and it would have been perhaps better if the Honourable Mr. Cook who represents the Finance Department had given us a lead in the matter. As it is, I will try to explain the situation as I understand it, and if I am wrong, I am open to correction by higher auditing authorities. Sir, merely because some income is derived in one office and because it is nominally earned on account of that office being managed by a man belonging to that Department, I do not think it would be fair that the whole income should be credited to that Department. The income of the Combined Post Office is not due merely to the work done by the signaller who is also working as Postmaster. The income is due to the use, in the first place, of the signalling machine that has been given for use. In the second place, it is due also to the use of the telegraph wires and lines put by the Telegraph Department. Unless account is taken of the wear and tear, the interest, the depreciation, and the sinking fund for the lines put up and for the signalling machines supplied to the Combined Post Offices, it would not be fair to credit that portion of the income to the Postal Department. But even if it were possible theoretically—and I don't think it is—the very fact that the number of times one message has to go through various offices makes the whole question impossible. The average number of signalling operations per telegram sent varies from 4.51 in 1919-20 to 4.78 in 1916-17. That means that one telegram sent from office A has to pass through 4.50 offices before it is delivered. The work is not done at the office which sends the telegram only but it is also done at the office which delivers it. Therefore, even if the proposal were theoretically correct, which it is not, it could not be done in view of the fact that one telegram has to pass through so many offices. On theoretical grounds, Sir, that is impossible. On practical grounds also it could not be done. I would ask the Honourable Mr. Kale to say if he thinks that the income earned in the Combined Post Offices could in any way be said to be due to those offices. In 1910-11 the number of such offices was 2,577, and the value of the telegrams was 35 lakhs. In 1920-21 the number of offices was 3,400 while the value of the telegrams is 1 crore 18 lakhs. That is to say, while the number of Post Offices has not increased by more than 30 per cent., the income has increased by 300 per cent. Can it be said that the increase in income is in proportion to

[Mr. Lalubhai Samaldas.]

the increase in the number of offices? If the increase had been proportionate, there could be some justification—very poor, but some justification—for my Honourable friend's contention. As it is, that contention cannot now hold good.

Now, Sir, the first part of the Resolution, as I have tried to prove, is neither theoretically sound nor practical from an auditing point of view. But it is necessary to see why my Honourable friend wants the alteration to be made. The alteration is to be made not, I think, purely from an accounting point of view, but because my Honourable friend thinks that injustice is done to one Department and through that Department to the employees, and more than justice is done to the other Department. It is very difficult, as I said just now, to find out the correct figures of the income earned to be credited to the Postal Department. In the same way it will be very difficult to find correct figures of income earned by the Telegraph Department which should be credited to that Department. But even if it could be done, I do not think that my Honourable friend will say that the remuneration to be given to the employees either of the Postal or the Telegraph Department should vary according to the income earned by them. If the principle is once adopted, I daresay the Collector or the Forest Officer or for the matter of that even the Excise Officer, will claim higher salary because they have been able to get more money the first from the cultivators, the second by using the forest laws oppressively and the third by increasing the consumption of wines. I daresay my Honourable friend does not want that principle to be adopted. What he wants—and there I believe he will have the sympathy of the House—is that poor paid employees of the Postal Department should get some benefit—as much as is justifiable—from the income earned by them. The Honourable Member in charge has told us that the case of the postal employees has been considered only recently, and if I remember aright, promotions have been given to the extent in some cases of 60, in some of 80 and, if I mistake not, in some cases of 100 per cent. If that is so, in view of the present financial stringency, is it advisable for my Honourable friend to ask for further promotions to be given to the people who have only recently, within two years, been given good promotions and have been given that promotion after their case had been thoroughly inquired into by a Committee specially appointed for that purpose? The only ground on which my Honourable friend Mr. Kale can lay stress is that for extra work of a special character, —not extra work that is legitimate work of the Postal Department but extra work of a technical character—that is being done by the signallers who are Postmasters, they ought to receive special remuneration.

I believe Government is giving, if I mistake not, about 20 per cent. for that class of work. Whether that percentage represents correctly the amount of remuneration that they should be paid can very well be left to the Honourable Member in charge of the Telegraph Department. From the way in which they have treated the postal employees we can see that they have as much sympathy with them as any of us, even as my Honourable friend, Mr. Kale. We want these people

not merely to have a living wage, but something more than a living wage. If that is provided in the present scale of salaries then I say it is not advisable to raise this question now, at this juncture, in this House, especially in the present financial stringency of the country. Moreover, if this Resolution is carried, what will be the effect? The Government of India and the Postal and Telegraph Department will not perhaps be able to carry it out, and the result would be that we shall be creating disaffection and discontent where at present, I believe, contentment prevails. On these grounds I hope after the explanation given by the Honourable Member, my friend Mr. Kale will see his way to withdraw his Resolution.

The HONOURABLE MR. E. M. COOK (Finance Secretary) : Sir, I had no intention of intervening in this debate, and I only rise in response to the Honourable Mr. Samaldas' request, for it would not be courteous if I did not do so. At the same time, I am afraid my Honourable friend's confidence is rather misplaced, because this is certainly a matter upon which I can offer no kind of expert opinion. It is not a matter of financial policy; it is not even a matter which affects our general accounts, it is a matter which affects merely a portion of the departmental accounts maintained in one particular department. It is true that those accounts, relating as they do to a commercial department, are of considerable importance; and, as I think the Council knows, we have been endeavouring during the past year to make a large number of improvements in them; in order to do so we obtained the services of a very well-known firm of chartered accountants, who are perhaps the greatest experts in cost-accounting in Europe. Those gentlemen have visited India and have prepared a report on the Post and Telegraph Department, among others, and this is precisely one of those matters which, I think, ought to be governed by their opinion. I cannot say if they have referred to this particular matter in their report, but if they have not I have no doubt we could refer it to them. I must say that my own personal opinion—for what it is worth, and that is very little on a matter of this sort—is that if you are going to have a sort of *pro forma* account for these combined offices, you ought certainly to raise debits such as those my Honourable friend has mentioned.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : Sir, I am afraid that the object of this Resolution has been misunderstood. It was just now said that the idea which the Honourable Mr. Kale has in his mind is to ascertain these accounts, make out a profit and loss account and see that if there is a profit which the post office is making that profit ought to go to the post offices. That was suggested as the meaning of my Honourable friend's Resolution. I humbly submit that it is not so. All that it appears to mean—I will put it as briefly as I can—is that the conditions of service in every department nearly should as far as possible be equalised, so that young people seeking careers might enter any department that they like to enter. Otherwise if we make one department unpalatable, unattractive, what would happen is that abler people would not go to it, and the department being starved in the first instance would ultimately come to the point of extinction. That ought to be prevented at all times. Every

[Mr. G. S. Khaparde.]

department should have openings in it, so that young men might enter it with ambition to make a career and also to make the department successful. I am not a novice in this subject. Some Honourable Members will remember that in 1919 I moved a Resolution about this department and I was lucky enough to get a committee appointed. Unfortunately the convention established in the House of Commons by which every member who proposes a Committee becomes a member of the Committee does not obtain here; otherwise I would have been a member of the Committee. But I was not put on it—I was kept out of it altogether, ignored as one might say. This Committee met and recorded a Resolution and in that Resolution, I am very sorry to say, there was enunciated a principle which I wish had not been enunciated. That principle was that Government was giving concessions to these post offices and therefore these post office people who criticised were looking a gift horse in the mouth and were trying to minimise the whole thing; whereas Government said “We are only giving you a concession and we are doing this as a piece of favour and you ought to be thankful; at least you ought not to assume a critical attitude.” That, I submit, was a wrong attitude. They were all servants of the State, servants of Government; and nobody was giving a concession to another. All that the post office people said was that justice should be done to them, and I am glad to say that the Committee, notwithstanding the enunciation of this principle which I consider wrong, still did something for the post office people for which I am sure the post office people are grateful. But the grievances remain; and why do the grievances remain? Because I have an idea that the post office is about the earliest department established by Government, after the army. The army was necessary to take possession of the country and having taken possession it was necessary to know what was passing all round; therefore the post office got established at once, and established in times when living was cheap and for two or three rupees a man could make a living. The pay was fixed in accordance with the conditions prevailing then; they got employed on very small salaries and in very remote parts with very little convenience and no attractions at all. But the wage then given was sufficient for the time being. Since then, the times have advanced; living has become more expensive; people cannot get on now with the pay which they used to get a decade or two ago; and hence this demand that you should pay a little more; it always happens that the oldest department suffers most.

Even in England if you went and talked to the post office people, as I did, you would find the same complaint there also. They were entertained in times when prices of necessities of life were cheap and their salaries have remained the same. Of course when we have increased their salaries in some cases as much as double, it is not at all satisfactory, because the double pay does not fetch even half of what their original pay used to fetch, and so the grievance remains there. Government authorities say, ‘Oh, we have been very liberal to our employees,’ but the poor subordinates say ‘we have got nothing.’ It is not due to the fault of any particular person, but it is the weakness of mankind. Formerly the bullock was our principal motor power, as you may call

it. Then came the horse which is regarded as a better animal than a bullock because it is a faster animal than the bullock. If the horse does not work as hard as the bullock, it matters little; if it costs more to keep a horse, it does not matter, because a horse requires a stable, a syce, gram, and special attention, while the poor bullock does not need as much attention as the horse requires, and therefore the horse has come to be preferred to a bullock. That has happened in regard to the old post office. It brings an identical letter for an identical postage, it is delivered to the person to whom it was addressed; while the Telegraph Office does not undertake to give full and proper addresses; it only says, ‘we shall transmit the message and deliver it. We do not know who delivered it; we only carry the message; it does not contain the signature of the man’; all the same the telegraph is more speedy and the post office is slow, and so just as the horse has come to be preferred to the bullock, the telegraph has come to be preferred to the post office. The post office delivers a letter, it contains the signature of the person, while the telegraph office does not do anything of the kind, it merely transmits the words. You get a form, and whatever you write on it, it is transmitted to the other party. If you say ‘send me Rs. 2,000 buying so many bales of cotton.....’

The HONOURABLE THE PRESIDENT: I do not wish to interrupt the Honourable Member, but he must get a little closer to the subject matter of the Resolution.

The HONOURABLE MR. G. S. KHAPARDE: I am speaking on the Resolution only. I want to show the differentiation that is made in the treatment given to the employees of the postal as well as the telegraph department. I was going to say that the telegraph office has got its advantages while the post office too has got its own advantages. The work done by telegraph has always to be confirmed by post. Postal communication is slow, no doubt, yet telegraph is preferred because it is more speedy. Now that the wireless has come into existence, if you will compare the salaries paid to its employees, you will find that they are paid ever so much higher than the telegraph men.....

The HONOURABLE MR. LALUBHAI SAMALDAS: Because it is more technical.

The HONOURABLE MR. G. S. KHAPARDE: But anything sent by wireless has also to be confirmed by the old post office, otherwise it carries nothing. Now the grievances of these people exist not on account of the *personnel* of any particular department, not because of the unwillingness on the part of any one to do any good to the employees, but it comes naturally, and it is our duty in this 20th century to try and equalise the conditions as far as possible, and let not the poor slow but sure means of communication be neglected at the expense of those more speedy and better ones; but there is no doubt the speedier methods are weak and require to be confirmed by the old slow department, I mean the post office. There is no doubt whatever that the telegraph people are treated much better than the postal people, and it is a real grievance with them. For that purpose, a schedule has been drawn up,—I have not done it, but it has been drawn up, showing how the telegraph and postal people are treated differently in the matter of housing, in the matter of pay,

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in the matter of hours of work, in nearly all matters which go to make up the comfort and convenience of man. There is a whole list made of it, I shall not take up the time of this Council by reading it. I believe copies of it have been supplied to all Honourable Members, but I pray that this schedule may be treated as a part of my speech and included by the Reporters.....

The HONOURABLE THE PRESIDENT : That is not possible. The Honourable Member must really confine himself to the Resolution.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I may be a little diffuse in my remarks but I shall try to be as brief as possible. The points raised by my Honourable friend Mr. Kale are these, first in regard to the maintenance of a separate set of accounts to show how much each branch earns, and secondly and ultimately, in regard to the question of equalising the prospects, which of course will be based on different considerations. Unfortunately both those considerations have been put together and therefore there has been a little confusion. The first object is to see how much the post office and how much the telegraph office earns separately. That would not be so easy, because matters have been complicated, the two departments have been treated separately in certain respects, because there are telegraph offices and post offices separately, and there are also post and telegraph offices combined, and therefore it has been pointed out that there will be a difficulty in separating the accounts and showing them separately. I however humbly submit that this reason does not appeal to me for this reason that, at one time these Departments were quite separate and separate accounts were maintained, the Secretariat which deals with this head has got information as to how the accounts were maintained. I also see no difficulty in separating the accounts, because while coming to Simla I have to travel by three or four different railways. From my place I start by a State Railway, then by the Great Indian Peninsula Railway, then by the Bengal Nagpur Railway and then by the Kalka Simla Railway, and yet I purchase only one ticket and pay once for all. Somehow the railway companies adjust their accounts, and for my travelling the benefit which each railway gets is distributed over all the railways by which I travelled. Similarly, put the charges for the telegrams and get them distributed over all the offices through which they pass. The railways adjust their accounts, and I do not see why our Secretariat which deals with post and telegraph section should not be able to do so similarly. Therefore, so far as I can see, there can be no difficulty in respect of separating the accounts; those accounts may be separately kept and separately shown. I have also prepared some accounts to show what the relative proportion would be, but they cannot be accurate because they are based on our imagination. When we get accurate data, if it is eventually found that the post office earns more than the telegraph office or the telegraph office earns less than the post office, then it will be time to apportion the charges, not because one department makes more profits, but because we want to equalise the conditions of service in nearly all the departments. That would require a separate consideration of its own. For the present we have only to

consider whether we can separate these accounts, and this I submit is possible.

A difficulty has been pointed out that collecting and separating these accounts would involve a great expenditure. I humbly submit the expenditure will not be so great as is made out. We spend 22 lakhs now, and at the most we might have to spend Rs. 2 or 3 lakhs more, or say 24 lakhs in all. The question is of tremendous importance and this slight increase of 2 lakhs is nothing when we consider that we shall be doing justice to a large class of discontented employes. They must live a contented and happy life. If we find after separating the accounts that injustice has been done to them, we shall set that injustice right, and so the separation of these accounts will be a great benefit.

Then again it has been pointed out that there is a great difference in the duties performed by these people. It is said that the duties of the telegraphists are very technical, they require technical training, while the postal men do not need such technical training. I humbly submit that it is no doubt one of the considerations which can be refuted, it does not mean that the telegraphist is an electrician or that he understands all about electricity. The whole thing is, he learns the use of one machine, and in case if something goes wrong with it slightly, he can put it right, and that is about all the knowledge that he has got. That is a fact which can't be denied. While in certain post offices the postal people too work as telegraphists and they do the work quite successfully. Under these circumstances, I see no reason whatsoever why there should be any differentiation between the two classes of employes. The telegraphists have got special facilities to get their technical training, while few of the postal people get these facilities. The telegraphist gets so much allowance for learning his business, while a man serving in the combined post offices gets nothing to learn his business. He has got to learn it as well as he can, while he gets no allowances of any sort. Therefore, this objection regarding technical training does not hold much water, nor does the objection regarding the difficulty of separating the accounts hold much water.

Further it has been said, once people are getting their salaries which have been fixed, let them remain as they are, and that arrangement need not be disturbed. I humbly submit that all improvement or advance means disturbing some of the arrangements that have been existing and re-examining them and seeing whether you cannot put them on a better footing. The condition of all improvement is that we should re-examine the conditions under which things have been working.

A further argument on this subject is that, if a man by accident gets Rs. 10 and another man by accident gets Re. 1, they must stand at that. Don't you try and get Rs. 2. It is God's wish that you should get Re. 1. That is bringing us back to the doctrine of fatalism which is so much condemned elsewhere. This is not a gamble; this is a real consideration. We enter the services under certain conditions and it is only right and proper that we should try to analyse the situation. Let everybody have an equal chance. So, as I said, the objection taken to the first part of the Resolution does not appeal to me anyhow.....

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : I must ask the Honourable Member to conclude his speech as soon as possible : he has exceeded the time limit.

The HONOURABLE MR. G. S. KHAPARDE : Well, I have nearly done, Sir, now. I say the first part of it aims at being passed at once, and the second part attempts to set out that the profits, if at all it is shown that the Post Offices do make profits,—that there is time enough to see how they can be applied. And there are various considerations which will rule the apportionment of these profits.

In these circumstances, I strongly support the Resolution put forward by the Honourable Mr. Kale.

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras : Non-Muhammadan) : Sir, I wish to make a few observations only with regard to the second part of the Resolution.

The Honourable Mr. Kale has brought out the difficulties of the Postal employees to us. Their difficulties are many and they are felt all the more because the sister department which has been linked up with the Postal Department has been very much favoured. It is true that the postal official works longer hours, receives considerably less pay and is altogether worse off than the telegraphist. Certainly his case deserves the best of considerations at our hands and what consideration could be given to him, in the present state of our finances, has been given and is being given. If the same consideration is to be given to all other departments of Government, I believe our deficit would mount very high up. I would, therefore, earnestly entreat the Honourable Mr. Kale just to consider if a department that was helped just a few years ago with a general increase of salary should be helped with a second instalment of increments in so short a time. Here, I am not blind to the vast differences that have arisen in the pay and prospects of the two sister departments—the Postal and the Telegraph. It is a pity that the Government should have given room for the belief that the Telegraph Department has been unduly favoured to the detriment of the Postal. This is one of a series of mistakes we have been committing in India. To apply the Geddes axe to the Telegraph Department may seem to be the proper remedy. We shall leave it to Lord Inchcape to achieve it. But what is more expedient is to facilitate the admission into the Telegraph Department of all classes and communities hitherto kept out to a very great extent in practice, and to try to equalise the pay and prospects of the two departments. Let the old servants of the Telegraph Department continue to receive their present grades. Let the prospects of the employees of the Postal Department be improved when the financial outlook is better ; but let a new grade be fixed for the fresh recruits of the Telegraph Department and let that grade be fixed with a view to economy which we are forced to adopt in every other department in India. This seems to me the only possible solution of the wrongs that have been pointed out by the Honourable Professor. I would therefore request Government to give us an assurance of action of the kind I propose. If this is given, it seems to me that the Honourable Mover will be well advised to withdraw the

Resolution in view of the assurance that I hope will be given by Government to outline a scheme to lessen the difference—the great difference—in the pay and prospects of the two sister commercial departments of Government.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution. My Honourable colleagues who have already spoken in favour of this Resolution have dealt with all the points, and given facts and figures. The Honourable Mr. Sarma, when he was speaking the other day, did not explain why the signallers of the combined Post and Telegraph Offices were being differently treated from those of the Telegraph Departments in matters of their salary and prospects. In combined offices, the signallers have, as far as I understand, to do the additional portion of the work and I am also informed that, in all important cities, on holidays and after standard working hours, the combined Post Offices are closed and the earnings which are likely to accrue to the signallers from late fees are thus not given to them. The work of the Post Office has of late been enormously increased and the staff, as far as my information goes, has not been proportionately strengthened. This throws a much heavier amount of work on the poor postal clerks, and it seems to me unjust that for doing similar work they are being paid so poorly. If the accounts cannot be separated on some technical grounds and owing to technical difficulties, I would strongly urge that the grades of the postal signallers be made the same as that of the Telegraph signallers.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, in reply to the various criticisms which have been passed upon the Resolution which I moved the other day and the arguments which I advanced in support of that Resolution, I have to notice the observations made by only a few of my Honourable colleagues.

My Honourable friend here, Sir Arthur Froom, pointed out that this whole question was raised on account of the jealousy felt by the Post Office employees for the better status and higher emoluments of the Telegraph employees. Supposing that jealousy is at the bottom of the dissatisfaction that is felt by the Post Office employees, I do not see why there should be no jealousy. If there are two classes of employees doing the same kind of work, there is no reason why there should not be

The HONOURABLE MR. LALUBHAI SAMALDAS : Is it the same kind of work ?

The HONOURABLE MR. V. G. KALE : Why there should not be a feeling of injustice, if one class is favoured at the expense of another ? I shall not be actuated by a feeling of jealousy, if I am a poor man, against a wealthy man like Sir Arthur Froom, but, if we are both employees of Government doing equal work, when we are doing equally hard work, there is no reason why we should be differently treated.

I am asked whether the work done by the two classes of employees is the same. But I have never asked for completely equal treatment to be meted out to these two classes of employees. I am speaking of the feeling of injustice that is felt on account of the fact that in spite of their hard and onerous work, sufficient remuneration is not given to postal

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employees. I am not speaking of exactly equal treatment to be meted out to the two classes of employees, but am pleading for just and fair treatment.

The Honourable Sir Arthur Froom had also fault to find with the source of my information and he said something about my drawing my phrases and words from a certain memorandum circulated among Honourable Members of this House. (*The Honourable Sir Arthur Froom* : No, no.) I do not stop to inquire into the sources of my Honourable friend's information, but I will assure him that my source of information is as unobjectionable as his own

The HONOURABLE SIR ARTHUR FROOM : I said "previous speaker" not the Honourable Mr. Kale.

The HONOURABLE THE PRESIDENT : The Honourable Member has not given way.

The HONOURABLE MR. V. G. KALE : There is an important principle which he enunciated, namely, that the Post and Telegraph Department ought not to be regarded merely as a public utility service, that it should be looked upon as a commercial enterprise, and that the State should look up to it for substantial profits. I never intended to convey the idea that Government should not receive profits from this commercial department. I do want that some profit, a moderate amount of profit, should be received by Government from these commercial services. What I do want to maintain, however, is that it should not be regarded as a profit-making or a revenue-producing department and there is a world of difference between these two different propositions. I endorse the principle which has been laid down in the course of the discussion on this subject in the other House by the Honourable the Finance Member. It is this. Speaking on the 18th March 1921, in the other House, the Finance Member observed that he laid it down "as a first and primary axiom that the Post Office ought to pay its own way." I accept this principle. He also said that "the Post Office should not be run at a loss." It is a quite correct statement to make. He went further and said, "I will be bold enough to go further and to suggest that it is very reasonable that we should make something out of the Post Office. There is nothing novel, abnormal or irregular in so doing." My difficulty, however, is that by the amalgamation of the two Departments, there has been a very wrong impression created as regards the financial position of the two branches. There has been an amalgamation, but only in name. The two branches of the Department are kept under a common head, but the services of the employees are not amalgamated in the real sense of the word. It is said that there has been a fusion of the two departments. I would say that instead of fusion, there has been confusion, especially in the accounts of the revenues and expenditure of the two Departments. My Honourable friend Mr. Lalubhai Samaldas supported Government by pointing out the various difficulties in the way of giving effect to this Resolution. With all deference to my Honourable friend, I will say that his speech was full of fallacies. He quoted certain statistics and said that the number of Combined Offices has increased in a certain proportion while the income has increased in a much larger proportion than

the number of the Combined Offices. I do not see what useful conclusion he can draw from the array of statistics that he has placed before us. If there has been a disproportionate increase in the income from these Combined Offices, it may be due not only to the increase in the number of offices, but also in the increase in the messages. It may be due also to an increase in the rate that is charged. There are so many other factors that have to be taken into calculation. After all, therefore, his figures do not amount to much. Then he said that theoretically it is incorrect to show separate accounts. I do not see what is there in theory to militate against the keeping of separate accounts. As the Honourable Mr. Khaparde has pointed out, separate accounts used to be kept till the year 1912-13, and they can be kept in the future. If it is theoretically incorrect to show separate accounts, I will ask my Honourable friend, Mr. Lalubhai, to tell me why in the report from which he was reading, profits and losses are shown as pertaining to the two different Departments. Here is the important point that I want to make, namely, that a false impression is created in the public mind as regards the financial position of the two Departments on account of the profits and losses which are actually shown. I will quote my Honourable friend Mr. Innes whom I see here before me. Speaking on the 10th March, 1921, in the other House he said, "We have in the Post and Telegraph Departments, — Departments which have yielded to us for many years large revenues, especially the Telegraph Department." (Especially is here an important word.) "The Telegraph Department" he went on to say, "in 1919-20 contributed a net revenue of Rs. 1,70,00,000." So that, the Telegraph Department, as is shown here, contributed a net revenue of Rs. 1,70,00,000 in 1919-20. I ask, "Was this revenue really earned by the Telegraph Department? Was not a very large proportion of it earned for the Telegraph Department by the Post Office Department?" The Post Office have been earning for the Telegraph Department something like 1 crore or 80 lakhs and the expenditure of the Combined Post Office on account of this revenue of 80 lakhs or 1 crore may come to about 30 to 40 lakhs, so that the net revenue earned by the Combined Post Office on account of the Telegraph Department is nothing less than Rs. 60 to 70 lakhs. If this could be shown on the credit side of the Postal Department, certainly the public can have a more correct idea as to the financial contribution made to State revenues by the two Departments. The first part of my Resolution, therefore, asks for the showing of separate accounts so that a correct idea can be had by the public as regards the financial contributions made by the two Departments.

Another point which has been raised by the Honourable Sir Arthur Froom is this, that I want to make the earnings of the postal employees depend upon the profits earned by that Department. Nothing could be further from my mind than this. In all Government Departments the salaries are fixed. Whether there is a deficit or a surplus, it has nothing to do immediately with the salaries that are fixed for the different classes of employees. I was not, likewise, urging the adoption of what is called the profit-sharing scheme. As a business man, my Honourable friend knows that there is a profit-sharing scheme adopted by firms under which the employees continue to receive the normal wages fixed and whenever there are profits, over and above the normal wages, a share of the profits

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is given to them. But I am not going to propose anything of the kind at all, because in Government Departments that policy has never been adopted and ought never to be adopted. What I want to suggest is that if we are going to improve the Post Office, the facilities which are afforded to the public and the status and salaries of the Post Office employees, we must have, in the first place, a substantial revenue accruing from the Post Office. Unless you have a surplus in the Post Office you can make no progress and no improvement. But how can you know that there is a surplus when

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the two accounts are, as I have shown, mixed up together? Therefore, you must first of all separate the accounts so that you can see exactly where there is a profit, and it is out of this profit that improvements can come in the near future. It is admitted on all hands that increased expenditure on the post office is necessary, especially in the rural areas. How are you going to bring it about unless you have got a surplus and unless this surplus is utilised, as suggested in the second part of my Resolution, for the expansion and the improvement of the post office? And one of the objects of the utilisation of the profits will be the betterment of the status, salaries and prospects of the post office employees.

Then, there is another important point raised by my Honourable friend, Sir Arthur Froom, namely: that the postal employees doing signalling work are already receiving a living wage. I do not know what he means by 'a living wage.' So far as I understand it, it is an existence wage, if it is not a starvation wage. Either it is a living wage or it is not. If it is a living wage, I do not see any reason why the telegraphists should receive more than the post office employees. It must then be admitted that the telegraphists are receiving more than a living wage. You cannot and will not reduce the salaries that you have fixed for them; they must remain where they are. Very well; if that is a living wage and if it must be continued in the case of telegraphists, certainly what the postal employees are receiving is not a living wage and consequently a substantial improvement will have to be made therein. I am told that the increases which have been granted do not compensate the postal employees in many cases for the increase in the cost of living which has taken place in many of our cities and towns. Take Bombay for instance. Rents in Bombay have gone up very high. My Honourable friends sitting on my right will agree with me when I say that the rent problem in Bombay is the most difficult that has got to be faced.....

The HONOURABLE THE PRESIDENT: The Honourable Member is approaching his time limit; he should reach his conclusion as soon as possible.

The HONOURABLE MR. V. G. KALE: If a postal employee has to pay 50 per cent. of his salary in rent for an ordinary house to live in, I do not see how it can be called a living wage. However, I have not raised the question of the general status of all postal employees; I have been laying particular stress upon the condition of postal signallers. I have been told there are 5,000 of them and something has got to be done for them; they are working very hard and at the same time they are not earning as much as is absolutely necessary to give them a decent living. It will be agreed,

and it has been agreed to by some of my Honourable colleagues that something will have to be done for them, and for this reason it is that the separation of accounts in the first instance is essential. For these reasons, Sir, I place the Resolution before the House with the strong hope that Honourable Members will support it.

The HONOURABLE SIR ARTHUR FROOM: May I rise to a point of explanation, Sir? When speaking the other day I never used the expression "living wage." Also when I was speaking the other day and made reference to a member who had taken part in the debate as having culled his facts from a pamphlet which we had all received, I never attributed that to my Honourable friend Mr. Kale; I have much too high a regard for his ability. I was referring to the Honourable Member who had spoken immediately before me.

The HONOURABLE MR. B. N. SARMA: Sir, the Government does not wish to differentiate between the different classes of its employees doing the same work, and are anxious to have a contented post office and that there should be no cause for any jealousy between them and the telegraph employees. But the Government have to accept facts as they are, and the Honourable Mr. Kale will realise that no good purpose will be served by harping upon any differences that at present may exist between the salaries and emoluments that are paid to signallers in post offices and signallers in telegraph offices. In the first place the Government are advised that the kind of work that the signallers in the post offices do is of a different kind and a different quality from the kind of work that is done in the departmental offices, where more skilled workers are needed; and owing to various other considerations of which Honourable Members are fully aware a rate of differentiation between the salaries has grown up. But that does not mean that the signallers in the combined post offices, whose case Mr. Kale is advocating, have been treated, are being treated or propose to be treated unjustly. The main bone of contention seems to be that the post office is making an enormous revenue and if the accounts are kept separate it would be found that a large portion of the telegraph surplus is being earned really by the signallers in the combined post offices, and inasmuch as their earnings of profit are fairly appreciable their lot ought to be improved or at any rate brought up to a nearer level than that now obtaining. After we last met, I went into this question a little more fully to see really as to whether there is any substance in the suggestion that there is any vast profit made by the telegraph offices at present or as to whether that profit could be shared by the post office employees doing signalling work. Whatever may be the case in future, at the present moment I can assure the House and the Honourable Mr. Kale that there is not much meat in the bone for contention. The post office, as Honourable Members are aware was run at a loss last year; our revenue has not improved at all during the last few months. As regards the telegraph office too, the position does not seem to be very clear; but the figures of 1920-21 show that the message revenue was only Rs. 2.67 lakhs and the expenditure was about 2.68 lakhs; we were making a certain sum of money by the lease of telegraph lines to railway companies, from telephones and from other sources; but speaking with reference to the particular kind of employees my Honourable friend has at heart, there

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does not seem to be any great profit which, even at the twelve annas rate, the telegraph department is making,—the combined offices and the district offices being put together, because in the figures I quoted include the inland message revenue and foreign message revenue the combined offices earn. Therefore any revision of accounts at the present moment does not seem to help very much. The employees speaking about the post office side again, some sort of rough figures relating to message revenue have been given already to Honourable Members in this Annual Report of the Post and Telegraph Offices. But what the department contends and rightly contends is that there can be no true apportionment of the revenue or expenditure properly attributable to the post office, owing to various causes, which I need not go into now again. Some sort of rough distribution is possible and has been made, but a real apportionment is not possible. We will take the figures again; Honourable Members seemed to think that the combined post offices earned a lot of money. The number of messages is 18 millions out of a total of 40 millions, delivered as well as received. Assuming that the post office is entitled to a $\frac{2}{3}$ th share, or about Rs. 80 lakhs, what is the debit charge—I am only using very rough figures? 5,000 men at the rate of Rs. 75 a month are paid roughly Rs. 45 lakhs, and if you apportion $\frac{2}{3}$ th of the expenditure under other heads, namely, interest charges and so on, it will come to about Rs. 56 lakhs; therefore the net revenue that is earned is possibly less than the expenditure that is debitable, and therefore, a further scrutiny merely for the purpose of trying to see as to whether there is any money to be added to the post office revenue does not seem to be called for, especially as we are advised that a complicated account procedure would have to be adopted leading to increasing audit and account expenditure; but we have the same object as the Honourable Member, we want if possible to differentiate between the telegraph office revenue and expenditure, and the post office revenue and expenditure as far as possible.

A recommendation has been made to us by the Chartered Accountants that if possible the expenditure should be put on a commercial basis, and in doing so it may be possible for us to reduce the expenditure debited to the post office if we can exclude the salaries that are being paid to signallers. I therefore hope that the Honourable Mr. Kale will see that there is absolutely no use incurring further expenditure and in complicating accounts at the present moment as his object is not likely to be achieved, and such a step might result in disadvantages accruing to the employees he has in mind.

As regards the observations of the Honourable Mr. Khaparde, I hope he will be able to convince the post office employees that the Committee never intended to hurt their feelings or treat them as persons who are trying to get any relief by way of charity from the Government. Neither the Committee nor the Government of India had ever adopted such an attitude towards the postal employees, and the stray words divorced from their context which may have been employed should not be pressed unduly. What was meant was that the Government could get possibly in the open market, having regard to the competition at very much cheaper rates, but still having regard to the conditions of life

obtaining the committee tried to do their level best to improve the prospects of these employees compatible with the finances of the country. I do not think, therefore, that the post office employees have anything really to complain against the language employed by the postal committee. The Government have done their level best. I have already shown how it will be impossible to treat differentially the signallers from other post office clerks, for there will be very much heart-burning and jealousy as a result of such differentiation and no justification. There is not much difference on the whole, in the work done by the signallers employed in post offices from that done by other employees. They are mixed together in various kinds of work generally. No further object would be achieved by pressing this Resolution.

The HONOURABLE MR. V. G. KALE : Sir, I submit that this Resolution may be put in two parts separately.

The HONOURABLE THE PRESIDENT : I think the Resolution is connected. I will put it as a whole.

The question is that the following Resolution be adopted :

“ This Council recommends to the Governor General in Council that in view of the repeated complaints regarding the allocation to the Telegraph Department of revenues earned by the Postal Combined Offices on telegraphic messages transmitted through those offices and in view of the differential treatment accorded to the Postal and Telegraph services, (1) the revenue and expenditure accounts for Postal Combined Offices in relation to the above messages and those of the Departmental Telegraph Offices be separately maintained and shown and the profits that may accrue as a result of this arrangement in the accounts of the Postal Combined Offices, be credited to the Post Office; and (2) that such profits may be utilised for the improvement of Post Offices and of the conditions, pays and prospects of the Postal employees.”

The motion was negatived.

The HONOURABLE MR. V. G. KALE : I ask for a Division, Sir.

The Council divided as follows :

AYES- 9.

Ayyangar, Mr. K. V. R.
Jogindra Singh, Mr.
Kale, Mr. V. G.
Khaparde, Mr. G. S.

Maricair, Sir Ahmedthamby.
Naidu, Mr. V. R.
Ram Saran Das, Mr.
Raza Ali, Mr.

Sinha, Mr. Sukhbir.

NOES - 21.

Akbar Khan, Major.
Amin-ul-Islam, Mr.
Baker, Mr. C. M.
Barron, Mr. C. A.
Chettiyar, Mr. S. M. A.
Dadabhoy, Sir Maneckji Byramji.
Edwards, Major-Genl. Sir William Rice.
Froom, Sir Arthur Henry.
Holberton, Sir Edgar Joseph.
Jha, Dr. G. N.

Hammond, Mr. E. L. L.
Lalubhai Samaldas, Mr.
Lindsay, Mr. H. A. F.
Miller, Sir Leslie Creery.
Moncrieff Smith, Mr. H.
Sarma, Mr. B. N.
Sethna, Mr. P. C.
Shafi, Mian Sir Muhammad.
Thompson, Mr. J. P.
Vasudeva, Raja V.

Zahir-ud-din, Mr.

The motion was negatived.

RESOLUTION RE SALT MONOPOLIES.

The HONOURABLE LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I beg to move the following Resolution that stands against my name :

" This Council recommends to Governor General in Council that the system of monopolies now given to Government contractors in every district of the Punjab for the sale of salt having proved injurious to the general public should be abolished, and the old system for the sale of salt should be adopted."

(At this stage the Honourable Sir Maneckji Dadabhoy took the Chair.)

During the war owing to heavy recruitment in the Punjab, labour at the salt mines had become scarce, and due to scarcity of labour, export of salt to the theatres of war, and inadequate supply of railway wagons, the supplies of salt were not forthcoming from the sources. This brought about great shortage in the supplies of salt. The dealers began to exploit this shortage in the salt supplies and in accordance with the ordinary economic laws of supply and demand the price of salt went up, from near two rupees a maund the prices went up in the central Punjab districts to about five rupees a maund. It was at this juncture that the present system of monopolies for the sale of salt through the agency of Government contractors was introduced. The new system proposed the appointment under the control of district officers of agents in each district who could keep an adequate stock of salt from the northern India salt sources, and sell it at a price fixed by the district officers with due reference to the cost at the source, transport charges and a small and fixed margin of profit. Under this system the Salt Department accepts applications for the supply of salt from only agents authorised in this behalf in respect of various British districts and Indian states. There is an authorised salt agent for every district, and the present system has been devised to protect the public temporarily against those who were exploiting the shortage in salt.

We have now to see how far this system has actually worked in practice. There are some few points in this system that I would like to discuss. We are told that the district officers fix the price with due reference to the cost at the source, transport charges and fixed small margin of profit. I understand that this margin of profit is between five to six annas per maund. In Simla it is said the price fixed by the district officer is Rs. 3-2-0 per maund. In the district and hills states of Simla some ten wagons of salt are consumed every month, which means 5,500 to 6,000 maunds of salt per month. So this small margin of profit in practice amounts to no less than Rs. 8 to 12 per cent. per month and a profit of Rs. 0-4-0 to Rs. 0-6-0 per maund means a profit of about Rs. 1,500 to Rs. 2,250 per month. In bigger districts like Lahore, Amritsar, Sialkot, etc., where the consumption of salt is twice or thrice this amount the profits are proportionately much larger. I would like to ask Government whether the margin of profit to the monopoly agents under this system is, as we are told, really small.

The primary object of the new system was to protect the public against those who were exploiting the salt shortage. The system was

intended to bring down the price of salt. Let us see whether that object has been attained. The district officers are supposed under the new system to fix the price, but I would like to know whether this fixity of price gives any relief to the general public. The district officers can enforce the sale of salt at the fixed price only on the district agent or his sub-agents in the different parts of the district. The system no doubt ensures the salt being sold to retailers at a fixed price, but what about the consumers. The salt agent and the sub-agent sell salt only in bulk, they do not sell in retail. So the retailers who come in contact with the actual consumers can fix any price they like for the sale of salt. If the retailers choose to speculate, and take it into their head to exploit any temporary or permanent shortage in salt supplies due to labour troubles or transport difficulties on account of shortage in railway wagons there is nothing to prevent them from raising prices, in fact in Simla to-day the salt is being sold to the consumer at about Rs. 4 per maund. The district officers have no means to control the price charged by the retailers. I think it is impossible even to attempt such control, for to control prices charged by retailers would require the entertainment of a very large establishment. In pre-war days the price of salt in Simla was in neighbourhood of Rs. 2 to Rs. 2-8-0 per maund, in war times the prices went up 100 to 150 per cent. The new system has no doubt brought about an improvement of war prices, but can it claim to have brought about any real improvement taking into consideration the much larger supplies of salt that are now available at the source? The improvement brought about by this system has also been brought about in the prices of other commodities even without any control in fixing the prices, so the new system has no special merit worth the name.

There is another aspect from which I would like to look at the question. In the Punjab most of the salt agents are appointed not from among the salt trading classes and the Government of India instructions are not generally carried out. In the central districts of the Punjab excepting Hoshiarpur it is very curious to find that salt agents are appointed from among newspaper editors, Honorary Magistrates, Government treasurers, etc., etc. The salt agency is considered in these days so profitable that now any one who thinks he has done some service to Government or who has some influence with the local officials sets up a very good claim for the grant of salt agency whether it does not matter whether he belongs to the district or to a distant place. I submit, Sir, this sort of thing is against public conscience and tends to corrupt public life. This system has failed to give any relief to the people, and I think it is high time that we should revert back to the old system of free trade, where under the natural laws of competition prices assume their natural level. The Government also admit that this system is only a makeshift arrangement, devised only temporarily. Now Government can have adequate supplies of salt at the sources and I do not think there is now any reason why this monopoly system should be continued when it has not proved beneficial to the people. I hope the house will accept this Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, I strongly support the Resolution. I happen to know some of these salt agents and I know their earnings. They will give anything to get the monopoly from the Government, and

[Colonel Sir Umar Hayat Khan.]

even then they get a very large profit. All this money which goes into the pocket of some one as well as into the pocket of the man who takes the contract is a loss to the public, because, if all this money is wasted, naturally it has to come from the pocket of the consumer who buys the salt. If this system were abolished, that money will be saved to the ordinary buyer. Salt is a commodity which is very much needed for health. So, I think the cheaper it gets, the better it is, and it is for this reason that I strongly support the Resolution.

(At this stage the Honourable the President resumed the Chair).

The HONOURABLE MR. C. A. INNES (Commerce and Industry Member) : Sir, I am intervening early in this debate because, by doing so, I think that I can save the time of the Council. I listened to the speech of the Honourable Mover with the closest attention, and if I may venture to say so without offence, he gave an entirely inadequate and misleading account of the difficulties with which we have been confronted in the matter of the supply of salt to Northern India and of the effects of the remedies which we have endeavoured to apply to those difficulties. For the benefit of those Honourable Members who are not familiar with the operations of that mysterious department, the Northern India Salt Revenue Department, I make no apology for giving a brief description of its activities. The Northern India Salt Revenue Department manufactures salt at certain important sources in Rajputana and in what is called the Salt Range Division. In Rajputana the important sources are the Sambhar Lakes, Pachbadra and, I think, Didwana. In the Salt Range Division the sources are Khewra, Warcha and Kalabagh. At these sources before the war our normal production in a year was 109 lakhs of maunds of salt, and this salt served the whole of the Punjab, the whole of the North-West Frontier Province, the whole of the United Provinces, Rajputana and Central India. It also served parts of Sind, parts of the Central Provinces and parts of Bihar. In Bihar it came into competition with salt imported from abroad, and the whole of Bengal and the greater part of Bihar was served by this imported salt. Our old policy was always to leave the distribution of our salt to unrestricted trade. We had a system by which any one could put in an application to an authorised treasury, stating how much salt he wanted, pay the duty and the price of that salt and get a receipt. That receipt was in the form of an indent. He could fill up the indent, take it to the chief officer at the salt source and get in return a permit to remove salt. His name was entered on a roster, and when his turn came he was called upon to remove that salt. We had another system called the "through-traffic" system. Under this system any one could put in an application to an authorised treasury, to an authorised Post Office and even to certain Railway stations and pay the price of the salt. He could also pay half an anna per maund for despatching charges. He could send his indent to the salt source and could send his bags also; then in due course he would receive his salt freight unpaid. The "through-traffic" system was intended as a check on the formation of monopolies and on attempts to corner salt. Now, this system of distribution through the trade worked sufficiently well until war broke out. In 1916-17, our difficulties began. They were not due to scarcity of labour, as my Honourable friend has said. What happened was that owing to the difficulty of tonnage,

imports of salt into Bengal and Calcutta grew very much less. In 1916-17 those imports were 39 lakhs of maunds less than in the three years before the war. We were able, however, to make up that deficiency by increased issues from our salt sources. We were able exactly to make it up. We increased our issues in 1916-17 exactly by 39 lakhs of maunds. That does not look as if there was scarcity of labour. In 1917-18, however, matters became worse. Our imports decreased by not less than 54 lakhs of maunds, and unfortunately, the shortage of imports coincided with special difficulties in Rajputana where we had violent rains. Manufacture was delayed; there were wash-outs on the railways, and issues were greatly hampered. Accordingly, in that year, we were only able to increase our issues from the salt sources in Northern India by 4 lakhs of maunds—4 lakhs of maunds more than the three years' average before the war. Now, Sir, I will go back to contemporaneous records and let the Council know exactly what happened. This shortage of imports of salt 'proved an irresistible attraction to numbers of people who had never turned their attention to salt before but now saw in it the promise of immense profits. Outside capitalists in the presidency-towns and elsewhere and many of the general public vied with wholesale traders in reckless speculation.' Eventually, and before the full extent of their activities was revealed and before indenting could be stopped, they had succeeded in piling up orders which raised the total volume of uncleared indents to 2½rd crores of maunds of salt. These indents, when once accepted by the Treasury, were to all intents and purposes contracts. That is to say, we were under contract in that one year to supply 2½rd crores of maunds of salt, or, more than double an ordinary year's production. One man actually paid into the Calcutta Treasury on account of Warcha salt a sum sufficient to secure the whole output of the mine for over a year. Calcutta merchants came in and speculated without reason. I have the names of three here. I will not pillory them in this House, but one of them, who had never before touched salt in his life, actually paid in Rs. 30,00,000 in order to profiteer in Sambhar salt. I am as much a believer as any one in this House in free trade. I have had too much to do with control not to realise the disadvantages inseparable from control. I controlled foodstuffs in 1919. At present I am connected with some sort of control over coal and also with this control over salt. I realise as much as anybody here the dangers of interfering with the free course of trade and of cutting across trade connections. But there are times, there are emergencies when Government must interfere, when Government would fail in its duty if it did not interfere, and this was one of them. We first tried to meet the situation by inducing District Boards and Municipalities to open retail shops. We passed a rule under the Defence of India Rules which enabled us to give priority to indents for those shops, and in that way we brought down the price of salt which had gone up enormously by as much as 50 per cent. At the same time we were bound by our contracts and we went on clearing them gradually. It was not till September 1920 that we had cleared off these indents. Then, in accordance with our principles, we made an attempt to get back to unrestricted trade.

What happened? I have a report here :—

"We re-opened the treasuries to indents, and within a few days—most of it within a few hours—we had received a crore of rupees. My report says that 'indenting has become not only a regular form of investment for rich firms of all

[Mr. C. A. Innes.]

kinds outside the salt trade, but also a popular pastime eagerly pursued by apparently every grade of a community of born gamblers, the smaller genuine salt trader meanwhile disappearing in the crowd and the bigger men 'plunging' wildly in order to maintain their position.....Sambhar, to which outsiders are said to be crowding in such numbers as to create a house famine, is reported to have a regular Exchange with all the proper equipment of 'bulls' and 'bears' etc., and doubtless most big centres deal in *rawannas* in the same way."

Again, Sir, we had to interfere. Our previous experience of encouraging district boards and municipalities to open retail shops had not proved entirely successful, and so after most careful consideration—here is the file—after consulting everybody interested in the subject who was in a position to give us advice, we developed this scheme which my Honourable friend has attacked this morning. We held a conference of Directors of Industries and others concerned in the several provinces at Cawnpore in April 1920. We discussed the situation and endeavoured to devise means to minimise, and if possible to remove, the evils of speculation and profiteering. It was decided that the only possible remedy was to appoint agents in every district in Northern India to whom an allotment of salt from the Northern India sources could be made monthly on the basis of population, and who would be required to sell salt at a fixed wholesale price for the benefit of the local retailer or individual consumer. It was further recommended that Indian States should be asked to take similar action. Thus the internal distribution of salt within each district is now controlled by the District Officer and within each State by the Durbar, the only requirement made by the Northern India Salt Revenue Department being the limitation of the commission realized by the agent on wholesale vend to an amount not exceeding $4\frac{1}{2}$ annas a maund in the case of Rajputana salt and $5\frac{1}{2}$ annas a maund in the case of rock salt from the Punjab. That, Sir, was the system which we introduced, and in spite of what my Honourable friend has said, I claim that the system has been successful. The Honourable Lala Ram Saran Das made vague charges. He said it had done no good to the consumer; he said that the retailer was making too large a profit; he said that the rate of commission we allow a wholesale agency was too much; but he carefully refrained from placing any statistics before the House. I have the statistics here, statistics taken from the *Gazette of India*. These are the wholesale prices of salt in the Punjab in July 1922 as compared with July 1921. In Lahore the price has dropped from Rs. 30.78 for ten maunds to Rs. 21.09; in Ferozepur it has dropped from Rs. 36.41 to Rs. 21.41; in Amritsar from Rs. 32.50 to Rs. 25.00; in Rawalpindi from Rs. 25 to Rs. 22.19; in Lyallpur from Rs. 37.50 to Rs. 21.87; and in Multan from Rs. 30.78 to Rs. 21.87. These are the figures, Sir, and I challenge anybody to controvert their accuracy. They show that in all the important centres in the Punjab, in the centres which report for the purposes of our wholesale statistics in the *Gazette of India*, we have reduced the wholesale price of salt in the last year, under our system, by 31 per cent., or very nearly 1-3. It may be that the retailer is charging too much; we cannot attempt to control retailers; and of course they make their profits. But they must always make some profit, and I put it to the House that if it had not been that we have reduced the

wholesale price of salt in these centres by 31 per cent. in this last year, the prices to the consumer would have been very much greater to-day; and I think that it would have been well if those Honourable Members here who represent the Punjab districts had shown some appreciation of the efforts made by the Government of India, by the Northern India Salt Revenue Department and by the district officers in the Punjab to bring down prices of an essential commodity for the poor people.

Now, Sir, I think that I have established two propositions; I think that I have established the proposition that the circumstances were such that whatever the disadvantages may have been, whatever the objections to such a procedure may be, we had no option but to interfere and to restrain trade in this matter. Free trade, had we left it alone, would merely have meant freedom for the greedy speculator to utilise a temporary shortage of supply in order to exploit the necessities of the poor in an essential commodity in order to make an unsavoury gain for himself. We had to interfere, and I am sure that the House agrees to it. Then, Sir, I have also established the proposition that by the arrangements we made we have conferred a very real benefit upon the Punjab and upon consumers in the Punjab.

Now, Sir, I come to the attitude which the Government propose to take up towards this Resolution. After what I have said up to now, possibly the Council will be rather surprised at what I am now going to say. As I have said, the Government of India do not like these controls, and they are always anxious to get back to free trade and unrestrained trade whenever they can. I have shown that the original cause of these difficulties was a shortage of supply, mainly due to shortage of imports of foreign salt into Bengal. Now, that particular difficulty has disappeared and foreign salt is now pouring into Bengal in the same old way. Therefore, the pressure upon our Northern India salt sources is not so great as it was. Further than that, we are attempting to remedy the difficulty in another way. We have important schemes in hand at Sambhar which we hope will make a very great difference in the whole salt situation in Northern India. What we aim at is to increase our production from the Northern India sources from one crore of maunds to two crores of maunds per annum; we began these schemes at Sambhar a year or two ago, and though they are not quite complete yet at any rate they show signs of being very successful. For instance, last year, though the monsoon was generally a good one, it missed out Sambhar. At Sambhar we had the worst year from the point of view of rain that we had had since 1911. In 1911 we scraped up from Sambhar 17 lakhs of maunds. In 1921-22, though as I said the rains were just as bad, just as unfavourable, we got over 70 lakhs of maunds. This year the prospects of the season are very favourable, and we hope that we shall get a crop from Sambhar next year of probably a crore or more than a crore of maunds. We have also got important schemes in view at Khewra, and in a short time I hope that we shall have so improved our production of salt in Northern India that we shall have no fear of these attempts at cornering. The position has already improved so much that before we had any notice of the Resolution which the Honourable Lala Ram Saran Das has proposed, we had already taken action in the very direction which he

[Mr. C. A. Innes.]

desires. Here is a communication which we issued some time ago which says that 'we have decided to abandon the control of salt in Northern India, known as the agency system, when the available supplies at each source are sufficient to meet the full demand. This stage has already been reached in the case of Didwana and Kalabagh, special permission to indent on which sources is now freely given to applicants.' We hope to introduce free indenting on those sources at the end of the current year provided no unforeseen circumstances occur, and we hope also to reintroduce the old system of free indenting in respect of Khewra and Warcha from the same date. We have already been able to increase the monthly allotments to agents of Khewra or Warcha salt by 50 per cent. with effect from the 1st of September 1922. We have already issued notice that the supply of salt at the sources of Kalabagh and Didwana being now in excess of the demand, applications for special permission to indent on those sources may be made to the Commissioner at Agra.

Sir, the Council will see that we have already taken action in the direction indicated in this Resolution. We also hope that if the crop at Sambhar is sufficient to secure the position, as we hope it may be, it will be possible in the rains next year to revert to the old system of free indenting, but I can give no guarantee to the Council that what happened in 1920 will not happen again in 1923; I can give no guarantee that we shall not be flooded with indents; I can give no guarantee that we shall not again be embarrassed by attempts on the part of profiteers to corner salt in order to make a profit. If that is our experience, we may have to revert to methods which are now in force. But we are anxious to get back to free trade, and as I have shown, we are going to make an attempt in that direction as far as the Punjab is concerned with effect from the beginning of next year. In these circumstances, I think I might suggest for the consideration of the Honourable Mover that he should withdraw this Resolution. I am not prepared to accept it, because I am not prepared to accept the statement in the Resolution that the present system has proved injurious; on the contrary I have proved that it has benefited the public very much. I therefore think that the Honourable Mover might now consider whether the Resolution should not be withdrawn and thus save the time of the House.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I have not much to say in support of the Resolution since the Honourable Mr. Innes has given us a very assuring reply. There is no doubt whatever, Sir, that a good deal of profiteering has been going on in this trade. The object of the Government was to fix some rates for the sale of salt when there was a shortage of wagon supply, both during and after the Great War, but that has not been gained. I have some experience in this matter as I was Chairman of a Municipal Board and I know that the retail sellers used to make a good deal of profit. That system was abandoned, and the District Boards also ceased to appoint agents. After that, a new system has been introduced under which the District Magistrates are required to

appoint agents. But so far as my experience goes, that system also has failed, and the retail sellers charge any price they like for salt. Therefore in order to stop profiteering in salt and supply it at a reasonable price to the consumers, it is absolutely necessary that the present system should be changed and a free trade system introduced. I am very glad to see that the Honourable Mr. Innes has stated that he will do what he can in this matter, and in these circumstances, I hope the Honourable the Mover will see his way to withdraw the Resolution.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, I rise merely to ask for some more additional information. The Honourable Mr. Innes has made it quite clear that profiteering had gone on not only during war time but also after that when the system of contracts had been abolished and free trade introduced. I would like to know if this is the only way in which cornering could be broken? Is it not possible to break cornering in some other way, i.e., by keeping free trade?

The second point on which I would like to have some information is about the manner in which the agents are appointed. Are they appointed on the recommendation of the District Officers; if so are they asked to give any security in order that they may not charge more than the rates fixed by Government?

The third point is whether it is not possible to have some control over retail sellers. The Honourable Mr. Innes said that the retail seller may be charging more than what he is entitled to. He is of course entitled to a profit; he must earn a commercial profit, but if he is profiting at the expense of the consumer by charging him a very high price that should be stopped. Is any control kept on his prices? If this information is satisfactory, I think the Honourable Lala Ram Saran Das would be well advised to withdraw his Resolution.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab : Sikh) : Sir, I just want to say only a few words. As a free trader I am greatly gratified to hear that the restrictions on free trade in the Punjab are to be removed. The Honourable the Commerce Member pointed out that these restrictions were introduced during war time. These conditions having now disappeared, I do not see any reason why they should be kept in force now. The imports of salt in Bengal are now normal, and in the Punjab the production has increased, and the conditions which brought about those restrictions have also disappeared, and I therefore see no reason why those restrictions should be continued.

The Honourable Mr. Lalubhai Samaldas observed that he has no objection to retail sellers of salt making a commercial profit, but if he means by 'commercial profits' as they are made in Bombay, then you cannot object to the profits made by the agents. I suppose no agents in the Punjab have reached the level of the commercial profits made by people in Bombay. In any case, I feel that since the Honourable the Commerce Member has expressed that he is not going to enforce restrictions in the Punjab, the Honourable Mover will be well advised to withdraw his Resolution. At the same time, I also feel that the Honourable the Commerce Member might consider the desirability of not imposing

[Sardar Jogendra Singh.]

any restrictions in the near future. Salt is produced in the country and is sold at fixed rates by the Government, and I do not see why there should be any necessity to enforce any restrictions again in the near future. It would be as well if he expressed himself more clearly that these restrictions would not be imposed unless some new conditions arise which are not likely.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I want to say a few words

1 P.M. in explanation of the points raised by the Honourable the Commerce Member. When I say that this system has proved injurious to the general public, I mean that the object that the Government have in view has not been quite achieved. Even now, when the prices are under control, the price of salt being charged in Simla is Rs. 4 a maund. It is impossible for Government to control the retail prices and, as long as they cannot control the retail prices, what is the use of this control? Although the price in Simla as fixed by the District Officer is Rs. 3-2 a maund, notwithstanding that, retail prices are Rs. 4 a maund. That means that Government is giving to the middleman a profit of 14 annas a maund on salt, which I think is improper and unreasonable. As the Honourable the Commerce Member has said, labour alone was not responsible for the shortage. Well, I only drew that as an inference, and perhaps I was wrong, as far as my statement that it was only labour that was responsible went, but in my speech I said that the shortage of railway wagons was also a cause, and this the Honourable the Commerce Member also admitted. The object of the Government of India, as is evident from the answer which was given by the Honourable Mr. Lindsay, is that salt traders shall be appointed as agents, and he said that, barring districts where co-operative credit societies were the agents, in all other districts these instructions were being followed. With due deference to the Honourable Mr. Lindsay and from what I know of the conditions in the Punjab, I am sorry the information put before the Honourable Mr. Lindsay was not quite correct. I know it for a fact that in certain districts of the Punjab Honorary Magistrates, Newspaper Editors, and Government Treasurers are Salt Agents, and persons who do not deal in salt, who are not interested in commerce at all are appointed salt agents in recognition of certain services rendered. But, as the object of my Resolution has been served by the Honourable the Commerce Member having been kind enough to assure us that the restrictions and the monopoly in the Punjab will be withdrawn, I beg to ask for leave to withdraw this Resolution.

The HONOURABLE MR. C. A. INNES : Sir, I would just like to answer the questions asked by the Honourable Mr. Lalubhai Samaldas. First, if I took him down correctly, his question was whether there was no way of stopping profiteering without interfering with freedom of trade. The obvious answer to that is that to stop profiteering without interfering with trade we must increase the supply of salt very greatly in excess of the demand; and that is exactly what our policy is now. That is exactly the object of the important improvement schemes which we have in hand both at Sambhar and at Khewra. In addition to that, we have taken certain powers in a notification recently issued, which our Commissioner

hopes will enable him to stop any attempt to corner the market. Whether these powers are effective or not it must be for the future to decide.

As regards district agents, the Government of India does not attempt to extend its sphere of operation more than it can help. These district agents are appointed by the district officers. We have very little to do with these appointments, but I think I am correct in saying that our Commissioner did circulate to all district officers the names of people whom he knew to be engaged in the salt trade and whom he recommended for appointment. That is, of course, all we could do.

Then, Mr. Lalubhai Samaldas asked whether we attempted in any way to bind these district agents down by agreements. The answer to that is "yes." Here is the draft form of agreement.

As regards retail vendors, Mr. Lalubhai Samaldas asked whether we could not devise means by which we could control them. Well, as far as the Punjab is concerned, I hope that all necessity for any action of that kind is passed. In any case, I think that Mr. Lalubhai Samaldas will realise that any attempt to control retail trade is a very difficult matter. We had experience of it in foodstuffs, and the only way in which we could deal with profiteering on the part of retailers was to open our own shops or rather to encourage charitable organisations, district boards and municipalities to open shops of their own and to supply them with, in that case, rice.....

The HONOURABLE MR. LALUBHAI SAMALDAS : Why not utilize the Co-operative Societies.

The HONOURABLE MR. C. A. INNES : That policy, as I have already explained, we tried in 1917, and it was not nearly as successful as this policy on which we are engaged at present. That is all I have to say, Sir.

The Resolution was, by leave of the Council, withdrawn.

RESOLUTION RE FOREST RESEARCH.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhammadan) : Sir, before I move my Resolution, I beg to move for permission to alter just one word in the last line of the Resolution. That word is "six," and I propose, Sir, with the permission of the House, to alter the word "six" to "at least three."

The HONOURABLE THE PRESIDENT : The Honourable Member, I understand, has given notice of this.

The HONOURABLE MR. PHIROZE SETHNA : I have, Sir.

The HONOURABLE THE PRESIDENT : Certainly.

The HONOURABLE MR. PHIROZE SETHNA : I beg to move, Sir:

"That this Council recommends to the Governor General in Council that, in view of the fact that India provides, in the Forest Research Institute at Dehra Dun, a highly efficient and up-to-date institution for instruction in Forestry and for Forest research, the present practice of recruiting a proportion of the probationers for the Indian Forest Service in Great Britain, and training all probationers, whether recruited in Great Britain or India in the Universities of the United Kingdom be abolished forthwith and that all probationers for the service be recruited and trained in India and that every such probationer drafted into the service be given all facilities to add to his knowledge and experience by a tour to the Continent of Europe after at least three years of continuous and approved service."

[Mr. Phiroze Sethna.]

Sir, like all other important services in this country, the Forest Service is also divided in two branches—the Imperial and the Provincial. Probationers for the Provincial Service are all trained in the Forest School at Dehra Dun. As regards the Imperial branch of the Service, until about three years ago, all recruitment for the purpose was done in the United Kingdom. Since the last three years, a part of the recruitment is made in India. But, whether the recruits are selected in India or in England, they are required to undergo a study in Forestry at one of the three Forestry Schools in the United Kingdom attached to the Universities of Oxford, Cambridge and Edinburgh. This, Sir, is the existing system. About two years ago, the then Secretary of State issued orders according to which all recruits, British or Indian, were, as soon as the necessary arrangements were completed, to be trained entirely at Dehra Dun. This was recommended, in the first instance, by the Public Services Commission in 1916. In fact, the Public Services Commission laid down that there were no grounds of policy for an admixture of Britishers and Indians in the Forest Service, and that that was one of the Services in this country which, along with other technical Departments, might be manned ultimately entirely by Indians.

In support of their contention the Public Services Commission quoted up-to-date institutions such as exist at Pusa and Dehra Dun for the purpose of utilising them for Agricultural and Forestry studies in this country. Some time after the date of these orders by the Secretary of State an Inter-departmental Committee was formed in England, presided over by Lord Clinton, and because of this, the Secretary of State cancelled within about a fortnight's time his previous orders, which was indeed a very novel and a very strange procedure. It was suggested that the Inter-departmental Committee might make recommendations. Now, Sir, this Inter-departmental Committee was formed for the express purpose of suggesting ways and means for giving effect to a Resolution passed by the Empire Forestry Conference held sometime previous—a Resolution according to which a Central Training Institute for Forestry studies was to be opened somewhere in the United Kingdom. It was natural, therefore, that the Inter-departmental Committee would not endorse the previous recommendation of the Secretary of State, and, as expected, so far as students of the Imperial Forest Service in India were concerned, they suggested that they might have their preliminary training either in one of the Forestry Schools in Great Britain or in India, but that they should have a final course at this Central Training Institute which was to be established in terms of the recommendation of the Empire Forestry Conference. The Government of India therefore issued a circular letter to the different Local Governments containing three alternative schemes, namely, (1) that which is now in force, (2) the one which the Secretary of State had decided upon, and (3) the recommendation of the Inter-departmental Committee.

Now, Sir, when I gave notice of my Resolution the Government of India had not published the reports which they had received from the different Local Governments nor declared their intention to propose in the two Houses of the Legislature the Resolution which they now

propose to do. In fact, it was a fortnight or three weeks after the date of my Resolution that Government published the opinions of the different Local Governments as also their intention of the Resolution, which Resolution I see from the agenda paper is to be moved to-day by the Honourable Mr. Sarma as an amendment to my own Resolution. Sir, the Council will see that my Resolution is in terms of the previous recommendation of the Secretary of State which was the original recommendation of the Public Services Commission. The only addition I make is that Forestry students, after they have gone through their course, might be sent to Europe to see the different continental forests later on. Now, the Government's Resolution is in terms of the recommendation of the Inter-departmental Committee. In the papers which we have received from Government they have advanced five reasons for the recommendation they have made. Three of them are very minor ones with which I will not trouble the Council, but the two principal ones I will refer to as briefly as I can. The principal reason upon which Government base their recommendation is the question of cost. Government say that whereas at the present moment they have to pay for a course of three years for recruits, whether British or Indian, they will, under the terms of the new recommendation, be called upon to pay for only one year. But, Sir, the Government explanation is by no means clear. Anticipating some such recommendation as Government have now come forward with, I had last year put a question to the Honourable the Revenue Member with regard to the Central Training Institute to inquire if the Government of India would be called upon to make any contribution towards its initial cost or towards its upkeep, and the reply which the Honourable Mr. Sarma gave on the 6th September last year was as follows :

"Proposals were made at the Empire Forestry Conference in England in 1921 for the establishment of an Empire Forestry Bureau in England. These proposals, so far as India's participation is concerned, are under the consideration of the Government of India; the contributions required will depend upon the extent to which the Home Government, the Dominions and the Colonies agree to participate and before the Government of India are committed, the contribution, if any, proposed will be subject to the vote of the Assembly."

This was a year ago, and from the papers which the Government have now issued it will be seen that they are not yet in a position to tell us whether we will be called upon to make any contribution either for the initial cost or for its upkeep, and, in the absence of these most important particulars, I for one will not accept the statement of Government that the present proposals which they are going to lay before us by way of an amendment to my Resolution will cost this country less. I contend, that if there is any gain, it is only a temporary one and not a lasting one, and because the Forest Service is to be gradually Indianized and because in the future the recruits will be required to be trained in this country, Government might very well not pay the cost while they are teaching them. I say that it will be eventually cheaper if the Dehra Dun Institute is made the institute where training is imparted not only to British but also to Indian recruits for the Imperial Branch of the Forest Service. I contend further that for a number of years to come we shall certainly require a proportion of British candidates in the Imperial Forest Service. In the papers sent to us Government say that the cost of making the Dehra Dun Institute such a one as to be able to prepare students for

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the Imperial Branch of the Forest Service will amount to something like 40 lakhs. That, to my mind, is not a prohibitive item when we consider that the amount is not wanted all at once. It will be spread over a series of years, five at the least, ten at most, and in spite of our deficits, I am sure, Sir, the Finance Department will be able to find the extra 8 or 4 lakhs a year, as the case may be. Just consider what is the ultimate advantage to the country at large. We shall have in this country one of the finest institutions for the imparting of knowledge in Forestry.

Government themselves admit, as I shall presently show, that the Dehra Dun school can compare even at the present moment with any similar institution in the whole world. The Dehra Dun Forest school was started as far back as 1878. Large forest areas in the neighbourhood were reserved for scientific treatment and attached to the school. There is no reason why probationers for the Imperial Forest Service should be sent therefore to England to be trained there and not be trained at the Dehra Dun School. The Dehra Dun School is recognised as one of the best, if not the best, Forestry teaching institute in the world, and it is therefore very surprising that students preparing for the Imperial Branch of the service should be sent away to long distances when there exists in our midst an institution recognised by Government to be one of the best for the teaching of Forestry. What is more, Government themselves claim, as they do in their Moral and Material Progress Report for the year 1919, that "100,000 square miles of forest area in India have been brought under regular management, systematic conservation and scientific working."

Those who are in a position to pronounce an opinion with regard to the working of the different forest schools in the United Kingdom are emphatic in their view that those forest schools in the United Kingdom are inefficient. That is not my view. It is the view of the Government of India themselves, i.e., of the employers. Professor Stebbing, the head of the Forestry School at Edinburgh, in an article which he contributed to *Nature* of 2nd December 1921 says that the Government of India complain of the 'inadequacy of training' of their Imperial Forest Service officers. That, I say, is the opinion of the Government of India who are the employers. Now, with regard to the view of the employees who study forestry in these schools. Only last year before the Lytton Committee students who read at the Forestry School at Oxford complained in their evidence that the education that was imparted to them was in the opinion of themselves, i.e., the students, inefficient. This, therefore, is the opinion not only of the Government of India but of the men employed by the Government of India, and it is from this class that they are drawing members for the Imperial Forest Service in this country.

Now, Sir, I said that the Government of India laid great stress on two important points. One was the saving in cost which I have already dealt with. The second is that the Indian forests do not provide students with full practical object lessons. This seems to have struck the Government of India only to-day. The forests attached to the Dehra Dun School have been under the direct control of that school for the last 44 years. They have been developed under scientific and systematic management

They have been reserved for educational purposes, and it is difficult to understand why and how the Government only now find that they do not provide sufficient educational facilities for students of the Imperial Service. As regards the Provincial service probationers they are all receiving their training there. These forests are under the special care of a Conservator of Forests. If they suffice for training probationers for the Provincial services, I contend that recruits for the Imperial Branch, with their superior qualifications, ought to derive still greater profit from these very forests.

Efficient theoretical training can be imparted even now at the Dehra Dun Institute. As regards practical training, there is no question that it can certainly be imparted better than in England, because in England there are no forests which have the species and conditions of Indian forests. As regards the teaching staff of the Dehra Dun College, it is believed that there is no single institution in India where there are such a large number of teachers. It has at least four Indian Forest Service Officers and instructors on the staff, including the Principal of the College, a Sylviculturist and Superintendent of Forest Working plans, a Forest Zoologist, a Forest Chemist, a Forest Botanist and a Forest Economist. Since the last year four Forest Entomologists have been recruited and the post of a systematic Entomologist has also been filled up. The following extracts from the Moral and Material Progress Report of 1920 will show how far the institute has advanced and is advancing :

"A general scheme for the enlargement of the Forest Research Institute and of the scope of its activities has been sanctioned. The arrangements for expansion, to which effect is already being given, involve large increases in the research staff, and the construction of an entirely new and enlarged Institute, as well as residential accommodation upon a new site which has been acquired for the purpose. The staff of the Institute has already been augmented by the addition of specialists in wood technology, timber seasoning and testing, wood-working, pulp and paper-making, tan stuffs and destructive entomology. Up to date machinery and plant is being obtained from America and Great Britain for installation in the new buildings. With the completion of this project, the Government of India should possess as efficient an institution for forest research as is to be found in the world."

This, Sir, was the opinion of the Government of India two years ago. I have also attempted to quote the opinion of the Government of India expressed by them in the Circular of the Revenue and Agriculture Department, No. 633, dated the 29th October 1918. It is in similar terms :

"There are considerations which make it advisable that young Indians should be trained in their own country if possible, while it is obviously desirable that the Indian Empire with greater forest reserves than any other parts of the Empire, except possibly Canada, should be in a position to provide training in scientific forestry up to the highest standard. Moreover such an institution would perhaps be more likely to attract men for training from other parts of the Empire such as South Africa, Australia and Ceylon, than would a forest college in England."

I leave it to the Council to compare these two extracts which I have quoted from the Government of India themselves, with the recommendation which the Government of India now make, namely, that students should be educated at any institution either here or in England first and after that get trained in a Central Training College in England in the last year of their studies.

The cost of running the Dehra Dun College in the year 1920 amounted to as large a sum as Rs. 2,16,270 ; in the same year Government sanctioned a stipend of £20,000, out of which one Professor was sent to England for

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the purchase of plants and another to America for the purpose of studying research methods in forest economy. I have quoted at some length from the Moral and Material Progress Report of the Government of India. The Dehra Dun Institute, in the opinion of Government is as efficient as any in the world. Why not, therefore, take full advantage of that institution? So long as we send our recruits to these forestry schools in England which are in the opinion of the Government of India themselves inefficient you are relegating the Dehra Dun Institute to a back place and great injustice is being done to it. The Dehra Dun Institute is called an Imperial Institute; it must be looked upon as the Chief Forest Institute in the Empire and be given its proper place. Sir, for the posts of Principals of the Oxford, Cambridge and Edinburgh Forestry Schools, they select men with Indian experience; for example, Professor Schlick and his successor Professor Troup at Oxford and Professor Stebbing the present head of the Edinburgh School, were all connected at one time or another with the Indian Forest Service.

Why should we not engage these very men, at any rate, towards the end of their service, to give us the benefit of their experience, why not retain the same men at Dehra Dun and make that Institute a greater success?

I have heard it argued that perhaps the students of the Imperial branch of the service and those of the provincial branch ought not to be educated at the same place. I for one see no objection to it. If you want instances, we know that at Roorkee, Sibpore and even in Poona students of the higher and lower branches of the service are trained at the same centres without any disadvantage to them or to the service. But, if in the opinion of the Government of India this objection is insuperable, then I venture to put forward a suggestion, which is not my own, but which has been advanced in some quarters, namely, that the provincial branch of the Forest Service should be abolished. Sir, the Provincial Service has no sub-divisions. The members of this service are taken on from year to year and attached to one division or another. So far as I know, they have no defined or definite duties. Why, then, have this service? In these days of economy it will be an advantage, to do away with this service. The work that is done by them to-day can be divided between experienced subordinates and the divisional officers. I say, in these days of economy, if this service is abolished which consists of a few men called Extra Assistant Conservators of Forests, and if it is amalgamated with the Indian Forest Service, same as is done in the Public Works Department, I have no hesitation in saying that in every province there will be a saving of a few lakhs of rupees annually which is so very desirable in these days. But, whether the provincial service is abolished or not, I do hope that the Council will agree with me that so far as the Dehra Dun Institute is concerned which the Government of India already consider to be quite efficient, it should be made still more efficient, and if it is considered that 50 lakhs more would be necessary for the purpose, the Assembly will see its way, I am sure, to vote the necessary sum as it will prove to the interest and to the good of the country that the recruits

both British and Indian, be trained hereafter at the Dehra Dun Institute.

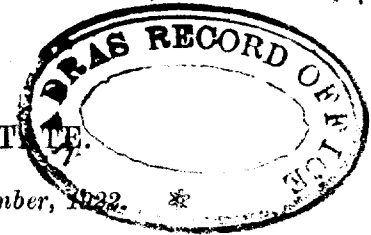
With regard to the alteration which with your permission I have made, I want to say that I have put in the words 'at least three' instead of 'six' years in the last line of my Resolution, so that the Government might send the students after three years of continuous and approved service as they will be in closer touch with their books and their studies at the end of three years than they would be at the end of six years. With these few words I commend this Resolution to the Council and I trust they will accept it.

The HONOURABLE THE PRESIDENT: I think this will be a convenient moment to interrupt this debate. To-morrow is a free day and the Council was not to sit, but as we have a long paper, I propose that we shall sit to-morrow and deal with the remaining items on the list.

The Council then adjourned till Eleven of the Clock on Tuesday, the 19th September, 1922.

COUNCIL OF STATE

Tuesday, the 19th September, 1922. *



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

MEMBER SWORN.

The Honourable Rai Bahadur Chaudhri Lal Chand (Punjab :
Nominated Non-Official).

POLICE (INCITEMENT TO DISAFFECTION) BILL.

The SECRETARY OF THE COUNCIL : Under Rule 25 of the Indian
Legislative Rules, I lay on the table a copy of the Bill to provide a penalty
for spreading disaffection among the police and for kindred offences, which
was passed by the Legislative Assembly at its meeting held on the 18th
September 1922.

RESOLUTION *RE* FOREST RESEARCH.

The HONOURABLE THE PRESIDENT : The Council will now resume
the further consideration of the Resolution* moved by the Honourable Mr.
Sethna. *

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture
Member) : Sir, if I rise at such an early stage of the debate, it is with
the object of placing the position of the Government with reference to
Forest education before the Council, so that discussion of the subject may
be facilitated and the views of the Council may be ascertained clearly as
to which scheme they would prefer for immediate adoption. The people
of India are but slowly realising what a vast commercial and industrial
asset they possess in the forests of this country, what great good, what
noble work, has been done by the Forest Department in the past, and how
essential it is that the administrative personnel at the head of the Depart-
ment should be recruited and selected on safe and efficient lines, so that

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of the fact that India provides in the Forest Research Institute at Dehra Dun a
highly efficient and up-to-date institution for instruction in Forestry and for Forest
research, the present practice of recruiting a proportion of the probationers for
the Indian Forest Service in Great Britain and training all probationers whether
recruited in Great Britain or India, in the Universities of the United Kingdom,
be abolished forthwith, and that all probationers for the service be recruited and
trained in India and that every such probationer drafted into the service be given
all facilities to add to his knowledge and experience by a tour to the Continent
of Europe after at least three years of continuous and approved service."

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there may be absolutely no danger as to the future efficient development of our Forest resources. It is a matter for congratulation that the intelligentsia are clearly grasping the vital issues and are realising how necessary it is to develop the potential resources which lie at our feet, which have been so far but inadequately developed, and it is a happy augury that there is a keen desire manifested in all quarters that this problem of Forest education should be adequately handled. The Public Services Commission have made various recommendations. Honourable Members have gone through the report and it is unnecessary for me to go into detail or criticise any particular points of differences of detail that there may be as regards the views held and expressed either here or elsewhere. But it is clear from their recommendation that they desire the Government of India to place facilities at the disposal of the Indian public, so that efficient instruction may be given on up-to-date model lines in forestry and so as to facilitate recruitment for the higher branch of the administrative ranks of Indians competently trained for the purpose. The Industrial Commission, which sat a little later, struck a similar note. Their remark on this subject is as follows :

“ The national forest estate is of vast extent and value ; but a scrutiny of the output per square mile proves that its actual yield has hitherto lagged behind its possibilities, and is in most areas greatly in defect of what the natural increment must be.”

“ The chief needs of the Forest Department are, shortly, development of transport facilities, the exploitation of its forests on more commercial lines, and the extension of research and experimental work, which should, when necessary, be carried out on a larger scale, and under commercial conditions. All these differences point to the necessity for more staff.”

The Provincial Governments in charge of the various Administrations have not been slow to realize this, and it gave me very considerable pleasure, in 1920, when province after province sent up schemes for the development of its forest resources, and the increase of its staff, so that now the sanctioned strength stands at about 398, as against 213, when the Public Services Commission made its report ; and the provincial service also is of corresponding strength. So that here the Government of India and the Provincial Governments particularly, have been keenly desirous of giving effect to every one of the recommendations which are likely to develop our forest resources. I make these preliminary remarks with a view to convincing Honourable Members that they will have to approach this problem more from the point of view of what is necessary for improving the commercial and industrial resources of the country, *i.e.*, treating it as a commercial concern, rather than from the aspect of providing more appointments for one class or another of the community.

The problem before the country is how to develop our resources. We do not hesitate to employ the best Britishers in finance, in commerce, or in any other branch of activity, if we have to take advantage of British talent for the development of our resources, and I was very glad to notice that the Honourable Mr. Sethna emphasized the need for the utilisation of the best British talent available for this purpose consistently with the process of Indianization, on as rapid a scale as may be possible. The Government of India do wish to follow the lines chalked out for them by the Public Services Commission, by the Industrial Commission, and by the express desire of the people at large. There is absolutely no difference between

them and the people in that respect. I may also state that there is no difference of opinion between the people, between the members of either Council and the Government as regards their appreciation of the need of development of the Forest Research Institute at Dehra. I am very glad, and I think the thanks of the Department are due to the members who have expressed their appreciation of the position of the Forest Research Institute at Dehra, and our earnest desire and hope is that this institution, which is even now one of the finest Research Institutes in the world, will occupy, and continue to occupy, that rank and will become more efficient than it is even at the present moment.

The Honourable Mr. Sethna has alluded already to the various measures which the Government contemplate, provided finances permit, to achieve this object, and there is nothing in the scheme which the Government of India have placed before you which is likely, in the slightest degree, to conflict with what all of us have at heart, namely, making the Research Institute the best equipped institute in the world, and to make our school here the best School of Tropical Forestry that the world can organise.

With regard to those two objects, namely, having the finest Research Institute, and placing the best educational facilities available anywhere before the Indian public, there is no difference whatsoever between the Government or the people, from whatsoever aspect they may view the question. And the proposals of the Government do not in the slightest degree retard that development, that progress, that we all desire. They do not in the slightest degree retard that progress, but, on the other hand, are likely to achieve this object more rapidly than possibly any other scheme that may be planned, or the scheme which is placed for the consideration of this Council.

There was some misapprehension in the minds of the public as to whether this college, this institution that we are going to provide at Dehra is going to be of an inferior kind, intended to give only training on an inadequate and inferior scale, and as to whether we are not looking forward to a central institution in the United Kingdom, to fill up the deficiencies and to give the highest training possible, so as to supplement the training here, because we do not contemplate to bring up the college here to the highest possible standard. That is the misapprehension which I propose, if possible, to correct. There is no such idea. There have been two schools of thought with regard to forest education : one school insists that although India has got a vast forest area, its forests have been developed on scientific lines for fifty years and more still, inasmuch as India has not yet succeeded and will not be able to succeed for another fifty years in producing the same type of forests that you meet with on the Continent, Sylviculture, the art of forest management, forms the basis of all forest training, and is absolutely essential to train a forester properly for his duties ; sylviculture cannot be as efficiently taught in India as it can be in the neighbourhood of continental forests. It is recognised that even the British forests will not furnish those models which we require, but the close proximity of the Continental forests to the United Kingdom, enables the students to carry on their investigations in the forests, and undergo their training in the forests, *pari passu* with the theoretical training given in Oxford, Cambridge or Edinburgh. They urge that such training is more desirable than any instruction in India, which may be the most per-

[Mr. B. N. Sarma.]

fect in theory, which may be one adapted to the forest conditions here, but which will still be lacking the basis on which forestry training ought to proceed, namely, with reference to the models, living models, which can be furnished only in Continental Europe. That is one school of thought. The other school of thought recognises the utility of such a training; does not minimise its importance, but, at the same time, urges that great mistakes have been made in the past by men imbued with Western notions coming to India and having to unlearn possibly many of those lessons, and a training adapted to forest conditions here, coupled with a training on the Continent, would possibly meet the situation better than an exclusive training in England, supplemented by such practical knowledge as may be picked up after the officer enters on his duties. Well, it is very difficult to decide exactly on which side the balance of advantage lies.

But Government have recognised this that, if we pursue this reasoning to its logical conclusion, and accept the position of the first party, there could be no such thing as the institution of a high standard forestry school in India, because, we are told, that Indian forests will not be able to furnish us adequately with the models that are required for sylvicultural training. Well, the people of India are not likely to accept it. The intelligentsia are impatient, and we think rightly impatient, that the highest possible training should be given in India itself, and the Government, therefore, have adopted a policy of furnishing, with reference to Indian conditions and Indian forests, the Indian community with the best facilities which a knowledge of forestry can afford, and the best training, consistently with these conditions, which a well-equipped institution in any part of the world can furnish. That is the proposal which the Government of India places before you. We have not accepted scheme No. 1 which wishes to perpetuate the existing state of things indefinitely until we can furnish forests of the type we have on the Continent. Nor, on the other hand, are we content with saying "Oh! India can be self-sufficient and give us all the models that are possible." We recognise the difficulties presented by Indian conditions; we recognise that the education that may be given here has to be supplemented by forest training abroad, especially on the Continent, and I do not think there is much difference between the Honourable Mr. Sethna and the Government in this respect. Only he thinks, following the Secretary of State, that this further training may be given at a later stage, after the officers have picked up some experience of actual forest working in India. Well, our expert advisers think that such a course is not desirable. In the first place, they lay very great stress upon the fact that, if possible, the training and the observation should go hand in hand; but, inasmuch as the training and observation of the Continental models cannot go hand in hand, training and observation of Indian models under scientific management for 50 years should go hand in hand, and that this training should be supplemented before ideas get fossilised by a tour of the Continental forests, so that the best that India as well as Europe can afford may be given to these students. If experience should teach us that the Indian students or the recruits here should be sent abroad at even an earlier stage, so that the observation and training may go hand in hand, the Government of India may have to consider whether such facilities ought

not to be furnished sooner than even before the end of the three years' course. That is provided for, but that is a question of detail we need not go into now. If, on the other hand, experience should show us that it is unnecessary to send our students abroad before they pick up actual experience as foresters after they join the service, then it is quite possible that a different arrangement would be made with regard to further recruitment; but this we do provide for, namely, a training both on the Continent and in India, with reference to the forest conditions obtaining there as well as here. We provide facilities for observation at the earliest possible stage, and we provide also an opportunity for the future entrants to the forest service who have to work together and to carry on the administration jointly, to become acquainted with one another to develop an *esprit de corps*, a feeling of brotherliness and a spirit of camaraderie. In order to do all this, we provide that they should be brought together. The Honourable Mr. Sethna says his scheme provides that the British recruits should be sent out here so that many of these advantages may be gained. I shall come to that a little later, but, under our scheme, we have provided for a course in England, in order to provide for all these advantages, which are insisted on, and rightly insisted on, by those who are experienced in these matters. Then, where is the difference? I know that there is a difficulty felt by various Members of the Council as to whether there is not in this reference to a central institution in the United Kingdom some snare into which we may fall unwarily, as to whether, after all, when we have to concentrate upon a central institution in Europe, we are not likely in some degree to depreciate the value that we have to attach to our own institutions in India. It is a very legitimate fear, it is a very legitimate doubt that is entertained, and it is my duty to explain to the Council as to why we have made a reference in our Resolution to this Central institution. All Honourable Members will agree, I think, that, if possible, there should be a Central Research Institute for the whole Empire so as to bring the actual participants in the work, the best thinkers, the best actual foresters, together, so that they may exchange ideas and develop along lines which are conducive to the development of the Empire forest resources, as a whole. That is one of the objects which the Committee at Home had in view, and I am sure that we sympathise with it, provided we can participate in it without detriment to our own institutions. This Central Institute may, or may not come into being; there is nothing known yet as to whether the various component parts of the Empire would join in making it a practical reality. But the object is two-fold, firstly, so far as India is concerned, to provide an institution where forest management and sylvicultural instruction with reference to Continental conditions may be imparted to our recruits before they are actually entertained in service. If what I have said as regards the two schools of thought is appreciated, there is no doubt whatsoever that the subject of forest management, the subject of sylviculture, can be developed at the present stage with greater practicable results in the United Kingdom, in the neighbourhood of Continental forests, than in India. So the Government of India at present is of opinion that there are subjects in which instruction under existing conditions in India can only be deficient whatever the Government may do towards developing the other branches.

[Mr. B. N. Sarma.]

We have conditions against us up to a certain point. We have to recognise our limitations; no amount of expenditure of money will be able to meet those defects. Therefore, recognising those defects in our actual position, it is not wrong at all, at any rate I think it is altogether desirable, that the forest students who are trained in our colleges should have the benefit of instruction at a central institute so that those defects in training which we cannot but acknowledge may be overcome as far as possible. If Honourable Members will turn to page 31 of the papers they will find that many of the subjects for study at the central institution would not be suitable for Indian students at all or for the British students who are going to enter the Indian service. But there are some subjects which can be taught and taught efficiently only there, namely, advanced sylviculture in relation to continental conditions and principles of forest management. I would lay particular stress on these two items, Nos. 2 and 4. Advanced Forest management can be taught only where you have the results of forest management for upwards of a century. For more than two centuries you have these continental forests developed, and if forest management can be taught by reference to models side by side when the instruction was being given, I think Honourable Members will accept the position that the instruction so imparted would be certainly better than if theory were divorced from practice. Advanced Sylviculture in relation to British and continental conditions: Here also Honourable Members may say, what have Indian students or British students who have to serve in India to do with continental conditions? The object is really to train them in the methods and in the processes upon which the whole science of forestry is based and with reference to which we shall have to make a start, adapting the knowledge so secured to Indian conditions. That is our hope. We have to take that, superimpose our knowledge thereupon, adapt them to our own conditions; it is only to that extent and for that purpose that this training in sylviculture with reference to continental conditions will be useful and no more. We hope under our scheme to provide for two methods of training, the British student who is trained in the British universities will have only a training in sylviculture and other subjects suited to British and continental conditions and will have the frame work, the base work so arranged; he will have to adjust that knowledge with reference to Indian conditions, as he has been doing during the last sixty years or more in India. On the other hand, you have the Indian student trained in India with reference to Indian forest conditions, which have been under scientific management for fifty years, but which are not yet so developed as to give us those results which only continental forests can give. Then he goes to the Continent and to England and he compares what he sees here with what he sees there; he has the best technical knowledge that can be imparted there, and a combination of both these we consider would provide a better administrative staff and a better field staff than either of those trainings can furnish alone and by itself. That is the reason why we have alluded to a central institution and not with a view to minimise the importance of our own educational institutions or reduce them to an inefficient state in order that we may justify the central institution. After all what is asked for by this departmental committee with

reference to the central institution is that we should give £150 per student or a little more if necessary—it would not be very much more—so that for the 20 students whom we may have to send, the expenditure will not come to more than Rs. 45,000 or Rs. 50,000. Therefore from the expenditure point of view, India is not going to spend a very large sum of money upon this central institution if it should ever come into being. Honourable Members may ask “Supposing this central institution does not come into being owing to financial and other difficulties, what does the Government of India propose to do?” You cannot avoid six months’ training on the continent and to a certain extent they shall have to be in the United Kingdom during the intervals. We have at the present moment a Director of Forest Studies to co-ordinate the studies of these students and we cannot do without him under any circumstances whatsoever, and we will provide for this equipment of knowledge in forest management and sylviculture to the extent possible in the United Kingdom, even if no central institute be established.

Then, Sir, the real point of difference between the Honourable Mr. Sethna and the Government is with regard to one item, namely, as to whether Britishers should not be compelled to come to India for training along with Indians, or whether they should be allowed to get their education at the British universities and be trained together with the Indian recruits from here at a central institution or at some college where this Director of Forest Studies or some other professors will supplement the instruction given here. That is the real point of difference.

There is one item of notable difference which has been hitherto overlooked both in the Assembly debates as well as in the public press outside, namely, that the Montagu Scheme contemplates the recruitment of Honours Graduates and training them for two years at Dehra Dun, whereas our scheme provides for the training of the best brains in India after the intermediate stage for three years and then sending them for a course of instruction abroad. It has been asked why should not the Britisher come here. Of course, there is not any very great objection to the best Honours Graduates from England coming here and taking a supplementary course of training, which is the course that we are going to provide for our own students. But I would like to put before the House some of our practical difficulties in the way of recruitment of Indians for the Forest Service

The HONOURABLE THE PRESIDENT: I do not like to interrupt the Honourable Member, but I would point out to him that he has not yet moved his amendment.

The HONOURABLE MR. B. N. SARMA: I will take only a few minutes, Sir, with your permission. The difficulties which we have felt in the past are that Honours Graduates are not to be had from all the Universities. The courses of study are different in the different Universities, and we have not been able to get from Bombay, in particular, even a single Honours Graduate during the last three years though I have been trying to get recruits from there; so is the case with some other provinces. The courses of scientific study and standards differ to a large extent in the various universities; some universities produce 1st class

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Graduates, others do not, with the result that under that scheme several provinces have had to be neglected, and we have not been able to get the best recruits.

Another difficulty that we have felt is this. The students after hard work and after attaining the age of 24 or 25 will not make efficient forest officers ready to take an interest in actual field work in the Forests if they are put on to learn a new job at the age of 22 or 23. So we do not get the best brains in India. That is the first difficulty. We cannot provide facilities for all the provinces; that is another difficulty. The third difficulty is, we think, and rightly too, that if we recruit Indians who have passed the age of 22 or 23 after a hard course at the universities, it will be very difficult to get the right type of recruit specially required for the Forest Service, and furthermore, if we can get students who can take a lively interest in Forests as such, the product is likely to be of greater value to the Forest Department than the one who merely seeks a job when he fails to find one elsewhere. There are also various other reasons given in the papers circulated to Honourable Members which induced the departmental committee also to ask for a change of method and to give up the training of forest officers at a late stage and to train youths of the ages of 18 or 19. If you are going to train youths of 18 or 19 and put them through a three years' course, you will have to train British recruits also at the age of 18 or 19 and not at the age of 22 or 23 as the Secretary of State originally contemplated, and you would then deprive the Britisher of his university training and also home influences, and to bring him here at such an early age would be fraught with dangerous consequences to him and would be of no use to us, because after all we are asking for the British youth only on the ground that we want the best brains, the best university products of the British Universities if possible, and that object we shall fail to achieve. That is the reason why we have made an alteration in the age at which we shall have to recruit, and the scheme of the Secretary of State will not fit in at all with the new arrangements which we think are necessary if we are to equip our forest personnel properly with suitable Indians in the higher grades.

Now, Sir, on the question of cost I shall say a few words. We have already increased our expenditure at the Forest Institute from about 2 or 3 lakhs to 10. We shall not grudge more provided the finances permit. But even as it is, to give the training for Indians alone we shall have to find 13 lakhs of rupees *plus* 3 lakhs, or 16 lakhs capital expenditure; whereas if the Honourable Mr. Sethna's scheme is to be considered, we shall require about 40 or 50 lakhs more, and we shall have to change the whole scheme, we shall have to provide for a separate institution for the provincial forest officers, a separate institution for training Imperial Forest officers, and furthermore, we cannot embark on this scheme at all for another 7 or 8 years.....

The HONOURABLE MR. PHIROZE SETHNA : Why not ?

The HONOURABLE MR. B. N. SARMA : In the first place, having regard to the existing financial conditions, I despair of being able to

induce the Assembly or, even if the Assembly is ready to agree, to induce the Government to furnish me with the requisite funds for the development of this Institute. We have already embarked upon a costly scheme of the Research Institute, and we are providing funds slowly, and to ask for another 50 lakhs.....

The HONOURABLE MR. PHIROZE SETHNA : For how many years should we wait ?

The HONOURABLE MR. B. N. SARMA : It may be for over 5 years. Before the scheme is sanctioned, it will take a year or two because the people who have to pay Rs. 50,000 instead of Rs. 11,000 for the recruits are the Provincial Governments. We may pass a Resolution here, but we shall have to submit these schemes to the Provincial Governments, because it is not the Imperial Government which is going to incur the recurring expenditure. Madras has fought shy, Burma has said no, and I should not be surprised if the other Provincial Governments also say no, because almost every province said that they would embark on the less expensive and more efficient scheme, that is No. 3, which we have propounded.....

The HONOURABLE MR. PHIROZE SETHNA : Will the Honourable Member explain how the rise in the figure of Rs. 50,000 per recruit is arrived at ?

The HONOURABLE MR. B. N. SARMA : I must ask your indulgence, Sir, and also the indulgence of the House if I take a few more minutes because if I go into details it will naturally take a little more time.

The HONOURABLE THE PRESIDENT : I should be glad if the Honourable Member would bring his remarks to a conclusion. He has not yet moved his amendment.

The HONOURABLE MR. B. N. SARMA : If that will give me a little more breathing space I shall. The scheme that I wish to place before this Council is :

"This Council recommends to the Governor General in Council that recruitment to the Indian Forest Service be by selection, in England and India, of recruits who have already undergone a preliminary education in Forestry followed by training for one year in England and Europe of all recruits together at a Central Institution, as recommended by the Inter-departmental Committee on Imperial Forestry Education in their Report of February, 1921."

Well, I was stating that the object which all Indians have at heart is likely to be delayed,—I won't say frustrated, much further than if they would accept this scheme which may be revised after experience has been gained. Assuming for a moment that we find after actual experience that the British youth will have to be brought here, that can be done; assuming that after the institution is fully equipped we realise that there should be an institution only here and nowhere else, that can be modified, and there is nothing in our present arrangement which would preclude, barring the provision of a separate building for the training of these recruits, the modification of the scheme for training both Provincial and Imperial officers together.

With reference to the query that was just put to me, I said that our scheme is a less expensive scheme on the whole. I have worked

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out the figures, and I find it is so. The scheme for the training of both British youths and Indians together would be more expensive for this reason. The British youth will have to be brought here and paid as if he were already entertained in service, and he will have to be paid his salary for three years before he is trained. As soon as you ask the Selection Board in England to select a candidate, and they do so the selected candidate will have to be paid his salary for three years when he is under training. Then again to bring him here and send him back for further training would also increase the cost enormously. At the same time, if you pay the British recruit from the very start, the Indian will say 'why is this discrimination against us', and so you will have to pay the Indian recruit also his salary practically before his training is begun or completed, with the result that you will have to provide for more money. The net result will be that you will have to spend Rs. 50,000 per pupil as against Rs. 8,100 and Rs. 17,559 for British and Indian youths under our scheme. After all, what is the object? The object can only be to get the Britisher trained along with Indians. The Government scheme will not prevent Indians from occupying all the posts in the Imperial Service if the Indians are found to be qualified, and if that is to be the policy of the Government of India and of the Secretary of State, because we provide for the highest education here, and if the percentage is to be increased from 40 to 60 or even 100, there is nothing to preclude the training of Indians for occupying all the places. Therefore in our scheme there is absolutely nothing inconsistent with the complete Indianization of the service should the Government of India consider it to be desirable in future. On the other hand, the bringing up of a Britisher here would delay matters very considerably, because we cannot start the institution for another 8 or 9 years. Reference will have to be made to Local Governments, and if they do not agree, we cannot incur this expenditure, and there the matter must rest.

Supposing they say 'yes' and the Secretary of State gives his assent; to secure this will take two or three years, and we shall want another five or six years for the provision of money and the Public Works Department to complete the buildings, with the net result that the object you have at heart of starting an institution at as early a date as possible would be delayed; and I would ask you not to quarrel with Government that they have not given effect to your wishes.....

The HONOURABLE THE PRESIDENT: I really cannot allow the Honourable Member to go on longer as he has greatly exceeded his time limit.

The HONOURABLE MR. B. N. SARMA: For these reasons, Sir, I would suggest that the House should accept the scheme put forward by the Government of India, and not the one placed before them by the Honourable Mr. Sethna.

The HONOURABLE THE PRESIDENT: Amendment moved:

"That for all the words following the words 'Governor General in Council' the following be substituted:

'That recruitment to the Indian Forest Service be by selection, in England and India, of recruits who have already undergone a preliminary education in Forestry

followed by training for one year in England and Europe of all recruits together at a Central Institution, as recommended by the Inter-departmental Committee on Imperial Forestry Education in their Report of February, 1921'.

That amendment is in the nature of an alternative proposition, and both the original Resolution and the amendment now moved are open to discussion by the House.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab : Sikh): Sir, I have had the advantage of having been on the Selection Board for the last two or three years in connection with the Forest Service. I have also enjoyed the benefit of conversations with Mr. Clutterbuck, who I think is one of the biggest men in our Services. All that the Honourable Mr. Sarma has just said has left me entirely unconvinced as to the utility of his scheme. The main point that Mr. Sarma has raised is that we cannot raise the money to start the institute at Dehra Dun. He has no faith in his own Government putting things through at once, but thinks the matter might be much delayed and proposes to have some kind of half-way arrangement. He has really not touched Mr. Sethna's Resolution. What he has said is the expression of his own feeling that we might delay matters, our own institution may be long in the coming. He recognises the need of an institution and fears that money may not be available. Looking at the matter from a financial point of view, one doubts whether it would be a saving to delay the matter. I think the whole thing hangs on the financial position. I for one think, Sir, that it would be a great thing to start the institution now and have it in full working order within the coming six or seven years at the latest. We have a fairly well-equipped institution even now. What we must do is to avoid delay. If we look at the file regarding these proposals, we see that the idea was started seven years ago, and we are still thinking about it. If matters are delayed like this, it may be that for another generation there will be no Forest training institution in India. The only objection, I think, and a valid objection to my mind, is the bringing of Britishers to India. This can be easily met by direct recruitment in England; and the officers trained in India might with advantage go to England to get the special knowledge required and the officers trained in England will spend with advantage a year at Dehra Dun, as proposed by the Honourable Mr. Sethna, after three years' service. Both the difficulties will not then arise. In the note, it has been explained that the best training that could be given was in the German forests, which are now closed to us. Then, one does not see the advantage of starting a central institution in England where there is no great forest. The academic training can be given here as well as anywhere else. As Mr. Sarma himself admitted, so far as academic training is concerned, our institution is fairly well-equipped. It is only for the study of "models" that it is thought necessary to send boys to England, and one year spent after a student has finished his training at Dehra ought to be enough.

Then, again, of course, Mr. Sarma rightly observed about the difficulty of getting suitable men for the Forest Service. I also noticed that the men who would really take joy in the Forest Department were very difficult to get. We could get men who had the necessary university degrees, but we could not get men who had the necessary

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physique and the necessary equipment for the work. But that is not due to any other reason than this, that we have made such a fetish of university degrees. If we did not make such a fetish of university degrees, we could easily get as many candidates as we require from the Khalsa College and the Chiefs' College and the Muhammadan College at Aligarh. These boys have got the physique, they have got the training, they have got the knowledge, they come from villages and they would be just as happy in the forest as anywhere else. But it is the question of university degrees which bars out the really capable and likely boys from going before the Selection Board.

There is one more point, Sir, and I have finished. If you take a long view of the matter the best thing is to start our own institution in India itself. We have a very large area of forests. Our forests have not been fully developed and we shall need a large staff. Our Forests may not serve as "Models," but we can go on working till they become so, just as other countries have done. They did not start at once with perfect forest work. In the meanwhile, we will have the advantage of officers trained in the British universities who would come and co-operate with men educated in our own Forest Institution. Under these circumstances, Sir, I am not prepared to support the amendment of the Honourable Mr. Sarma but support the Resolution, which would provide a really well-fitted institution, and the sooner the work is started the better.

THE HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras : Non-Muhammadan) : Sir, the Honourable Mr. Sethna has made out a case for giving the best of education in Forestry in India itself. He has shown how only two years ago the Government of India had complimented itself on the excellence of the instruction given in the College at Dehra Dun. The Honourable the Revenue Member also has made a very able speech to-day. But it is an able speech from the Government point of view. Although the Honourable the Revenue Member has told us that the Government of India will do their best for the development of the Dehra Dun Institute, the counter proposal the Honourable the Revenue Member is making gives room for belief that the Government seems to think that India would get things cheap by contributing year after year to a Central Research Institute in England and by spending money on stipends to the English and Indian students every year towards the expenses of a costly living in England. This, Sir, is very like the calculation of a lodger who decides to live his whole life through in a rented house rather than go in for a house of his own.

Sir, this question was gone into in great detail by the Public Services Commission. They conducted a thorough inquiry in all parts of the country. They invited the opinions of all classes of men all over the land. Their decision is one of great weight. Their decision has been the result of an overwhelming volume of Indian opinion. Such considered and weighty judgment should not be discarded without a fair trial being made of the system they advocated. That system was then accepted by the Government of India and the Secretary of State. Public opinion will not take it well if the Government of

India did not act upon their own decision. The world will accuse them of not knowing their own mind if the Government of India did not act on opinion to which they gave their considered assent. For them to bring in a counter proposal would expose them to a far more serious charge. A change of policy, even at the risk of being considered inconsistent might be necessary only where new facts come to light. But here, Sir, no new compelling fact has been disclosed. Hence the need for an adherence to the policy outlined by the Public Services Commission. Such an adherence may cost more money ; possibly more than the scheme the Government of India have in their view. But in working with a more costly scheme we must have to begin working towards our ideal even from to-day. In bad years we shall make a small contribution, in good years, larger contributions, but in no year shall we stint giving to this laudable object of helping India to have a well equipped school of Forestry in the land, for the attainment of this object will help India to make the best use of the best native talent of the country. Here, Sir, I am not minimising the advantages for the Indian students of the knowledge to be derived from a study of European Forestry. But I submit that such European study to be useful must start with a fund of knowledge of Indian forests. The comparative study will serve as a finishing touch to the education imparted in India. This education imparted in India could be best utilised only if it is followed up by an apprenticeship in the country itself at least for a certain number of years. Surely, at the end of the period, a tour in the continent and a study of European forests would help the student a good deal as he is already equipped with all the details of Indian forests. The scheme does not exclude the recruits from England. With regard to the difficulties of British recruits my friend the Honourable Sardar Jogendra Singh has suggested a solution. I would, therefore, Sir, support the Resolution of the Honourable Mr. Sethna.

THE HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, an amendment stands in my name both with regard to the Resolution moved by my Honourable friend, Mr. Sethna and to the amendment moved by the Honourable Mr. Sarma, but before moving my amendment, Sir.....

THE HONOURABLE THE PRESIDENT : The Honourable Member's amendment is an amendment to the Honourable Mr. Sarma's amendment.

THE HONOURABLE MR. LALUBHAI SAMALDAS : May I draw your attention, Sir, to the fact that I have sent in two amendments. One was to the Honourable Mr. Sethna's Resolution, and the other was, in case that did not come up, to the Honourable Mr. Sarma's Resolution.

THE HONOURABLE THE PRESIDENT : The Honourable Member may conclude his speech by making any motion which is in order, but the amendment I have before me is an amendment to the Honourable Mr. Sarma's amendment.

THE HONOURABLE MR. LALUBHAI SAMALDAS : I bow to your ruling, Sir. The Honourable Mr. Sethna's Resolution begins by saying :

"That in view of the fact that India provides in the Forest Research Institute at Dehra Dun a highly efficient and up-to-date institution for instruction in Forestry and for Forest research."

[Mr. Lalubhai Samaldas.]

That part of the Resolution be supported by certain quotations, one of which was from the Moral and Material Progress of India in 1920. My friend is usually very accurate, but he seems to have been under some misunderstanding as regards the quotation which he gave us. He quoted, if I am right, from page 121 :

"The arrangements for expansion, to which effect is already being given, involve large increases in the research staff, and the construction of an entirely new and enlarged Institute."

And then he said :

"With the completion of this project the Government of India should possess as efficient an institution for forest research as is to be found in the world."

The meaning is, if I understand the English aright, that if and when the project is completed, the Government of India will have an institution of this kind, not that it has such an institution at present. If that is the meaning—and I believe that that is the correct meaning—then the stress that my Honourable friend, Mr. Sethna laid on the encomium passed by Professor Rushbrook Williams on the Government of India's work is not quite correct. Not only that. I will go a step further. What do we find in the next year's Moral and Material Progress Report ?

After saying practically the same as was said in the preceding year, the author says :

"But, unfortunately, the lack of money is already making itself felt, and as a consequence progress in the investigations which will lead to the fuller and better utilisation of the raw products produced by Indian forests is retarded."

Again, he says :

"During the period under review, progress has been made in the development of the Institute, but little or no advance has been possible in the construction of new buildings."

It is due to financial stringency that very little progress has been made, and the Honourable Mr. Sethna's contention that at present we have an institute highly efficient and up-to-date for instruction in forestry does not hold good. May I also add that the remark made in the Moral and Material Progress of India was not about the instruction to be given but about the research work to be done, and I think it is right that Honourable Members should realise the difference between research work and training work. An institute may be very capable of doing research work, but it may not have the same facilities for doing educational work. Therefore we have not at present an institution to carry on training work equal to that which is required in the Honourable Mr. Sarma's Resolution. Sir, this question, as Honourable Members may know, was first taken up on the recommendations of the Public Services Commission Report, and I can quite understand the disappointment or the resentment felt by my Honourable friend, Sardar Jogendra Singh when he said that for seven years practically nothing had been done. It was in 1916 that the Public Services Commission said :

"The time has now arrived when, in our opinion, a beginning should be made with the system of direct recruitment to the imperial branch in India. With this object we would make use of the facilities which have recently been established at the forest research institute at Dehra Dun for giving higher instruction in forestry subjects."

The Honourable Member has said that sufficient has been done to provide instruction for the Provincial Service. More still remains to be done to provide instruction for recruits for the Imperial Service, and we all naturally feel that proper steps have not been taken to carry out this object till now. As regards the Indianisation of the Service the Public Services Commission said :

"We also recommend, in order that the Dehra Dun advanced course may from the first attract a good class of student, that the Government of India should announce that not less than half the recruits required for the imperial branch of the department will be chosen from among statutory natives of India."

And after six years what do we find, Sir? We find that only 40 per cent. are said to be recruited in India, while the remaining 60 per cent. are still recruited in Britain. Naturally, when we find that in spite of the expressed sympathy in words of the Government Members that "we are going to Indianise the Services", if the Public Services Commission Report of 1916 which recommended Indianisation to the extent of 50 per cent. has not been acted up to after six years, my Honourable Friends Sardar Jogendra Singh, or Mr. Chettiar have every reason to feel disappointment and resentment. We were told that recruits were not forthcoming—the proper type of candidates did not come. May I draw the attention of the Honourable Members to the conditions at present prevailing as regards recruitment? The preliminary qualification for British students is Honours in Science. Here, for Indian candidates, it is not Honours in Science, but it is first class in any subject, and then if they have been accepted as recruits, they have to pass a qualifying examination in English, Mathematics and two science subjects equal to the Madras Honours course.....

The HONOURABLE MR. B. N. SARMA : May I explain? That rule does not obtain now. This year we have held no examination whatsoever. We take only from Honours and first class graduates in any subject. We have relaxed the rule which confined it only to Honours graduates in science because we felt that sufficient numbers were not forthcoming and we wanted a wider field.

The HONOURABLE MR. LALUBHAI SAMALDAS : I am thankful to the Honourable Member for the explanation he has given and for the action that has been taken in doing away with the preliminary examination. But so long as that examination was being held, is it any wonder that first class students, say, in literature, or history and economics, or philosophy did not care to come here and undergo an examination again in the Madras University course in science? Moreover, it has been said. I dare say Honourable Members must have heard it, that the medical examination was much more stiff than it ought to have been. Candidates were made to walk miles and their hearts were examined to see if there was palpitation. I quite realise, Sir, from the health point of view, the forest officers must be strong men, but is it necessary that candidates who must be in a nervous state of mind at that time should be made to walk for miles, and if there was palpitation which there must necessarily be even in the case of the strongest of them, they were discarded.....

The HONOURABLE MR. B. N. SARMA : That has been modified also, Sir.

[Mr. Lalubhai Samaldas.]

The HONOURABLE MR. LALUBHAI SAMALDAS : So that, if capable Indian students did not come up, it was surely not because that they did not care to take up the forest service, but because the conditions laid down were hard. One has to be very grateful to the Government of India, and especially, to the Revenue and Agriculture Department, for having modified those conditions.

Sir, my amendment says that the recruiting should be done in England and India for the present. The object of the amendment is to clear up a misunderstanding, a misunderstanding which my Honourable friend, the Revenue Member tried to explain away, that the Central Institution will be a permanent fixture, that the Dehra Dun institution will always be a secondary institution and will not be a complete training and research institution, and by the proposed amendment I make it quite clear that the goal that should be kept in view by us should be a complete research institute at Dehra Dun ; and that is the reason why I want to insert the words "for the present." Till that goal is attained we must have some other alternative, we cannot keep back our students. There are I think two alternatives : one would be to continue the present system, and if it is found that that system is more expensive and less efficient, then we must accept the scheme that has been laid down by the Government of India on the Departmental Committee's recommendations. To make my meaning clear, I have also added the words, "provided that the final goal to be kept in view be that complete training in Forestry be given in this country at an Institute where there should be full scope for Research work." I have said so for two reasons. We have the report of Mr. Clutterbuck where he says, that for 50 years India may not still be ready for this kind of work. Sir, when we hear this remark not from a layman, but from a man who is responsible for the forest administration of the country—when he says that for 50 years more India will not be a really suitable ground for training—we must lay down that we want it as early as possible. Then, Sir, the Government of India's first letter which was written soon after the Public Services Commission report was published—I was referring to the letter of 1918,—did not receive a sympathetic response from the Local Governments. Almost all the Local Governments tried to find difficulties except, it is really a pleasure to mention, the Government of the Central Provinces. Sir Benjamin Robertson, the then Commissioner of the Central Provinces, looked at the matter from an Indian standpoint. He says :

"The Indian public would very strongly and rightly object to any system of recruitment which neglected the opportunity of establishing a Forest Institute of the highest class in India."

The other Governments did not support that proposal, and possibly it was on account of the opposition of the Local Governments that the Government of India had to change their decision.

My Honourable friend Diwan Bahadur Annamalai Chettiyar said that Government action will be misconstrued if they change their decision now and go against their own expressed wishes. Govern-

ment say that they have to change their opinion because all the Local Governments are against it. Now what do we find ? In 1920 the Government of India referred the matter again to the Local Governments. It was only one Government, where Forests is a transferred subject, that sent a sympathetic reply. The Government of Bombay in which Forests is a transferred subject made it quite clear that they did not want to accept the Government of India's view. They want the Forest College to be combined with the Research Institute, and they say that scientific training in India should have all the facilities possible. Sir, when we have provincial autonomy, Forests will be a transferred subject and I have no doubt that all the Local Governments will say the same thing, and I would ask the Council to pay greater attention to what has come from the Bombay Minister than from all the Local Governments combined because the Bombay Minister, being an Indian, can express the Indian point of view much better than any one else. With these remarks I move my amendment, if I am in order, which stands in my name, namely :

"That in the Resolution all the words after the words 'the Governor General in Council' be deleted and the following words be substituted :

"That recruitment to the Indian Forest Service be for the present by selection, in England and India of recruits who have already undergone a preliminary education in Forestry followed by training for one year in England and Europe of all recruits together at a Central Institution as recommended by the Inter-departmental Committee on Imperial Forestry Education in their Report of February, 1921 ; provided the final goal to be kept in view be that complete training in Forestry be given in this country at an Institute where there should be full scope for Research work'."

In moving this amendment.....

The HONOURABLE THE PRESIDENT : The Honourable Member has already exceeded his time.

If the Council will look at the amendment which has been just moved, they will see that as a matter of fact it is an effect the same amendment as has been moved by the Honourable Mr. Sarma, except for the insertion of the words 'for the present' in line 1 and the proviso added in the end, namely :

"Provided the final goal to be kept in view be that complete training in Forestry be given in this country at an Institute where there should be full scope for Research work."

The proper way for the Council to consider this amendment is to treat it as an amendment to the Honourable Mr. Sarma's amendment. The point for the Council to consider is whether they wish to adopt the Honourable Mr. Sarma's amendment, or whether they would adopt it in the form in which it is proposed to be amended by the Honourable Mr. Lalubhai. That is under discussion now.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, I rise to oppose both the amendments.

The HONOURABLE THE PRESIDENT : The Honourable Member cannot oppose both the amendments now. The amendment now before the Council is the amendment of the Honourable Mr. Lalubhai Samaldas to the Honourable Mr. Sarma's amendment. When that amendment is

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disposed of, we may take up the main amendment and the Honourable Member may oppose it then.

The HONOURABLE MR. V. G. KALE : The Honourable Mr. Lalubhai has tried to dilute the amendment of the Honourable Mr. Sarma to the main Resolution. I have not been able to thread my way through the forest of extracts and quotations read and the compliments and criticisms offered by my Honourable friend with regard to the proposals which Government have placed before this House. But I take it that my friend is satisfied with the proposals of Government provided Government accept what he considers is the goal to be kept in view. I had thought that my Honourable friend had had enough of goals in politics, in industrial affairs and in administrative progress. I have not the patience which my friend has in regard to this question to be satisfied with a mere goal. I do not see why we should be contented with a mere goal in this question of educational equipment. No doubt the expenditure will be very heavy, and it has been pointed out that in the present financial stringency it will not be possible to provide the money that will be needed. However, in the course of the next five or six years, I do not think that there will be much difficulty in finding, from year to year, the funds that will be required for equipping the Dehra Dun institution up to the necessary level. The Honourable Mr. Lalubhai found fault with the wording of the Resolution where it has been said that the Dehra Dun institution occupies a certain efficient and up-to-date level. I do not see how there is any inconsistency between the position taken up by the Honourable Mr. Sethna and the position that the Dehra Dun institution requires further improvement and strengthening. As it is, the Dehra Dun institution is certainly efficient. We shall have to expand it and adjust it to the necessary requirements of the moment. We are now called upon to give expression to our views with regard to the Government Resolution. The country is being asked to express its opinion upon the schemes put forward, and I think we shall be failing in our duty if we accept the Honourable Mr. Lalubhai's amendment with regard to the goal, and consequently I strongly oppose that amendment.

The HONOURABLE MR. B. N. SARMA : I shall explain briefly, Sir. Objection has been taken to Mr. Samaldas' amendment by Mr. Kale on the ground that this would furnish us only with a goal and that what we ought to aim at is practical finality at as near a date as possible. I agree with Mr. Kale that we should attain practical finality at as near a date as possible, but I fail to see where his objection comes in. The position of the Government in regard to this amendment is this. We consider that those words would be surplusage and may perhaps be misleading. The final goal to be kept in view is complete training in forestry to be given in this country at an institute where there should be full scope for research work. Our contention is that we are going to provide that now and immediately under our scheme. It is not going to be merely an ideal to be realised in future. We hope by our scheme to provide for complete training in forestry in this country at an institute where there should be full scope for research work. Then with regard to the other portion 'for the present' all schemes are naturally intended to design appliances for the present.

What the future has before it, it is impossible for us to say. The scheme I have already said provides for the present. If at a future date it has to be revised, it will be revised ; if Britishers have to be brought here for training, if institutions in Europe are inadequate for the purpose, then certainly we shall insist upon Britishers coming to India to be trained here. It will be our duty to bring the Britishers here for training. But I consider that the last words of this amendment may be misleading ; it may be thought that the Government has some other object in view and the Honourable Mr. Samaldas is trying to put it on a proper footing. That is my only objection ; but we leave it to the Council to decide ; the Government will not vote.

The HONOURABLE THE PRESIDENT : The question is :

"That in the amendment moved by Mr. Sarma, before the words 'by selection' the words 'for the present' be inserted ; and at the end of the said Resolution the following be added :

'Provided that the final goal to be kept in view be that complete training in Forestry be given in this country at an institute where there should be full scope for Research work'."

The Amendment was rejected.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, the Resolution put forward by the Honourable Mr. Sethna is so reasonable, and the speech he made yesterday was so convincing, that I find no other alternative but to give my full support to it. It will be quite in conformity with the orders of the late Secretary of State, who said in his despatch that the Dehra Dun institute should be made an Imperial one and all recruits should be trained in India and all students should go to India for training. But at that time the Government of India and some European institutions stood in the way and suggested to the Secretary of State that the matter should be postponed for some time. The result was that an Imperial Forestry Conference was held which passed a Resolution contrary to the ruling of the Secretary of State. But still the Secretary of State would not change his views until public opinion in India and the Legislature had been consulted. In these circumstances, Sir, I think it is necessary that we should have our own institution at Dehra Dun ; which is already, as Mr. Sethna clearly said yesterday, the best in the world. The amendment proposed by the Honourable Mr. Sarma will be quite contrary to the views of the Secretary of State. The same Resolution was recently discussed in the other House and was defeated by a large majority. If the same Resolution in the form of an amendment is carried here, it will be going against the opinion of the other House. We are not supposed to cancel what the other House does, and we should give our full consideration to the question in a fair and open-minded way. I think there is no reason why we should not have our own institution at Dehra Dun. We have large forests, though of course they are not as much developed as they ought to be ; we have an ample number of students who will go in for forestry education. If Indian boys are required to go to England, probably many may not be able to go on account of religious sentiment ; while students from abroad can come here without any prejudices. The Honourable Mr. Sarma has referred to the financial aspect of the question. I think for such a useful institution money should be provided anyhow,

[Lala Sukhbir Sinha.]

as it may not be so usefully spent in some other Departments. Therefore, I strongly support the original Resolution and oppose the amendment as put forward by my Honourable friend Mr. Sarma.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I am extremely sorry, owing to my not being in Council in time, that I have missed the advantage of hearing the speech of the Honourable Member in charge of this Resolution on behalf of Government. We listened with interest the other day to the speech of the Honourable Mr. Phiroze Sethna in connection with this Resolution. Undoubtedly, he has placed the case before the Council with great ability and perspicuity. But my difficulty in this matter, and my information in connection with it, is that there are serious impediments in the matter of obtaining recruits; the Forest Service has of late become extremely unpopular, and we are unable to get recruits either from England or India. I also understand that the physical as well as the educational standard has been very considerably lowered. But in spite of this lowering of the standard in both the physical and the educational requirements, appointments in the Forest Service are going begging; no recruits are forthcoming. Mr. Phiroze Sethna has not thrown any light on the subject. I ask my Honourable colleagues here if the Government Member has said anything about it, as I understand that he has not! It appears to me that this is a storm in a tea-cup (Hear, hear); we are talking of academic matters, when as a matter of fact there is a serious dearth of recruits (Hear, hear). It is all right and very fine to talk of great educational facilities in England; it is all right to say a great deal about the high standard and efficiency of the Dehra Dun Forest School. But let us first inquire if this Resolution is going to have any practical effect (Hear, hear). What is the use of moving at this stage in the matter—at this transitional stage, when the whole position of the service is not clear. Let us wait a little and see how things shape themselves. (*The Honourable Saiyid Raza Ali* : “How long?”) Well, my friend Mr. Raza Ali wants to know, how long? I hope he will manage to throw some light on what I have said and manage to secure some recruits first before he calls upon us to decide whether they are to be educated in England or in India. I say that the whole affair, this debate, this heated discussion, both from the point of view of the Honourable Member who has initiated it, and of the Honourable the Revenue Member who has supported the amendment, seems, in my humble opinion, to be irrelevant and superfluous. At the same time, let us endeavour to know our exact position, and then we can correctly decide. Unless, therefore, I hear some further reliable information either from Mr. Sethna or from the Government Member, I propose to vote against both the proposition and the amendment.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-official) : I move, Sir, that the question be now put.

The HONOURABLE THE PRESIDENT : The question is :
“That the question be now put.”

The motion was negatived.

The HONOURABLE RAI BALADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution which has been so ably moved by my Honourable friend, Mr. Sethna. It is now beyond doubt that Dehra Dun is the most suitable place for imparting instruction

in forestry for the Indian Forest Service. The Honourable the Revenue Member has not opposed the Resolution, but what he has explained is that even if the Resolution be accepted, it will take almost five years to get the thing going. The clear issue now before the House is whether we shall make a start now or later. The Honourable Mr. Sarma has assured us that the Government of India propose to take immediate action, and it is in this connection I propose such immediate action to be taken, and as far as temporary arrangements are concerned they could leave this matter to the department. I propose simultaneous recruitment in England as well as in India for the time being and urge this House to adopt the Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, I support the Resolution. The only difficulty which is found to carry out the proposal, I think, is money, but “where there is a will, there is a way,” and if any Indians who are in charge of the purse knew that the money would be spent usefully in this country, I am sure they would find the money. Then, Sir, I am in favour of this Resolution on principle, and that is, that all Indians as much as possible in every subject should be trained in India. It is much better to bring able men from England here to impart instruction than that all the candidates should go to England. There are many drawbacks in going to England. One is that some young people go away from their homes and from the influence of their parents and get spoiled.....

The HONOURABLE SIR MANECKJI DADABHOY : That is why you did not go.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : I did not go there for education. I went later when I was of mature age and not when I was a youngster. (Laughter.) Then, Sir, it is found that many of the people who return from England are the bitterest enemies of England. In this case, Sir, about forestry, I think if a man knows the requirements of his own country and its ways and goes to England to find something better, it will be useful for it. But if he first knows about things in England and comes to India and finds everything different, all his knowledge learnt there will be of no avail. I can give an illustration. There is one man, Sir, who passed in Agriculture from England and came here. He was put a question as to what should be done about certain diseases of a tree. He said, “Wherever there is this disease, it should be washed, by a certain lotion.” In India which is such a vast country and full of many such things, if everything was treated that way, I think the expense will be far more than the outcome. Then, again, Sir, it is said that we cannot find recruits. The difficulty is that in these days most of the services and appointments are bought. All those who have got money can send their sons to England and they come back and get the appointments, and the Zemindars, that is, the parents of the best men and strong men in the villages who can do the work, have got no money and they cannot send their sons to England. If the instruction is imparted in India, naturally the best men and the best brains would go to the college and most of the parents will be able to supply good recruits. Take the case of simultaneous examinations. Take, for

[Colonel Sir Umar Hayat Khan.]

instance, law, or the case of barristers who have come from England and the pleaders here.

There is a story I wish to relate in this connection. Some people wished to engage a lawyer for a law suit. They went to a Barrister, who said he wanted one hundred rupees. They replied, "If we were prepared to give one hundred rupees, we would go to a Pleader." Of course all barristers are not the same, but those men who come straight from England, unless they come and learn things in India, and learn the methods of this country, they are not able to work at all, or at any rate not properly.....

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : The Honourable Member has engaged barristers himself, to my knowledge, in preference to Vaki's ! (Laughter.)

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : Under these circumstances, Sir, I am of opinion that an institution should at once be established in India, and students when they know something of their own forests, may go to England later, and complete their studies there, as suggested.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhammadan) : Sir, I labour under some disadvantage in having to crowd all that I have to say in reply to the many points brought out in the debate, within the short space of fifteen minutes.

The HONOURABLE THE PRESIDENT : I hope the Honourable Member will be as brief as possible.

The HONOURABLE MR. PHIROZE SETHNA : I shall try to be. In the first place, I would like to reply to the remarks of my Honourable friend on my right. He found fault with the particular quotation I made yesterday, and said that that quotation referred not to the school but to the Research Institute. I do not know whether he was present when I also quoted that at the Dehra Dun School there were at least four Indian Forest Service Officers and instructors on the staff, including the Principal of the College, a Sylviculturist and Superintendent of Forest Working plans, a Forest Zoologist, a Forest Chemist, a Forest Botanist and a Forest Economist. Then my Honourable friend quoted from Mr. Clutterbuck's Minute, and in reply to that I would refer him to the opinion of the Government of India expressed in their circular No. 633, Revenue Department, dated 29th October 1918. I do not know whether Mr. Clutterbuck held the same position on that date as he does now, but on that date the Government of India said :

"There are considerations which make it advisable that young Indians should be trained in their own country, if possible, while it is obviously desirable that the Indian Empire with greater forest reserves than any other parts of the Empire, except possibly Canada, should be in a position to provide training in scientific forestry up to the highest standard."

Then, Sir, he also found fault with me for having suggested the word "forthwith." Sir, if candidates for the Imperial Forest Service are trained forthwith at the Dehra Dun School, I contend that the education

that will be imparted to them there in forestry will be in no way inferior to that which is imparted to candidates in the three forest schools of Oxford, Cambridge and Edinburgh (*A Voice* : Question ?) I will refer the Honourable Member to the Government of India. In the opinion of the Government of India themselves, forest instruction as imparted in these forest schools is inadequate, and the candidates receive 'inadequate training.' What more does my Honourable friend want ?

Then, Sir Maneckji Dadabhoi considers my Resolution irrelevant. I derive some consolation from the fact that he also found the same fault with the Honourable Mr. Sarma's Resolution. I may remind Sir Maneckji that Government themselves brought forward their Resolution on the subject, and it was by accident that I am moving my Resolution first and Government are moving theirs as an amendment. Sir Maneckji also sought some enlightenment from me as to whether the number of candidates would increase. (*The Honourable Sir Maneckji Dadabhoi* : I said there would be no candidates ; not candidates in as large numbers as may be expected.) It is news to me that there are no candidates.

In regard to his other contentions the Honourable the Revenue Member has told us that the age limit is to be altered and the physical fitness qualification revised, and this, I hope, will mean that in future we will get more candidates. (*The Honourable Sir Maneckji Dadabhoi* : "And I say quite useless candidates.") As regards there being no British candidates, the answer is the same as to why there were only 20 candidates this year for the Indian Civil Service. The fact that there have been so few British candidates for the Indian Civil Service examination is due in a measure to newspaper articles such as have appeared in the *Morning Post* and the *Daily Telegraph* advising young men in England not to take up appointments in this country. If that idea were removed from the minds of Britishers, as I hope it will soon be, we shall get as many candidates as we used to have before, and more. If Imperial Forest Service probationers are taught at Dehra Dun, one class of students, bright young men from the orthodox communities who cannot go to England, will be able to offer themselves as candidates for this service.

I now come to the amendment of the Honourable the Revenue Member. Government were of a different opinion altogether until only two years ago. Government to-day have changed their opinion. Consequently, Government should come forward with most convincing reasons to satisfy the Council in regard to the proposed change. The Honourable Mr. Sarma has told us that there is not much difference between my Resolution and his amendment, but that in the science of silviculture we have not advanced very far in India, and it is very necessary, therefore, that our students should go to the Continent. Sir, I have not disputed this. In my original Resolution I said that after passing their examination, they should go to the Continent after a period of 'six' years of continuous and approved service, which, with your permission, I altered to 'at least three' years ; but, if Government think they ought to go to the Continent immediately after qualifying at Dehra Dun, I have no objection. But I do not agree with the Honourable the Revenue Member that the study of silviculture on the Continent for students of the Imperial Branch of the Forest Service in India is so very essential, so far as their service in this country is con-

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cerned. On that point I cannot do better than quote a sentence from the reply of the Government of Bombay. It runs as follows :

“The conditions in Europe as regards climate, soil and species are entirely different from those obtaining in India, and no amount of acquaintance, theoretical or practical, with European conditions can help much towards the development of scientific forestry in India.”

I agree with the Honourable Mr. Sarma that if, in the opinion of Government, it is thought necessary that a student who passes out from Dehra Dun, should go to the Continent to further qualify in sylviculture he might be allowed to do so. I am not against their going immediately after their course is finished, though my Resolution contends that they should wait for a period of three years.

But, Sir, the most important point I wish to make is that Government in proposing a change have failed to convince us of its necessity. The item upon which they lay the greatest stress, is the item of cost. I interjected a remark asking the Honourable Mr. Sarma how he arrived at the figure of Rs. 50,000 for a British probationer. The Honourable Mr. Sarma said that Rs. 50,000 was the cost per recruit. Allowing Rs. 5,000 for the cost of his outfit and for his passage money both ways, there is still left a sum of Rs. 45,000 which gives for three years a monthly stipend of Rs. 1,250 per recruit. Does my Honourable friend, Mr. Sarma, contend that Government propose to give to the British recruit who comes out to this country Rs. 1,250 a month during his probationary period? It is apparent that Government have not placed before us facts and figures as they might have well done and as we have a right to expect, and I repeat that the Honourable Mr. Sarma has not answered my very pertinent question, as to whether the Government of India will be required to contribute in any shape or form either towards the initial cost of the proposed Central Training Institute or towards the recurring charges. I understood Mr. Sarma to say that £150 per annum would be spent per recruit. I did not quite catch his meaning whether the Government of India had to pay to the Central Training College £150 per annum for training a student or whether that was the stipend to be paid to the recruit. But, whatever it be, the payment to the Central Training College will have to be taken into consideration, and if this is done it will be found that it will certainly be cheaper in the long run to have the Dehra Dun School brought up to the highest pitch of efficiency and make it a first class institution for the teaching of Forestry in India.

Then, again, Government lay such great stress on the advantages of a training in the Central Training College. I have not heard from the Honourable Mr. Sarma as to the manner in which this proposed Central College is going to be an improvement upon the three forest schools in England. They will I suppose retain the services of eminent professors. Where are they to be had? It is an open secret that the best foresters and forestry teachers are to be had from a country where there are the best forests. Where are the best forests in the British Empire? In India and in Canada. And as I also explained yesterday, the Principals of the existing forestry schools in England are drawn from men who have served in this country. Therefore, the only conclusion I can come to is that the so-called Central Training College which is boomed to such an

extent will be presided over and will be manned by teachers who in all probability will be no others than those who have served in this country in the Forest Department. If so, why should we not avail ourselves of the services of those very men in this country towards the end of their services? Why not, in that way, make the Dehra Dun Institution the best institution for forestry studies in the Empire for the reason that the best and the largest forests in the Empire exist in India?

My time is nearly up and I must try to end my remarks. My Honourable friend, Mr. Sarma, then referred to one or two other minor points in regard to ‘assimilation’ and in regard to Britishers coming out to this country. Sir, I do not attach much importance to ‘assimilation.’ That has been tried and, I am sorry to say, failed at Oxford and at Cambridge. I know that from personal inquiries. It may be the fault of the Indians who try to congregate together and do not mix with others to the extent we would like, and any similar attempt will meet with an equal failure.

In regard to Britishers coming out to this country, that was the recommendation of the Secretary of State himself only two years ago. If it is a disadvantage for British people to send out youths here, it is certainly equally hard on Indian students at a tender age to go to England. But Britishers coming to Dehra Dun would not be in a climate like that of Bombay, Calcutta or Madras; they would be in a place like Dehra Dun where the climate is certainly very much superior; they will be within a very short distance of hill stations like Mussoorie and Naini Tal. As I must now conclude I will do so by expressing the hope that reason and conviction will prevail with Honourable Members and that they will give their assent and sympathy to my Resolution and not to the amendment which has been moved by Government.

The HONOURABLE MR. B. N. SARMA : I fear, Sir, that in spite of my attempt to disabuse the minds of Honourable Members that we do not propose to start an inferior institution, there seems to be still a settled conviction, that inasmuch as the Secretary of State's scheme has been modified in some particulars there must be some underlying motive which may not clearly appear on the surface but still accounts for the difference between the original scheme and the present scheme. It will take some time before this air of suspicion can be cleared, but I may state that under schemes 2 and 3, we propose to staff the college with exactly the same number of Imperial Service Officers, to provide the same sort of training, and the difference in the scheme does not come in under that head at all. I regret that those figures have not been furnished to Honourable Members, as we thought that too much detail was unnecessary, but all the necessary data have been furnished and that must convince Honourable Members that we do not propose to incur less expenditure under this head or provide inferior instruction under scheme 3.

Then it has been asked as to why this expenditure should be so very large. The expenditure is large for this reason, that under our scheme we propose to utilise the existing building, removing only certain departments therefrom, and building them on the new premises. Whereas if you bring the Britisher here you will have to maintain this institution, you cannot utilise this building, and you must build afresh on

[Mr. B. N. Sarma.]

new premises. That was estimated to cost originally Rs. 60 lakhs, but a few retrenchments may be possible. But I would ask Honourable Members as to whether they are not really delaying the realisation of their hopes by asking us to discard the present arrangements and to embark on an expenditure of 60 lakhs of rupees in addition to the enormous expenditure we will have to incur on the Research Institute premises at a time like this. It has been asked whether we propose to pay these students at the rate of Rs. 1,250. It is Rs. 480. That is provided for in this scheme, and for three years it amounts to Rs. 17,400. The details I have given and the full amount comes to Rs. 50,200.

The HONOURABLE MR. PHIROZE SETHNA : It cannot be. That is the point.

The HONOURABLE MR. B. N. SARMA : The Honourable Member can read the figures. (Here the Honourable Member handed some papers for the inspection of the Honourable Mr. Sethna).

There is nothing secret about it. All I can say is that every figure has been carefully worked out.

The HONOURABLE MR. PHIROZE SETHNA : Sir, on the Honourable Mr. Sarma's own showing, if Rs. 450 is to be paid, that only amounts to Rs. 17,000 per annum, whereas the figure stated is Rs. 50,000. Well, if it is Rs. 50,000—it may be, I have not seen the figures,—Government must take into account the interest, etc., which they may have to pay on the amounts paid. If that be so, then the Honourable Mr. Sarma has not answered my point as to how

The HONOURABLE THE PRESIDENT : The Honourable Member cannot make a speech. He can only make an explanation, but he is trying to get in a third speech.

The HONOURABLE MR. B. N. SARMA : We do propose to take the interest charges into account, and we do not propose to contribute to the Central Institute at all. All that we have been asked to contribute is £150 per student, there may be a deficit of £20 or £40 when the accounts are fully taken which may have to be made good.

On the question of cost, I hope Honourable Members will realise the difficulties of the Government. It is not that the Government do not want to spend all the money required, but they feel that it is absolutely unnecessary to incur the expenditure needed for the all-Dehra Scheme and that it is absolutely impossible under present circumstances to embark upon that expenditure.

You will ask me “ why is it unnecessary ? ” I say, it is unnecessary because this new building we would be compelled to erect only if the British youth are brought here, and we are not convinced that there is any necessity for the British youth being brought here for training. If Honourable Members had convinced the Government by their arguments that it is necessary to bring the British youth over here for their training, then there would have been much to be said for the Resolution moved by the Honourable Mr. Sethna. The real point is that we do not think it necessary or desirable to bring them out here. You will ask me “ Why

is it not desirable ? ” It is not desirable because we propose to reduce the age from 22 or 23 to 19, and we do not consider it desirable that the British youth should be removed from their home influences and the university atmosphere at such a tender age. Honourable Members have been complaining that Indians are at a great disadvantage in sending their young men to Europe because they are taken away at an impressionable age and cast among foreign surroundings. I would ask whether the very same reasons cannot be advanced against bringing British youths out at the same age, and, unless you can satisfactorily show that the training in Europe is not adequate.....

The HONOURABLE SARDAR JOGENDRA SINGH : Why bring them here ? Have simultaneous recruitment in both countries.

The HONOURABLE MR. B. N. SARMA : That is exactly what we provide and I am very glad that Sardar Jogendra Singh has been able to see our point.

The HONOURABLE SARDAR JOGENDRA SINGH : I am afraid I haven't seen your point.

The HONOURABLE THE PRESIDENT : Order, order.

The HONOURABLE MR. B. N. SARMA : We are providing for simultaneous recruitment. And, in answer to the question of the Honourable Mr. Sethna, we say that the Universities have agreed to revise and have revised their arrangements and are providing a more efficient teaching staff, and the Committee are satisfied that the facilities that are to be given at Oxford, Cambridge and Edinburgh will be no whit behind what may be needed. Experience alone can tell us which is superior—but at the present moment, as far as we can see, the training would be the same, and we may not get the best British recruits at an early age, and our object would be defeated.

The Honourable Sir Maneckji Dadabhoy has asked us as to where the necessity for a change is. I am sorry he has not been here. But I think I should make some observations with regard to two of the points which he has raised. The first is that we have reduced the physical standard. I deny it.

The HONOURABLE SIR MANECKJI DADABHOY : As well as the educational standard.

The HONOURABLE MR. B. N. SARMA : We deny it. We have not reduced the educational standard. We insist upon an adequate medical test and we have instructed the Provincial Governments to satisfy themselves as to whether the candidates they are recommending are physically fit for the career which they are to embrace, and, if the medical authorities in the various provinces discharge their duty—as we take it they will—there is no ground whatsoever for levelling the charge that the Government of India has reduced the physical standard.

As regards the intellectual standard, there is no reduction in the standard. We are insisting upon a first class or Honours degree ; in some places there is no Honours course and where there is none we are insisting upon a first class degree. And, surely, if we insist upon a first class

[Mr. B. N. Sarma.]

degree, it cannot be said that we have reduced the intellectual standard in India? As for Europe, we have found it difficult to recruit the necessary Honours men, because, during the war, there has been considerable dislocation of studies, and we have been advised that it is only from next year that we can get an adequate supply. And it is for that reason and for other reasons that we have taken a large number of Indian military officers both in India as well as in England, and we do not find any difficulty whatsoever in obtaining recruits in England at the present moment except for the reasons and to the extent that I have mentioned.

The HONOURABLE SIR MANECKJI DADABHOY: Will the Honourable Member inform the Council if the military officers who are recruited have the same educational qualifications?

The HONOURABLE THE PRESIDENT: The Honourable Member is now replying, and I think it is unfair that he should be asked to reply to a fresh speech.

The HONOURABLE MR. B. N. SARMA: Owing to a policy which the Government has been consistently following—a policy recommended by the Secretary of State—we have found it necessary in the interests of the Empire and the British forces, for various considerations, to give a chance to men who have been serving in India and who have been acclimatized here, and who, we were satisfied, possess the necessary educational qualifications to benefit by a training in the United Kingdom. We are satisfied, the Department is satisfied, that the candidates who have been selected do possess the necessary educational qualifications.

It was said, Sir, with regard to silviculture, that the Bombay Government contrasted the difference between India and the continent, and therefore that we are laying undue stress upon training in silviculture. I encroached on the time of the House to a great extent this morning in explaining the position of the Government of India. We do regard that silviculture is the basis of all training in Forestry. But knowledge of silviculture adapted to European conditions would have to be modified with reference to Indian conditions, and we shall have the advantage of youths being trained here with reference to Indian forest conditions as well as European forest conditions. I think the Honourable Sardar Jogendra Singh said that when the institution is fully equipped, it may be possible for us to train both the British and Indian recruits here, but for the present, if I remember aright, he said that Indians should be trained here and the British there,—and one other Member also has suggested it—leaving it for future consideration whether they are to be trained together here or not, but that meanwhile our plans must proceed on the footing that training here will be of absolutely the highest standard. I have already given my undertaking that the Government do not propose, have never proposed, and will not propose any but the highest standard and that all their arrangements will be based upon that footing. But what I do object to in the Resolution of Mr. Sethna is the imposition of the condition that the Britishers and Indians should be trained here together for the reasons

which I have already given. I hope, therefore, that the House will see that our scheme provides for efficiency, is more practicable and that Honourable Members will realise their hopes much sooner than under the other scheme.

The HONOURABLE MR. PHIROZE SETHNA: May I be allowed to ask a question with reference to the paper which the Honourable Member has passed on to me?

The HONOURABLE MR. B. N. SARMA: If the Chairman permits.

The HONOURABLE THE PRESIDENT: I had risen to put the question and I don't think the information could assist Honourable Members in forming an opinion at this stage.

The HONOURABLE THE PRESIDENT: The question is that in the Resolution moved by the Honourable Mr. Sethna the following amendment be made:

For all words following the words "the Governor General in Council" the following be substituted:

"That recruitment to the Indian Forest Service be by selection, in England and India, of recruits who have already undergone a preliminary education in Forestry followed by training for one year in England and Europe of all recruits together at a Central Institution, as recommended by the Inter-departmental Committee on Imperial Forestry Education in their Report of February, 1921."

The Amendment was rejected.

The HONOURABLE MR. B. N. SARMA: We wanted to know the opinion of the House and that is why we moved this amendment.

The HONOURABLE THE PRESIDENT: Does the Honourable Member ask for a division?

The HONOURABLE MR. B. N. SARMA: Yes.

The HONOURABLE THE PRESIDENT: The House will now divide.

The Council divided as follows:

AYES—15.

Amin-ul-Islam, Mr.	Maricair, Sir Ahmedthamby.
Paker, Mr. C. M.	Miller, Sir Leslie Creery.
Barron, Mr. C. A.	Monerieff Smith, Mr. H.
Dadabhoy, Sir Maneckji Byramji.	Sarma, Mr. B. N.
Edwards, Major-Genl. Sir William Rice.	Shafi, Mian Sir Muhammad.
Jha, Dr. G. N.	Thompson, Mr. J. P.
Hammond, Mr. E. L. L.	Zahir-ud-din, Mr.
Lindsay, Mr. H. A. F.	

NOES—16.

Acharyya Chaudhuri, Maharaja S. K.	Lal Chand, Lieut. Chaudhuri.
Ayyangar, Mr. K. V. R.	Naidu, Mr. V. B.
Bahram Khan, Nawab Sir.	Ram Saran Das, Mr.
Chettivar, Mr. S. M. A.	Sethna, Mr. P. C.
Harnam Singh, Raja Sir.	Sinha, Mr. Sukhlal.
Jogindra Singh, Mr.	Singh, Maharaja Bahadur K. P.
Kale, Mr. V. G.	Umar Hayat Khan, Col. Sir.
Khaparde, Mr. G. S.	Vasudeva, Raja V.

The motion was negatived.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : The question is that the following Resolution be adopted :

“ This Council recommends to the Governor General in Council that, in view of the fact that India provides in the Forest Research Institute at Dehra Dun a highly efficient and up-to-date institution for instruction in Forestry and for Forest research, the present practice of recruiting a proportion of the probationers for the Indian Forest Service in Great Britain and training all probationers whether recruited in Great Britain or India, in the Universities of the United Kingdom, be abolished forthwith, and that all probationers for the service be recruited and trained in India and that every such probationer drafted into the service be given all facilities to add to his knowledge and experience by a tour to the Continent of Europe after at least three years of continuous and approved service.”

The motion was adopted.

The Council re-assembled after Lunch at 2-30 P.M., the Honourable Sir Maneckji Dadabhoi in the Chair.

The HONOURABLE THE PRESIDENT : The Council will now adjourn till Half past Two this afternoon.

RESOLUTION RE MILCH AND AGRICULTURAL CATTLE.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I beg to move :

“ This Council recommends to the Governor General in Council that, in order to improve the breed and number of milch and agricultural cattle, a Commission be appointed to make inquiries in every province, take evidence, collect facts and figures and report as to the following points among others :

- (a) The number and condition of agricultural bullocks.
- (b) the number and condition of milch cattle.
- (c) Slaughter of cattle for food.
- (d) Slaughter of cattle for Muhammadan religious purposes
- (e) Slaughter of cattle for British soldiers.
- (f) Whether beef can be imported from outside India if required for British troops.
- (g) The condition of grazing lands.
- (h) The condition of fodder.
- (i) How the number and breed of cattle can be improved.”

The items for inquiry which I have put down in this Resolution are tentative and open to amendment by the Government or by any Honourable Member who wishes to suggest changes. I have merely put them down as they have occurred to me. Only a few days ago, Sir, you referred to this Resolution and observed that it seemed to have a religious motive behind it. But I can assure you, as well as the Members of this Council, that it is not the case. It has no religious aspect whatever and I have put it before this Council simply with an economic and agrarian point of view. About 18 months ago, in March 1921, I moved a similar Resolution—worded somewhat differently—in this Council ; and in that discussion the Honourable the Revenue Member was pleased to observe that “ This much may be promised that the Government will institute inquiries as to whether any steps can be taken towards preventing indiscriminate slaughter of useful prime cows and calves by any Municipal Regulations

or otherwise, which must largely depend again upon the initiative of Provinces themselves.” From that time till now, I have been carefully watching what the Government has done in this matter and what the people have done. The Government of India and the Provincial Governments have done nothing. So far as I am aware, no inquiry has been made : no steps have been taken to improve the breed or the number of cattle. The people on the other side are doing something to put a stop to the slaughter of cows by our Muhammadan friends ; but they have not succeeded to a great extent as yet. This question of the improvement of the breed of milch cows and of bullocks is becoming more and more acute. The prices of bullocks, of milk and of ghee are going up steadily ; the number of cattle is going down, as we know from our own experience. In March last the Cow Conference of Calcutta arranged for a deputation to wait upon His Excellency the Viceroy. We are thankful to His Excellency for his “ assurance of the unremitting attention which his Government pays to the general agricultural condition of the country and, in particular, to those difficult problems connected with the preservation and improvement of its cattle wealth.” But, Sir, in his reply, His Excellency laid much stress upon two points.

The first was that the number of cattle had increased. He compared the figures of 1920-21 with the figures for 1910-11 and said that there was an increase of over 6 per cent. in the number. The same thing was said during the last discussion on this subject by the Honourable the Revenue Member. But when the figures for 1920 are compared with the figures of 1914-15, we find a clear decrease in the number of cattle. We find that in 1914-15 the total number of cattle was 147 millions, while in 1920 it has gone down by 2 millions. Similar was the case with young stock that decreased by 2 millions. In the United Provinces alone the decrease was :

- 3 per cent. in bullocks,
- 2 per cent. in cows,
- 2 per cent. in buffaloes, and
- 1 per cent. in young stock.

From these figures I think it is clear that the number has not increased, but has gone down. The second point was that the cattle now killed are not useful, they are useless, emaciated and worthless. Well, I think this also is not according to the facts and according to the experience that we have every day in the country. We find that young calves are killed without any restrictions. We find that in cantonments young cows are killed. Contracts are given to butchers for bringing young cows not above the age of 5. We find the same thing in other places. When there is no restriction of age for the cattle that are killed in slaughter houses, I do not see how it can be said that only the old cattle are killed. In Municipalities there are no restrictions and there are no restrictions again in Cantonments. As soon as cattle do not get food for some time, they are bound to become lean and emaciated, and they are brought to slaughter houses.

(At this stage the Honourable the President took the Chair.) Until we make some inquiry into this matter, we cannot say fairly and reasonably that only worthless cattle are killed. Therefore, I think it is abso-

[Lala Sekhbir Sinha.]

lately necessary that an exhaustive inquiry should be made into this important matter. Neither the Government nor the people are aware of the facts and figures that are necessary to be known in this case. The question of grazing lands and fodder supply is another most important one for the improvement of cattle. But we have no facts and figures to show how far grazing lands are provided in this country, or how far they can be provided. In every place, in every village, attempts are made to bring grazing lands under plough. There is no law on the subject. There are no rules to provide grazing lands for the cattle. The Agricultural Department is not taking necessary steps to encourage the cultivation of fodder.

All these matters require full inquiry before we can find out how the improvement of milch cattle and agricultural cattle can be effected. I think if the condition of cattle is improved, it will do good to all the people of this country, whether Hindus, Muhammadans or Christians—as all of us want milk for ourselves and for our children, and want butter and also ghee. So there is no religious question involved in this matter. What I beg to suggest is the appointment of a Commission to make an inquiry in this matter and to report how the condition and number of cattle can be improved. Another question is that of cattle diseases. The Commission will find out how cattle can be preserved from those diseases. I have mentioned some points for inquiry in my Resolution, but many others can be added by the Government or the committee itself, when formed. So far as my opinion goes, Sir I think it is absolutely necessary to have such a commission appointed, and I think all the members of this Council will agree with me and support me in this Resolution. I think this question does not need any further discussion, and I put it before the Council for their acceptance.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, as we all know, our Honourable friend has, since he has come to this Council, been very good to the kine. He has tried many times to have this question camouflaged, but this time I think it is not so well painted. I can quite understand that it is a religious question, and I am quite pleased that he has made so many attempts to get it through. He very kindly told me that if I brought forward an amendment, he would accept it. I do not know how he would feel when he hears that my amendment is to delete the Resolution altogether ! (Laughter).

I think, Sir, all these agriculturists who use bullocks and cows, are not fools. If they were, they would have been long since starved. They can appreciate the value of good cattle as well as that of bad. Now what is wanted in the Resolution is that the condition of the agricultural bullocks should be ascertained by the committee he suggests. If a man has got land which he wants to plough, unless his bullocks are in good condition he cannot do so. Naturally if he is to have anything in the way of his food, he will keep his cattle in good condition, but if there is a drought then his cattle will not be in good condition, and that of course is a matter in which he can do nothing, that being in the hands of Providence.

With regard to the cows, it is exactly the same thing. If a cow gives milk, naturally if the owner wants more he has to feed it well, but if that

cow neither gives milk nor is capable of giving young ones, if it is kept, because the owner does not want it, it will starve and starve and then die, and that will be very cruel on that animal. •

Then another thing is that it will be eating the food of a better animal, that is a more useful animal. Naturally when the animal does not give milk the best thing is that instead of the animal eating away fodder the owner should eat it, which is a sort of double benefit to him.

About the slaughter of cattle for food, it is only such cattle as are absolutely useless that agriculturists will go to the extent of killing.

Then, again, Sir, as regards the slaughter of cattle for religious purposes, I have many times said, that in our religion there are many reservations relating to cows. Firstly, it is said that the drinking of milk is good for many diseases, but that the meat is bad because it brings on disease. It is also said that we should not hurt the feelings of our countrymen, and also that we should not pluck a shady tree from the roadside, or kill a cow which is not the right thing for Muhammadans. But I think, Sir, we should define a cow. A cow is a cow when it gives milk and produces young ones, but directly it ceases to do the work of a cow, I think it is no more such. (Laughter.)

Then, again, Sir, as regards the slaughter of cattle for British soldiers, if we can find other means of feeding them we might adopt those means. But, supposing we were to bring the beef from Australia, there would be the cost of the ship, of the coal, and of the people who run the ship as well as the cost of the railways for taking it up to the cantonments. I do not think it is possible for any country to breed cattle so cheaply that the beef could be sold cheap in India, after the cattle had been killed in that country and the beef brought over here. This might be possible if there were funds, but we all know Government has not got them so as to substitute something else for beef. But I think it is only economy which has led the Government and the military authorities to resort to that meat, and as I said above beef cannot be imported from outside, as is suggested in this Resolution.

Now, Sir, as regards the condition of grazing lands. It is known, that, if wheat or say *jowar* or any other crop is sown in the same land, it comes up perhaps to the height of a man or even higher, but if that place was only left for grass, it can never attain that height. So, the fodder sown in the artificial way in that land is far more valuable than grass. So the people, wherever they can irrigate their lands, sow fodder instead of allowing it to lie waste for the sake of grass. In the interests of economy too, Sir, if land can produce very nice cotton, wheat or any such stuff, why should it lie fallow like that. By sowing crops, one can feed the bullocks and cows as well. Sir, naturally the fodder which is sown is far more valuable and far better in every way for the cattle as well as for the milk than ordinary grass. Of course, there are lots of lands where there is no irrigation. There is no harm if these were made grazing grounds, but they will be no use directly there is a famine or the rains fail.

As to the breed, I have been a breeder, not so much of cattle but of horses and also dogs. I have seen, Sir, that if we bring particular blood •

[Colonel Sir Umar Hayat Khan.]

from outside and if we do not continue it, the climate of the country is such that the breed is bound to deteriorate. I think doctors have gone to the extent of saying so regarding men also. But as regards horses I have found that if they were bred from the blood brought from outside, in three generations they will absolutely become leggy and so of no use as horses. About cattle, too, as far as I know, they have been imported from England but they are so liable to get *sura* and various other diseases that they do not generally survive. So it will be seen that these things have been attempted.

Then there are countries and countries; India is a continent, and there are places, say in the hills, where there are small cattle which can easily go about and graze; they are not heavy and they are quite good enough for those places. In the same way in other places like Hissar and Rohtak, where my friend comes from (pointing to Honourable Lal Chand), and other places the animals are very big and if they are brought to Simla thinking that they will yield a very large quantity of milk they will simply eat their heads off; a bullock will eat all that was meant for a man to eat and that is why people in various localities more or less like their own breed which is suited to the country and to the climate, etc. Wherever there are colonies in the Punjab for example, and there is land given for grazing, Government has gone to the extent of establishing a very nice farm, as in Hissar, and we the colonists, get very good bulls which are sold to District Boards for service. So all that is possible is being done. A Committee or anything like that will require so much money to go about the country; perhaps Muhammadans and others who have certain religious ideas and who kill cattle during festivals, would not like this at all if they hear it is being asked to furnish such statistics; especially at this juncture when unfortunately Hindus and Muhammadans in the Punjab are not getting on well together. So on these grounds I am sorry that I have to vote against the Resolution, although I must admit that there is a good deal in a way in the Resolution, and that for a long time to come we must get on as we have been doing for generations and generations past, that is without the aid of modern agricultural implements, and no doubt some such thing is needed to the extent that if there are really cattle which are useful or young, there may be some sort of restriction by law to effect scrutiny before they are killed,—I do not say it is practicable, but if it is there will be no harm if such a thing was done. That is all I have to say.

The HONOURABLE MR. K. V. RANGASWAMI AYYANGAR (Madras : Non-Muhammadan) : Sir, if I take objection to one or two points contained in this Resolution it should not be construed that I am not in sympathy with the general principles of this Resolution. Of the headings from (a) to (i), I should take exception to the two paragraphs (d) and (f). Paragraph (d) relates to the slaughter of cattle for Muhammadan religious purposes. Sir, every nation should respect its own religion. We have our sacrifices of goats, horses and buffaloes which are sacrificed at the feet of the Mother Kali, and I don't think the Honourable Mover takes exception to these sacrifices. Under these

circumstances, I think we should respect the religious feelings of our Moslem friends and omit clause (d) from this Resolution. Sir, I may say that there is a movement inaugurated among the Muhammadan community itself to respect the feelings of their Hindu brethren, and therefore I think it is unwise and improper to move a Resolution of this character at this juncture and force the hands of Government to enact legislation in order to forbid Muhammadans from sacrificing cows for their religious purposes.

Then with regard to clause (f), this relates to the question whether beef can be imported from outside India, if required, for British troops, and I wish to say only a few words about this. I have been telling my Honourable friend very often that this smells of parochial patriotism in the matter of Bovine species. Why Indian cows only should be protected and foreign cows slaughtered for British troops in India I cannot understand. (Laughter.) Whether race prejudice is extended to cows also I am amused to learn. I should request my Honourable friend to extend his philanthropy to foreign cows and have equal feeling of love for Indian as well as foreign cows.

I may further tell my Honourable friend that many a foreign country depends upon India for its raw product, and for tinned meat they want the raw product for which they have to look to India and export cattle from this place for being re-imported in the form of tinned meat.

I submit, Sir, that there is no use of this Resolution. Let my Honourable friend bring forward a Bill embodying the general principles of this Resolution and we shall then consider the question. We have had enough of Commissions and Committees, and again I repeat if I am not in favour of some points of his Resolution, it should not be understood that I am against the general principles contained in this Resolution.

*The HONOURABLE NAWAB SIR BAIHRAM KHAN (Punjab : Nominated Non-official) : Sir, the cause of my intervention in the debate on the Resolution moved by the Honourable Lala Sukhbir Sinha is this that I have a long experience and knowledge of the Punjab, Frontier Province and Baluchistan.

The public are anxious and try their level best to improve the breed of cattle as much as lies in their power and keep them in condition as best as they can. For instance the Balochies and Pathans wherever there is a scarcity of fodder migrate with their stock to whichever place they can find it. They also go to the extent of purchasing the jawar and other fodder for their cattle. The Balochies are not so fond of selling milk or butter and thus leave plenty of milk to the calves to develop their body so that they may become good and powerful bullocks or fine cows. Thus very fine bullocks are obtainable in Sind and Baluchistan and in the Districts of Dera Ghazi Khan and Muzaffargarh, etc. It is for the above reason that the Bhagnari Breed is so famous in the country that the cattle of this breed fetch handsome prices and find their way into the Punjab Colonies like

* Translation of speech delivered in the Vernacular.

[Nawab Sir Bahram Khan.]

Lyallpur, etc. Even the owners who sell their milk and butter in order to increase the output as a business proposition are devoted to their cattle and do their utmost to feed them well to serve the purpose in question. Generally speaking people towards the frontier keep big herds of cattle and in them they feel that they possess a foremost asset, in their property. Though at times of festivals or marriages an infinitesimal portion of cattle is sacrificed but care is taken that the animals are such as are not useful for breeding and ploughing purposes. No doubt some cattle find their way to Cantonments but these too are generally neither plough bullocks nor milch cows, but all the same bring to the owners a handsome money in return. Considering the deficit and what I have now stated I think there is no need for the appointment of a commission of inquiry into the matter suggested and accordingly I oppose the Resolution.

The HONOURABLE MR. B. N. SARMA (Revenue Member) : Sir, I do not think it is necessary to say very much on this occasion inasmuch as we discussed this subject at very great length on a previous occasion in this House and nothing new has been brought forward for a more sympathetic consideration of the Resolution. If the object of the Honourable Mr. Sukhbir Sinha be to rivet the attention of the Government and the public on the important economic aspect of this question there is nothing to be said against it and we heartily appreciate that object, and we are not surprised that he should have brought it up. The Government are as keenly alive as the public to the extreme importance of paying attention—continued attention—to the cattle problem in India. They realise that the total value under the head of milk, meat, ghee and other products comes up nearly to a quarter of the total value of foodstuffs. They realise that the milk product alone would be somewhere about 210 crores in value. They also realise how much can be done—how much should be done—to increase the milk supply of the country. It is a painfully recognised fact that milk sells cheaper in New York and some European countries than in Calcutta and Bombay. It is not that we do not know the facts. It is not that we do not know the figures. The difficulty lies in people not being sufficiently enthusiastic—not being sufficiently steady—in their endeavours to co-operate with the Government to remove the evils. If facts and figures alone were wanted, the Census Reports, I think, would furnish ample testimony to the diligent zeal of the officers of the Government in trying to ascertain what the condition of the cattle is in various parts of the country. Only in 1920 such a cattle Census was taken and the Government, after an exhaustive inquiry into these facts and figures, have asked the Local Governments for certain information on the subject and have not yet received the replies of all the Local Governments. But enough has been received to show that a Commission of the sort that is contemplated in this Resolution is absolutely unnecessary and that the various Provincial Governments are keenly alive to the task before them. They see clearly that this is a provincial transferred subject and that it is only they who can do anything really effective. Our position is only to co-ordinate the activities of the various Local

Governments. They realise that it is their duty to probe into the matter and to investigate it, and in some provinces committees have been appointed for the purpose.

And I am sure that the other Governments also will move in the matter when there is any necessity. The whole problem is how to produce a dual purpose cow which will breed good draught cattle as well as give a large supply of milk. Every one knows that the Indian cow, partly because it is ill-fed and partly because there is no particular care taken in breeding especially in many parts of the country, does not give a sufficient supply of milk. But what is the remedy? The remedy lies in the people growing fodder, in the people taking particular care as to how they breed these animals, and they have a legitimate right to expect the Government to afford all facilities for this purpose. I wish therefore the concentration of the public including Honourable Members especially upon this point as to how they can start Agricultural Societies and Cattle Societies which will inform the public as to what can be done and what is being done in other parts of the country and the world. In the United Kingdom a cow is reported to be giving 10½ gallons a day and to have given 2,500 gallons in a year, i.e., 15 times her weight in milk. We know that in Pusa and other places we are able to breed a type of cow which will produce a very much larger quantity of milk than the average cow. Therefore we are doing our best. We are trying to supply the bulls and we will try to do more in that direction. But there is no use our sending bulls which are not cared for by the villager or by the public. Therefore, I hope the attention of the public will be directed to that aspect of the question and not to continuously dwell on what the Government ought to have done. Our difficulties really are financial. It is not want of information. We wanted to start two dairy schools, one at Lucknow and one at Poona, but unfortunately we have not been able to provide funds. We know that a dairy school is necessary, that we are importing unnecessarily 64 lakhs worth of condensed milk into this country and that it might perhaps be avoided. But the Provincial Governments have not been able to see their way to do so either, and you may rest assured that we will press this upon the attention of Local Governments, and we will also try whether we cannot do something in this respect. We also recognise that there is a duty laid upon the cities of Calcutta and Bombay. They do not make full use of the good cows they import and send them to the slaughter house without making full use of them as milkers. We are alive to that evil. But in a matter like this, progress must necessarily be slow. We shall address ourselves to the task as to whether anything can be done in these two cities to provide milk supply cheaper, but that again really rests with the Local Governments and the public. I wish the Marwaris and the other rich citizens, especially the Hindu citizens who are very keen about keeping the cow, would move in this matter, provide large grazing and fodder supply areas in the neighbourhood of these large cities, and facilitate the production of milk on a large scale for the people of these cities, and if the Government are asked to afford facilities and they do not afford facilities, then there would be time enough to blame the Government for their inattention to the prayers of the people.

We have no reason to suppose that there is not enough of ghee supply in the country because figures show that there has been a steady net export of ghee from India to foreign countries—may be to countries with

[Mr. B. N. Sarma.]

Indian population, but there is that fact. We know, as I have said, that the milk supply would be increased and should be increased, but with regard to agricultural cattle, barring one province from which we have a report that cultivation has suffered to a certain extent owing to the want of working cattle, there is no indication whatsoever that agriculture has suffered at all owing to this cause. With regard to that one particular province, Honourable Members will remember that during the year 1918-19 we had an unprecedented famine and that accounts for the mortality both in human beings as well as in cattle, and nothing I think that the Government could do could prevent a disaster of that description. I do not see the object of this continual harping upon the provision of grazing grounds as if the Government could do something which is not being done. My Honourable Friend seems to deprecate land being brought under the plough. I should strongly differ from him in that respect. The problem in India is increased food production. We are gravely alive to the shortage that overtakes us continuously, and how if more food were forthcoming the people could be fed on it. Therefore our task will be to bring more and more land under cultivation, and I think I am sure every reasoning Indian will sympathise with the Government in that object, and, as the Honourable Sir Umar Hayat Khan has pointed out, you can grow far more fodder than make hay or grass out of grazing lands. Consequently, I hope the attention of the public will not be diverted from their real duty in increasing the fodder supply and that they will not be continuously dwelling upon grazing grounds—not that I say that grazing facilities should not be extended where possible, but I do say there is enough land fallow, there is enough land unfit for cultivation, if properly utilised. What is wanted is organisation, co-ordination which I hope agricultural societies under the direction and lead of the agricultural officers will be able to effect. I do not think it is necessary for me to go into further detail. These roving commissions, I think, will not achieve any very useful purpose. One commission to ascertain the conditions prevailing in this vast continent with such a variety of conditions—I do not think any commission, however well equipped, however intelligent, however enthusiastic its members may be, will ever be able to achieve the task that is proposed to be assigned to them. Decentralisation and co-ordination of activities should be our policy and we hope to be able to pursue that. Honourable Members may rest assured that we shall not allow the Local Governments to rest idle in this respect as far as it lies in our power, and we hope ourselves to move in the desired direction. All that we expect is sympathetic following, enthusiastic following, and I think that the people should exert themselves, especially rich landholders of the type of the Honourable Mr. Sinha should exert themselves in the forming of agricultural and cattle societies for the purpose of effectuating the objects which he and we have at heart.

With regard to slaughter I do not think I need say much. The number of animals slaughtered for the British soldiers is so infinitesimally small that it does not count at all, and as a matter of fact, if we do import Australian meat, apart from the observations made by the Honourable Mr. Rangaswami Ayyangar, we should be incurring a heavy expenditure—upwards of Rs. 23,000,000—absolutely for nothing at all. I do not think therefore that any Honourable Member will ask Government to incur that

expenditure. All of us have at heart, and I think, will try to achieve this object that no cow which is useful is sent to the slaughter house. The Honourable Member said that no Government has moved in the matter. The Central Provinces Government have already moved in the matter and they have prohibited the slaughter of all animals below nine years of age which are useful and have imposed various restrictions which I need not allude to. It is not therefore that the Local Governments are idle in this respect.

I hope therefore that the Honourable Member will see that the Government are not so idle as he imagines they are, and that this usual charge need not be levelled against them but we realise that we have not been able in the past to do all that we should like to do, owing to financial reasons mainly. The cost of this committee will not be small and I do not think that any useful purpose will be served by appointing it. We do sympathise with the object which the Honourable Member has at heart, but regret that we are unable to accept this Resolution for the reasons that I have given.

THE HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, my Honourable friend Sir Umar Hayat Khan has gone into much greater detail in this matter. I did not want to take up the time of the Council unnecessarily and therefore did not go into detail. He has admitted the importance of the subject, but he says that the appointment of a committee is not needed. I may tell him that at present we have got no exact facts and figures about the number and condition of the cattle, and my object in suggesting a committee was simply to find out where we are and what we can do. My friend Mr. Ayyangar has taken up the religious question which I did not want to take up. I may tell him that I am the last person to say that the religious feelings of any community should not be respected, and therefore I may tell him that it is not my object to stop the slaughter of cows. My object was to find out the exact number of cattle killed for this purpose. So far as my knowledge goes the number is very very small and very insignificant, but the general feeling in the country is that Muhammadans kill a large number of cows for sacrifice. I want to find out how far that is true. The number of cows killed for religious sacrifice is very small and I think the Muhammadans should not be afraid of an inquiry because then they would not be accused so much as they are at present. Then my friend Mr. Ayyangar has said that we must protect the cows of other countries also. I quite agree with him but the condition of other countries is different. Their religion and conditions of life are different. For example in Australia they do not want cows and bullocks for agricultural purposes, but here we want bullocks and cows. We want cows for milk and ghee upon which our life depends. There they can live on meat. Here we cannot. Mr. Ayyangar suggested that a Bill might be introduced. The Bill will depend upon this inquiry. If the committee find it necessary, they can draft a Bill or suggest other measures. How can I bring a Bill now without facts and figures. On one side we hear that the number of cattle is going down. On the other side we find that the number is going up. On one side we hear that only emaciated cows are killed, on the other we see that prime cows are killed. All these facts require inquiry. The

[Lala Sukhbir Sinha.]

Honourable Mr. Sarma said that the Government of India and the Local Governments have not been slack in this matter and they are doing what they can, but on account of the financial difficulty nothing more could be done. He has suggested that cattle societies should be formed and that people should come forward and co-operate with the Government. I quite agree with him. I find that my Muhammadan friends also are coming forward to help the people in this direction. I find that there is a general feeling in the country that Zamindars should come forward and provide grazing land.

But Sir, there are many difficulties in their way which ought to be removed. For instance, Zamindars cannot put aside any land for grazing purposes because every bit of land is put under assessment of land revenue. There are many other difficulties which I do not want to put forward before this Council on this occasion. But I can say that both the Zamindars and the people are willing to co-operate with the Government on this question. The Honourable Mr. Sarma has said that this Commission will cost a good deal of money. We all know that, but the point is, will that money be wasted? For such an important question as the preservation and improvement of cattle to say that money is not forthcoming, or that it will be wasted, I think is not right. If we can increase the number of bullocks and cows, I think the wealth of the country will increase, and the money spent on such a Commission will not be wasted.

However, as the Honourable Mr. Sarma has given an assuring reply that the Government of India is ready to do what it can and that he will ask the Local Governments to take necessary steps in this matter, I beg leave of this Council to withdraw my Resolution.

The Resolution was by leave of the Council withdrawn.

RESOLUTION RE LIMITATION ON HOURS OF WORK IN INLAND NAVIGATION.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) :
Sir, I move :

“That the Council of State recommends to the Governor General in Council that no action be taken on the recommendation concerning the limitation on hours of work in inland navigation adopted by the General Conference of the International Labour Organisation of the League of Nations convened at Genoa on the 15th day of June 1920.”

Sir, a year ago this House adopted six Resolutions which related to Recommendations and Conventions of the Genoa Conference. The Resolution now before the House is the seventh, relating to the same subject. It was not placed before the House at that time as Government wished to make further inquiries before coming to a decision. The first point to which I wish to draw the attention of the House in regard to this Resolution is that it relates not to a draft Convention, although that is the usual procedure adopted by the International Labour Conference, but merely to a Recommendation which was addressed to the principal participating States, in which they were asked to take action on the lines of this Resolution. And the second point to which I would like to

draw attention is the very guarded language in which this Recommendation is framed. It is to the effect that the hours of work of workers employed in inland navigation shall be limited in the direction of an 8 hours' day and a 48 hours' week, “with such special provisions as may be necessary to meet the climatic and industrial conditions peculiar to inland navigation in each country.” That, Sir, is a very guarded declaration, and it showed that the members of the Conference were decidedly diffident in putting it forward. The Government of India first of all consulted Local Governments on the terms of this recommendation, and found that they were up against a general *non possumus*. They then consulted the India Office in order to ascertain what action, if any, had been taken by the other States which were members of the Conference. The result was as follows. The British Government had decided to postpone indefinitely any action on this recommendation; Norway and Sweden had decided definitely to take no action at all; Japan and Italy have taken no action so far; France has taken action, but the French limitation of hours of work can scarcely be called a limitation at all; they exceed the 8 hours fixed by the Recommendation and allow a considerable margin beyond that maximum.

There are three practical objections to adopting this recommendation for India. In the first place, the hours of work of inland navigation cannot be said to be very onerous; they are long, but on the other hand the work is light and the crew who are on duty from time to time take their own shifts of work. They are not necessarily working the whole time; they have to remain on duty to deal with any urgent work which turns up. The second objection is the difficulty of enforcing any such legislation in India. It would be necessary to maintain an inspecting staff and the results might not be satisfactory. The third objection is that Local Governments after going carefully into the whole matter have decided that legislation is not desirable nor suited to the conditions of India. Under these circumstances, Sir, I trust that the House will pass this Resolution.

The HONOURABLE MR. K. V. RANGASWAMI AYYANGAR (Madras: Non-Muhammadan) : Sir, I am of opinion that the labourers of the inland navigation also should obtain the beneficial results of the deliberations of the League of Nations. It was resolved upon by the nations who have a large experience of navigation, and I do not know why we should adopt a different Resolution here. The copies of the proceedings of the League of Nations are not available, but I do not know what different conditions obtain in India other than elsewhere. I say this both in the interests of the Government as well as in the interests of the labourers. The inland steam navigation company is competing very badly with the Indian railways. The Indian railways have to adopt a different tariff for competing with the inland navigation companies. As for instance, I know that there are competitive rates in the Indian railways from Calcutta to Madras, as the navigation companies compete in the carrying of goods from Calcutta to Madras. The same will be the condition in inland navigation also. The railways are a source of income to the Government of India, and when such is the case, we need not give inland navigation companies any special facilities, thereby depriving the labourers the beneficial results of the deliberations of the League

[Mr. K. V. Rangaswami Ayyangar.]

of Nations. I want what applies to other labourers should apply to those of the inland navigation also. I do not think the dock coolies who are employed for the carrying of goods for the inland navigation are also included in the terms of this Resolution. I oppose the Resolution being carried.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, the speeches we have just now listened to, left at least one impression on my mind, viz., that Government would have done well if they had supplied us with fuller information with regard to the subject on which this Resolution is now being proposed. For example, as the Honourable Mr. Ayyangar has taken exception to certain features of this Resolution, I do not know how many workers are involved in the legislation if it had been undertaken and what is the number of crew employed in inland navigation. Then, again, another question seems to have been raised whether inland navigation includes coastal navigation. I am afraid the two are independent. But my Honourable friend seems to have confused the two, viz., coasting navigation and inland navigation. So far as I understand the question, inland navigation is confined only to certain provinces. The question does not arise at all in other provinces. I should have very much liked to know from Government which are the provinces where we have got this inland navigation, what is the extent of this navigation, what is the number of the crew employed in that navigation, and what are the conditions of their work. We are entirely in the dark about these matters. I know that we cannot adopt in this country all the conventions that may be passed by the Conference of the Labour Organisation. In fact, it has been the understanding that all these conventions or recommendations are to be adopted in different countries subject to the peculiar local conditions that may prevail in different countries. Consequently, we cannot accept wholesale, or adopt wholesale, the recommendations or conventions or Resolutions of the Labour Conference. But before I can make up my mind as to whether this Resolution should be accepted or not, I should very much like to have the information asked for. We are all suffering from this lack of information and this ignorance on such an important question. It would have been much better if Government had circulated a statement of statistics and facts about the question before they brought up their Resolution before this House.

The HONOURABLE MR. H. A. F. LINDSAY : I quite sympathise with the Honourable Members who have asked for further information on this subject. I imagined that they would have referred to the very full account of the Labour Conference published in one of the Bulletins of Indian Industries and Labour. I think I am correct in saying that those Bulletins are in the Library and that any member, who is interested in the subject, would have studied them for himself there.

The HONOURABLE MR. V. G. KALE : Does the Bulletin give statistics about inland navigation ?

The HONOURABLE MR. H. A. F. LINDSAY : The question of inland navigation is entirely distinct from that of coasting navigation, and I think that the Honourable Mr. Ayyangar has confused the two.

The HONOURABLE MR. V. G. KALE : I was asking whether there was any information available about inland navigation.

The HONOURABLE MR. H. A. F. LINDSAY : This question applies entirely to inland navigation. There are no statistics of actual numbers employed on board ships. The inland waterways of India are confined to Burma on the one hand and to Bengal on the other, with branches in Assam and Bihar. The other provinces are very slightly concerned. My Honourable Friend will realise how very difficult it is to obtain a census of the number of workers involved, because it does not apply merely to inland steamships ; it must apply also to all sorts of barges and small country craft which carry trade up and down the rivers. It might have been possible to apply this limitation of hours of work to workers on board steamships, but to go further and apply it to all country craft would, I think, be almost impossible.

With regard to the form of this Resolution, the Recommendations of the Conference do not impose any liability upon the Government which is represented at the Conference. The Recommendation is simply a recommendation addressed by a majority of the Conference to the participating Governments, asking them to look into the question of legislation, and to legislate or not as they think fit.

In regard to the hours of work in the coasting trade of India, a recommendation on that subject was brought up before the conference but was not passed, and that question is entirely independent of inland navigation.

The Resolution was adopted.

RESOLUTION RE TRIMMERS AND STOKERS AND CHILDREN EMPLOYED AT SEA.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, I beg to move :

"That the Council of State recommends to the Governor General in Council that he should ratify the Draft Conventions adopted by the General Conference of the International Labour Organisation of the League of Nations convened at Geneva on the 25th day of October, 1921 :

- (1) Fixing the minimum age for the admission of young persons to employment as trimmers or stokers.
- (2) Concerning the compulsory medical examination of children and young persons employed at sea."

I must refer once more to the Resolutions that were adopted a year ago in this House. One of those Resolutions was to the effect that a minimum age of 14 should be fixed for all children employed at sea with two conditions, first, that it should only apply to sea-going ships and to coasting vessels of more than 300 tons, and, secondly, that it should not be allowed to interfere with the custom of sending children to sea for employment under the protection of their fathers and near relatives. Honourable Members will doubtless remember that Resolution. The present Resolution confirms and extends that practice. It falls into two parts. Firstly, trimmers and stokers shall not be employed unless they are of 18 years of age minimum, but that minimum is altered to 16 years

[Mr. H. A. F. Lindsay.]

of age in the case of boys who are found physically fit after medical examination and are employed as trimmers or stokers on vessels exclusively engaged in the coasting trade of India and Japan. And the second is a complementary provision that the employment of any child or young person under 18 years of age on any vessels, except only the members of the same family, shall be conditional on the production of a medical certificate attesting fitness for such work signed by a doctor who shall be approved by the competent authority.

Now, Sir, India can claim that she has to some extent anticipated these recommendations. So long ago as 1911 instructions were issued to Shipping Masters at all Indian ports that they were to pay particular attention to the physique of boys applying for employment as trimmers and stokers on board ships. They were instructed that if they found any candidate who was of insufficient physique he should either be refused employment or should be referred to the Port Health Officer. We have not yet legislated on the lines of the Resolution adopted last year, but it is proposed to do so on the first suitable opportunity and to incorporate with that Legislation the Legislation now recommended to the House. I trust that the House will accept this Resolution.

The Resolution was adopted.

RESOLUTION RE FOREST RESEARCH.

The HONOURABLE THE PRESIDENT : Item *No. 7 on the List of Business has already been disposed of by the Resolution disposed of this morning.

RESOLUTION RE WEEKLY REST DAY IN COMMERCIAL ESTABLISHMENTS.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, I beg to move the following Resolution :

"This Council recommends to the Governor General in Council that, beyond forwarding a copy to Local Governments and Administrations for any action which they may consider desirable, no action need be taken on the recommendation concerning the application of the weekly rest day in commercial establishments adopted by the General Conference of the International Labour Organisation of the League of Nations convened at Geneva on the 25th October, 1921."

The first point to which I should like to draw the attention of the Council in connection with this Resolution is that it deals not with weekly rest days in industrial establishments, that is to say, in factories or workshops, but in commercial establishments, that is to say, in banks, business houses, warehouses, shops and so on. The Recommendation adopted at the Geneva Conference was adopted after considerable discussion and was adopted also subject to local conditions. The actual terms were as follows :

"That the weekly day of rest should, wherever possible, be fixed so as to coincide with the days already established by the traditions or customs of the country or district."

* Resolution by Honourable Mr. Sarma regarding recruitment for the Indian Forest Service.

Local Governments have been consulted on this Recommendation and they have all come to practically the same conclusion in regard to it. They point out, firstly, that large commercial shops in this country already allow a weekly day of rest, very often Sundays, and in the case of Muhammadan shops Fridays, and that all over the country general festivals are frequently observed and in addition there are local festivals and fairs. They point out also that it would be absolutely impossible to legislate to fix a weekly day of rest in the numerous wholesale and retail shops scattered up and down the villages and towns of India.

Sir, the Government of India are in sympathy with the general spirit underlying this recommendation : they feel it would be a good thing if days of work were periodical and regular. At the same time they feel that the difficulties in the way are so considerable that legislation cannot possibly be introduced or, if introduced, cannot be enforced. In these circumstances they think that the only possible action to take on this Resolution is to bring it to the notice of the various Local Governments, trusting that public opinion will slowly develop in its favour and that the substance of the Resolution will in time receive effect. I trust that the House will now accept the Resolution.

The Resolution was adopted.

GOVERNMENT BUSINESS.

The HONOURABLE THE PRESIDENT : I would ask the Leader of the House whether he can make any statement with reference to the Bill to provide a penalty for spreading disaffection amongst the police.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, I am not in a position to make any statement with regard to that as we have not yet had any notice from the Home Department.

The HONOURABLE THE PRESIDENT : I hope the Honourable Member will be able to tell us something about it to-morrow.

The Council then adjourned till Eleven of the Clock on Wednesday, the 20th September 1922.

COUNCIL OF STATE.

Wednesday, 20th September, 1922.

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

QUESTIONS AND ANSWERS.

SUKKUR BARRAGE PROJECT.

138. The HONOURABLE SARDAR JOGENDRA SINGH : Will the Government be pleased to state what action it has taken over the Sukkur Barrage project, and to lay the papers regarding it on the table of the Council ?

The HONOURABLE MR. B. N. SARMA : The Sukkur Barrage and Canals Project was forwarded for sanction in December 1920 to the Secretary of State who gave it both administrative and technical sanction but withheld his final sanction pending receipt of the detailed proposals of the Government of Bombay as to how the scheme will be financed. Further action in the matter of obtaining the Secretary of State's final sanction to the project and the financing of the scheme are matters which rest entirely with the Government of Bombay.

The papers relating to the project are too voluminous to lay on the table, but should the Honourable Member so desire he will be given an opportunity of studying the sixteen volumes of the project which are kept in the Public Works Department Secretariat Office if he could make it convenient to call at that office.

PROVISION OF SHEDS AT SHORKOT STATION.

139. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :
(a) Is it not a fact that Shorkot station on the North Western Railway is a big junction, and that trains from different quarters have to stop there at one and the same time, very often, at inconvenient hours ?
(b) Does Government intend to provide sheds at the station platforms for the protection of passengers against rains or the burning sun ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) and (b). The Railway administration has provided for the cost of the construction of a waiting shed at Shorkot station in the current year's budget.

GRAIN MANDIS ON NORTH WESTERN RAILWAY.

140. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :
(a) Will the Government kindly inform this Council what are the different mandis on the North Western Railway on the Punjab Canal.

colonies from each of which food-grains amounting to more than 10,000 maunds per year are usually exported to foreign countries ?

(b) Will they also state what amounts of wheat and gram have been exported by rail from the *mandis* referred to in clause (a) of the question to Karachi, Frontier Province, or Baluchistan in the current year and in the year 1921-22 ?

The HONOURABLE MR. B. N. SARMA : I regret that I am unable to give the information required by the Honourable Member in view of the labour involved in its collection.

OUTRAGES IN FRONTIER PROVINCE.

141. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state what has been the number of murders, dacoities, cases of kidnapping, and the value of the property looted in the Frontier Province in the year 1921-22 ?

The HONOURABLE MR. J. P. THOMPSON : The figures are 80, 194, 148, and Rs. 1,45,670 respectively. Serious though these statistics are, they are in each case approximately half the statistics for the previous financial year ; and of the 148 persons kidnapped during the year, five only had not been recovered at its close.

ARMS AND AMMUNITION ON THE FRONTIER.

142. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government inform this Council from what sources the trans-border people in the Frontier at present obtain their arms and ammunition ?

The HONOURABLE MR. J. P. THOMPSON : Partly from foreign countries, partly from local factories, partly from thefts and seizures.

SUPPRESSION OF TRAFFIC IN ARMS ON THE FRONTIER.

143. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Do trans-border people in the Frontier still obtain their arms and ammunition to some extent from Afghanistan, Persia, or Persian Gulf ? If so, what methods have been adopted to check this traffic ? Have the measures, adopted so far by Government, proved effective ; if so, to what extent ?

The HONOURABLE MR. J. P. THOMPSON : (1) The answer to the first part of the question is in the affirmative.

(2) Effective measures have been taken to suppress the regular arms traffic in the Persian Gulf.

(3) But in independent foreign countries, to which the tribesmen have access by land, no effective action has been possible.

IRRIGATION IN DERA ISMAIL KHAN.

144. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Has the construction of any irrigation schemes in the Dera Ismail Khan district from either the right bank of Indus, or from hill torrents from the Suleman mountains been considered or investigated by Government ?

The HONOURABLE MR. B. N. SARMA : A scheme for the construction of a dam across the Gumal river was investigated but the project was

abandoned. The Government of India have no information regarding any irrigation schemes from the right bank of the Indus for the Dera Ismail Khan district.

DANGER TO DERA ISMAIL KHAN.

145. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it a fact that the river Indus has from some time begun to cut away the right bank near the town of Dera Ismail Khan, and that the town is now in great danger ?

The HONOURABLE MR. B. N. SARMA : In March 1920, the Local Administration reported that, owing to the continued erosion of the river Indus, the rifle ranges and the Lockhart lines in the cantonment of Dera Ismail Khan were in danger of demolition, but that there appeared to be no immediate danger at that time of any embayment further up stream endangering either the cantonment or the city. In March last, the Local Administration further reported that the encroachment by the river immediately opposite the cantonment had not been serious, but that erosion had been comparatively heavy about 3 miles up stream. At this point the maximum width of high bank eroded during the last two years has been 660 yards while, during the previous six years the maximum width eroded was 990 yards, giving an average of 165 yards per annum. At the up stream end of the cantonment a width of 220 yards has been eroded during the last two years, involving about 100 yards of cantonment land. The Government of India have no information that the town is now in great danger, but they have received a telegram from the citizens of Dera Ismail Khan, intimating that they view with great alarm the recent heavy erosion of the right bank. Inquiry as to the position is being made.

DANGER TO DERA ISMAIL KHAN.

146. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Is the Government aware that, if immediate steps are not taken now, and that if defensive works are not started this cold weather, the town of Dera Ismail Khan is in great danger of being washed away ?

(b) Will Government kindly state what measures they are adopting for the protection of the town, and how is the cost of making the defence works going to be distributed among the military department, civil administration, the town committee, and the general towns-people ?

(c) When are the defence works likely to be commenced ?

The HONOURABLE MR. B. N. SARMA : (a) The Government of India are not aware of any imminent danger of the town of Dera Ismail Khan being washed away, nor of the necessity for undertaking protective works this cold weather to arrest further encroachment by the river on the right bank.

(b) The North-West Frontier Province Administration is alive to the situation and is taking necessary action in the matter.

The question of incidence of cost of protective measures, if required, depends on the extent of the works that may be necessary and cannot be determined at this stage.

(c) This is not known at present.

FRONTIER POLICE.

147. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state what proportion of the ordinary police and military police in the Frontier Province is recruited from among (a) the Pathans of the settled districts, (b) Pathans of the trans-border, (c) other Musalmans of the settled districts, (d) Hindus of the settled districts, and (e) Punjabees ?

The HONOURABLE MR. S. P. O'DONNELL : The proportions are as follows :

(1) Frontier Constabulary (Military Police) :			
(a) Pathans of Settled Districts	..	..	2148
(b) Pathans of transborder	..	..	2295
(c) Other Musalmans of Settled Districts	..	..	15
(d) Hindus of Settled Districts	..	..	Nil.
(e) Punjabees	..	..	6
Total	..	..	4464

In addition to the above there are 12 Sikhs of the transborder.

(2) Civil Police :			
(a) Pathans of Settled Districts	..	..	1499
(b) Pathans of transborder	..	..	204
(c) Other Musalmans of Settled Districts	..	..	1745
(d) Hindus of Settled Districts	..	..	164
(e) Punjabees	..	..	1785
Total	..	..	5397

COMMUNICATIONS IN FRONTIER PROVINCE.

148. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Will the Government kindly state what measures they are adopting to improve communications in the settled districts as well as in the trans-border areas of the Frontier Province ?

(b) Will the Government kindly state the names of the military and civil roads and railways built during the last seven years ?

The HONOURABLE MR. J. P. THOMPSON : The information is being collected and will be laid on the table.

REDUCTIONS IN PRESSES.

149. The HONOURABLE MR. G. S. KHAPARDE : (a) Will the Government be pleased to state the number of piece-workers and salaried hands whose services were dispensed with as the result of reductions carried out in the Simla and Delhi Government Presses in 1921 and 1922 ?

(b) Will the Government be pleased to state the number of years of services put in by the piece-workers whose services have been dispensed with in the said reductions ?

(c) In carrying out the said reductions was a distinction made between permanent and temporary hands and was the practicability of providing for them by reducing the amount of work given out to contractors as in the case of *Fauji Akhbar*, etc., considered ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The following statement shows the number of piece-workers and salaried hands brought under

reduction in the Government of India Presses in Simla and Delhi during the years 1921-22 and 1922-23 :—

	G. C. PRESS, SIMLA.		G. M. PRESS, SIMLA.		G. C. PRESS, DELHI.	
	Piece.	Salaried.	Piece.	Salaried.	Piece.	Salaried.
1921-22 ...	55	25	...	24	...	...
1922-23 ...	4	11	...	...	79	...

In the Delhi Press one more piece-worker and 53 salaried employees are under notice of discharge and will leave when the period of notice expires.

(b) The number of years of service put in by the piece-workers who have been discharged is given in the table below :—

	Simla Press.	Delhi Press.
	No.	No.
Less than one year	25	7
Over one year but less than five years	19	54
Over 5 years but less than 10 years	11	18
Over 10 years	4	..

(c) The answer to the first part of the Honourable Member's question is in the affirmative. As regards the second part, the Honourable Member is reminded that the Government of India Presses are not equipped for the printing of vernacular publications, such as the *Fauji Akhbar*. Further, as regards stock forms, for the printing of which the Government of India have entered into a contract with a private contractor, it would not be possible to have the printing work done at the Government presses without committing a breach of the contract.

TRANSFER OF PRESS EMPLOYEES TO DELHI.

150. The HONOURABLE MR. G. S. KHAPARDE : Is it a fact that a piece-worker of Simla Press, who gave evidence before the Press Works Committee, has been transferred to Delhi notwithstanding the fact that he produced a medical certificate from the Civil Surgeon of Simla stating that his eye-sight is in danger of being injured if he be transferred to the plains ?

The HONOURABLE MR. H. A. F. LINDSAY : The piece-worker referred to is one of the two Simla piece-workers who gave evidence before the Piece-Workers Committee. Owing to the reduction of work in the Simla Central Press twenty of the most junior of the permanent employees in the Press had to be transferred to the Delhi Press, where they replaced temporary hands. The piece-worker, to whom the Honourable Member's question refers, was among these 20 junior men. At the time of his transfer he informed the Civil Surgeon that he was suffering from sore eyes said to have been contracted in the plains, and was given a medical certificate to the effect that he had signs of former granular lids, which it was possible that residence in the plains would aggravate. Not very long ago, however, the same piece-worker when applying for a permanent post in the Simla Press produced a medical certificate to show that he had no " disease,

constitutional affection or bodily infirmity," which would indicate that he contracted the granular lids *after* his appointment in Simla. In consideration of this and of the fact that if this piece-worker's transfer was cancelled the other 19 men under orders of transfer would undoubtedly feel aggrieved, the original orders were allowed to stand.

PRESS STAFF.

151. The HONOURABLE MR. G. S. KHAPARDE : Is it a fact that the following supervising establishments are maintained at the Government Central Branch Press, including Mono Simla and the Government Central Branch Delhi :—

SIMLA.	DELHI.
1 Superintendent, 1 Deputy Superintendent, 1 Assistant Superintendent, 1 Foreman, 2 Overseers, when the number of men employed is about 500.	1 Deputy Superintendent, 1 Overseer, when the number of men employed is about 1,000.

The HONOURABLE MR. H. A. F. LINDSAY : The supervising establishment and the subordinate staff employed in the Simla and Delhi Presses are as shown below :—

	Supervising staff.	Number of men actually employed.
G. C. B. Press, Simla ...	1 Superintendent. 1 Assistant Superintendent. 1 Overseer.	383
G. M. Press, Simla ...	1 Deputy Superintendent. 1 Overseer.	174
G. C. Press, Delhi. ...	1 Deputy Superintendent. 1 Overseer (in the winter season only) 1 Foreman.	484

PRESS ESTABLISHMENTS.

152. The HONOURABLE MR. G. S. KHAPARDE : If the reply to the last preceding question be in the affirmative, will the Government be pleased to indicate the reason for the disparity in the establishments at Simla and Delhi ?

The HONOURABLE MR. H. A. F. LINDSAY : As regards the apparent disparity between the establishments in Simla and Delhi the Honourable Member is reminded that at present the Central Press and the Monotype Press at Simla are two entirely separate institutions, and each has a self-contained staff. The present supervising staff of the Simla Presses is based on a sanctioned strength of 769 men in the Government Central Branch Press and 187 men in the Government Monotype Press. As these presses are now being reduced in size, it is proposed to amalgamate them and to reduce the existing supervising staff by one Deputy Superintendent and one overseer.

Further, although the Delhi supervising establishment is stated to consist only of one Deputy Superintendent, one overseer, and one foreman, it may be pointed out that Delhi Press is really a branch of the Calcutta Press, and under the administrative control of the Superintendent of Government Printing India. In comparing the supervising staffs of the Delhi and Simla presses, therefore, it is incorrect to omit the Superintendent, Government Printing India, from the list of the Delhi supervising establishment.

STATEMENT LAID ON THE TABLE.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : I beg to lay on the table the papers promised in the debate of the 22nd March 1922, on the Honourable Sir Maneckji Dadabhoy's Resolution regarding Treaty arrangements involving fiscal obligations.

COMMERCIAL TREATIES AFFECTING INDIA.

In the Council of State on the 22nd March 1922, the Honourable Sir Maneckji Dadabhoy moved a Resolution to the following effect :

" This Council recommends to the Governor General in Council that he may be pleased to intimate to the Secretary of State that in future India shall not be made a party to any treaty arrangements involving fiscal obligations and international trade relations until the Indian Legislature has had an opportunity of pronouncing on the same."

The Resolution was eventually withdrawn on the explanation of the Government Member, that the Government of India could not accept it as it would contravene the fundamental constitutional principle that treaty negotiations with foreign countries must be conducted by the Executive. At the same time, he stated that the Government of India were prepared to make a brief summary of any of the existing treaties which could be regarded as of public interest and place that summary on the table.

2. The following summary has accordingly been prepared with an appendix in which the more important Treaties and Conventions affecting India have been given. For the remainder it is sufficient to refer to the " Collection of Treaties and Conventions and reciprocal Regulations at present subsisting between Great Britain and Foreign Powers so far as they relate to Commerce and Navigation," edited by Sir Edward Hertslet, K.C.B., in twenty-one volumes, an unofficial publication which is available to the public. Copies of Treaties will also be found in the Treaty Series of Parliamentary Papers, and the " Handbook of Commercial Treaties, etc., between Great Britain and Foreign Powers " published by His Majesty's Stationery Office.

3. It has also not been considered necessary for the purposes of this summary to furnish an explanation of the different forms which contractual obligations with other countries may assume. They have been generally classified as " Commercial Treaties " whether they are formally so designated or styled " Conventions," " Agreements," " Arrangements," " Declarations " or " Exchange of Notes ". Whatever the form, they are equally binding while in force. The only practical difference is that the less formal the obligation, the less notice in general is required for its abrogation.

4. Commercial treaties cover many matters, and with the modern growth in the variety of interests in foreign countries they have become increasingly complex. The more important subjects dealt with are the following : freedom of residence and traffic, trading and navigation rights and payment of customs and other duties, administration of justice, acquisition and disposal of property, treatment of wrecked ships and their cargoes and administration of intestate estates. The summary which follows will deal in turn with the more important nations with which India has contractual obligations, and in each case the general tenor of the Treaty, and its

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duration will first be discussed. Provisions affecting the personal rights and privileges of the subjects of the contracting States, the treatment of goods imported or exported, shipping and navigation, joint-stock companies, the appointment of Consular officials and other miscellaneous matters will then be dealt with where India appears to be specially interested. It does not seem necessary to overload the summary with references to matters which are now largely obsolete, such as treaties regarding the suppression of piracy and the slave trade.

5. Two expressions which will occur frequently in the summary are "most favoured nation treatment" and "national treatment." The meaning of the latter is simple enough. National rights are rights equal to those enjoyed by the nationals of the other contracting party. The term "most favoured nation" is, however, susceptible of several interpretations. It may be limited or absolute and unconditional. The latter means that without denouncing the Treaty the contracting country cannot grant more favourable terms to any other country in respect of the matters dealt with. The limitations may assume three forms; the first, that each party to the instrument shall accord to the other any privileges granted to certain named third countries; the second, that each party shall accord to the other all the privileges which they accord to third countries with certain exceptions; and the third, where the concessions must be purchased, that is to say, if a bargain is made with some third country to admit its goods on specially favourable terms in return for certain concessions, the contracting country is entitled to obtain the same privileges on the same conditions. The object of the Government of India has been to secure the unconditional form where possible as they themselves do not pre-discriminate. It may be added that "most favoured nation" clauses do not preclude the grant of special concessions as between the various parts and dominions of each contracting party.

PART II.—COMMERCIAL TREATIES AFFECTING INDIA BY COUNTRIES.

It has been held that a state of war between two nations puts an end to any treaty engagements that may have been undertaken unless those treaty engagements are specifically renewed at the termination of the hostilities. No remarks are therefore called for in respect of the former Enemy States, Germany, Austria, Bulgaria and Turkey or the States which have arisen in their former territories. The commercial treaties with Russia have also

* Page 5 of Mr. Stanley's Report to the Board of Trade on the Treaty Arrangements of the United Kingdom.
ment, and expired on the 24th October 1918.

France.

The two Conventions of 1826 and 1882 between the United Kingdom and France are not applicable to India. Our treaty obligations are confined to the Convention of 1903, which is printed in the appendix and is terminable after notice of one year (cf. Article V). By Article 2, it restricts our rights to impose duties on vinegar in casks and copperas produced in France, Algeria, French Colonies and Possessions and the Protectorates of Indo-China and Tunis imported into India to a duty of 2½ per cent. *ad valorem*. In return we get unconditional most favoured nation treatment in respect of certain colonial products, the most important of which are coffee, pepper, cardamoms, cinnamon, *cassia lignea*, nutmegs, cloves, vanilla and tea.

Italy.

The Commerce and Navigation Treaty of 1883 between the United Kingdom and the Kingdom of Italy was extended to India in 1914, subject to certain reservations which will be detailed below. The Treaty with the Convention extending it to India, is given in the Appendix. It is terminable after 12 months' notice given by either side. It will be seen that the Treaty gives complete most favoured nation treatment in respect of import and export duties, commerce and navigation privileges, favours and immunities, the appointment of Consular officers, and national treatment regarding rights, privileges, liberties, favours, immunities and exemptions in matters of commerce and navigation (with the exception of the coasting trade which remains subject to the regulations of each party), bounties and drawbacks, dues on vessels, loading and unloading of vessels, privileges of subjects in matters of residence, possession of houses, factories, etc., carrying on of trade either in person or by agents, the enjoyment of full civil rights and in the matter of patents, trade marks and designs.

Spain.

There is at present no formal or regular treaty of commerce and navigation with Spain, but the present situation is regulated by an exchange of notes confirmed in 1894, by which the products of the British Empire receive full most favoured nation treatment in Spain except for the special advantages which that country concedes to Portugal. The arrangement is reciprocal and can be abrogated on six months' notice.

Portugal.

The Treaty between the United Kingdom and Portugal was signed in August 1914 and ratified in May 1916, and is to remain in force until 1926, and thereafter from year to year subject to 12 months' notice on either side. India has not formally adhered to the Treaty, as by Article 21 which is given in the Appendix, the products of India enjoy unconditional most favoured nation treatment in Portugal so long as India accords similar treatment to the produce and manufacture of Portugal. It will be seen from that Article that the rest of the Treaty does not apply to India.

Netherlands.

Our commercial relations are regulated by an instrument of 1824, between the United Kingdom and the Netherlands which has reference to the mutual relations between the East Indian Possessions of the two countries. Most of its provisions are now obsolete, but it contains a provision for the reciprocal application of most favoured nation treatment as regards trade with India, Ceylon and the Eastern Archipelago. The subsequent treaties are only applicable to the United Kingdom with the exception of the Treaty of 1856 which deals with the appointment of Consular officers, their privileges and exemptions. The instrument will be found in Hertslet's Commercial Treaties, Volume III, pages 284-289. The Treaty of 1856 is in Volume X, pages 476-480.

Belgium.

Since 1898 there has been no commercial treaty, properly so called, with Belgium, but the present relations are based on a *modus vivendi* arrived at in that year under which the subjects and goods of both countries are treated in every respect on the same footing as those of the most favoured nation. This arrangement is subject to denunciation at three months' notice.

Switzerland.

Relations are at present regulated by a Treaty concluded in 1855 which may be terminated after 12 months' notice given by either side. Both parties to it engage to accord to each other any favours in the matter of commerce which they may grant to any third country. The Treaty will be found in Hertslet's Commercial Treaties, Volume X, pages 593-597.

Norway.

There is at present no commercial treaty, but by an exchange of notes in 1905 it has been agreed that the treaties concluded in common by Norway and Sweden should be considered valid by the Norwegian Government until further notice. The state of affairs is therefore identical with that of Sweden.

Sweden.

The Treaty of 1826 is still in force though it is terminable at 12 months' notice on either side. It provides for the reciprocal accordance of most favoured nation treatment in respect of duties on imports into the territories of one of the two countries of articles produced in those of the other. No prohibition or restriction of import or export is to be imposed by either country against the other which is not equally imposed against all other nations. Swedish vessels and Swedish subjects are also entitled to most favoured nation treatment in British India. The Treaty will be found in Hertslet's Commercial Treaties, Volume III, pages 433-438.

China.

There are a number of Treaties and Declarations of which two affect India: (1) the Treaty of Commerce and Navigation of 1858, which is subject to revision every ten years. This Treaty secures most favoured nation treatment in respect of

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subjects, import and export duties, privileges, immunities, and advantages and in respect of Consular Officers. This Treaty is published in Hertslet's Commercial Treaties, Volume XI, pages 86-97.

2. The Conventions of the 1st of March 1894 and the 4th February 1897 secure most favoured nation treatment respecting the appointments of Consular Officers, subjects, Commerce, etc., in Burma and national treatment regarding the navigation of the Irrawaddy. A copy of the Commercial sections of the Conventions are reproduced in the Appendix. The full text will be found in Hertslet's Commercial Treaties, Volume XIX, pages 163-171 and in Volume XX, pages 233-237. It will be seen that they are applicable to Burma only. The Treaty of 1902, relevant extracts of which will also be found in the Appendix, secures national treatment in respect of investments in enterprises and companies and most favoured nation treatment regarding tariff concessions. No time limit is fixed to these Treaties, but the tariff may be revised every 10 years.

Japan.

India is not a party to the Treaty of Commerce and Navigation of 1911, between the United Kingdom and Japan. Our relations with that country are governed by the Convention of 1904, which is printed in the Appendix. It will be seen from Article IV that it is terminable at six months' notice on either side. It secures most favoured nation treatment in respect of trade.

United States.

There is at present no treaty regulating the commercial relations between India and the United States. The Commerce and Navigation Treaty of 1815 between the United Kingdom and the United States securing most favoured nation treatment regarding ships and cargo, houses, warehouses, importation and exportation of goods and import and export duties only refers to British territories in Europe. It is subject to 12 months' notice of abrogation on either side by a Convention of 1827. It contains provisions allowing the citizens of the United States to carry on trade with India, such trade as regards both vessels and goods imported or exported being accorded the same treatment as is accorded to vessels and goods of the most favoured European nations. These provisions are obsolete as there are now no restrictions on the admission of foreign vessels to Indian ports or to the carrying on of trade in India. The Treaties will be found in Hertslet's Commercial Treaties, Volume II, pages 386-392 and 395, and in Volume IV, pages 499 and 500.

2. India has also acceded to the Convention of 1899 securing most favoured nation treatment concerning the disposal of real and personal property in both countries. The Convention can be abrogated on 12 months' notice. It will be found in Hertslet's Commercial Treaties, Volume XXI, pages 1088-1090.

APPENDIX

COMMERCIAL CONVENTION BETWEEN THE UNITED KINGDOM AND FRANCE, SIGNED AT LONDON ON THE 19TH FEBRUARY 1903.

France.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the French Republic, desiring to facilitate the commercial relations between France and India, have resolved to conclude a convention to that effect, and have named as their respective Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the Most Honourable Henry Charles Keith Petty Fitzmaurice, Marquis of Lansdowne, Principal Secretary of State for Foreign Affairs; and

The President of the French Republic, Monsieur Paul Cambon, Ambassador of the French Republic at London:

Who having reciprocally communicated their full powers, found in good and due form, have agreed as follows:—

ARTICLE I.

The following colonial products: coffee, cocoa, pepper, pimento, amomums and cardamoms, cinnamon, *cassia lignea*, nutmegs, mace, cloves, vanilla, and tea, produce of India, shall enjoy, on importation into France, Algeria, French Colonies and Possessions, and the Protectorates of Indo-China and Tunis the lowest customs duties applicable to similar products of any other foreign origin.

ARTICLE II.

Reciprocally, the natural and manufactured products of France, Algeria, French Colonies and Possessions, and the Protectorates of Indo-China and Tunis shall enjoy, without restriction or reserve on importation into India, the lowest customs duties applicable to similar products of other foreign origin.

Further, the duties on vinegar in casks and copperas produced in France, Algeria, French Colonies and Possessions, and the Protectorates of Indo-China and Tunis, and imported into India, shall not exceed 2½ per cent. *ad valorem*.

ARTICLE III.

The certificates of origin which may be required for the admission of goods to the preferential conditions stipulated in the present Treaty shall be *visé* by French Consuls and by British Consuls without levying Consular fees.

ARTICLE IV.

The privileges and engagements comprised in this Convention shall extend to Native States of India which, by Treaty with His Britannic Majesty or otherwise, may be entitled to be placed with regard to the stipulations of the Convention on the same footing as British India.

His Majesty's Government will communicate from time to time to the Government of the Republic a list of these States.

ARTICLE V.

The present Convention shall be ratified by the two Governments as soon as possible, and the ratifications shall be exchanged at London. It shall come into effect immediately after the exchange of ratifications, and shall remain in force until the expiration of a year from the day on which one of the High Contracting Parties shall have announced the intention of terminating it.

In witness whereof the under-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in London, in duplicate, the 19th day of February 1903.

TREATY OF COMMERCE AND NAVIGATION BETWEEN HER MAJESTY AND THE KING OF ITALY, SIGNED AT ROME, JUNE 15TH, 1883.

Ratifications exchanged at Rome, June 30th, 1883.

Italy.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the King of Italy, being desirous to extend and facilitate the relations of commerce between their respective subjects and dominions, have determined to conclude a new Treaty with this object, and they have appointed their respective Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, His Excellency the Right Honourable Sir Augustus Berkeley Paget, Knight Commander of the Most Honourable Order of the Bath, a Member of Her

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Majesty's Most Honourable Privy Council, and Her Ambassador Extraordinary and Plenipotentiary to His Majesty the King of Italy ;

And His Majesty the King of Italy, His Excellency Signor Pasquale Stanislao Mancini, Grand Cross and Grand Cordon of the Order of SS. Maurice and Lazarus and of the Crown of Italy, Knight of the Order of Civil Merit of Savoy, etc., etc., Minister of State, Deputy of the National Parliament, and His Minister Secretary of State for Foreign Affairs ;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles :—

ARTICLE I.

There shall be between the dominions and possessions of the two High Contracting Parties reciprocal freedom of commerce and navigation. The subjects of each of the two Parties shall have liberty freely to come, with their ships and cargoes, to all places, ports, and rivers in the dominions and possessions of the other to which native subjects generally are or may be permitted to come, and shall enjoy, respectively, the same rights, privileges, liberties, favours, immunities, and exemptions in matters of commerce and navigation which are or may be enjoyed by native subjects, without having to pay any tax or impost greater than those paid by the same, and they shall be subject to the laws and regulations in force.

ARTICLE II.

No other or higher duties shall be imposed on the importation into the dominions and possessions of Her Britannic Majesty of any article the produce or manufacture of the dominions and possessions of His Majesty the King of Italy, from whatever place arriving, and no other or higher duties shall be imposed on the importation into the dominions and possessions of His Majesty the King of Italy of any article the produce or manufacture of Her Britannic Majesty's dominions and possessions, from whatever place arriving, than on articles produced or manufactured in any other foreign country ; nor shall any prohibition be maintained or imposed on the importation of any article the produce or manufacture of the dominions and possessions of either of the Contracting Parties into the dominions and possessions of the other, from whatever place arriving, which shall not equally extend to the importation of the like articles being the produce or manufacture of any other country. This last provision is not applicable to the sanitary and other prohibitions occasioned by the necessity of protecting the safety of persons or of cattle, or of plants useful to agriculture.

ARTICLE III.

No other or higher duties or charges shall be imposed in the dominions and possessions of either of the Contracting Parties on the exportation of any article to the dominions and possessions of the other, than such as are or may be payable on the exportation of the like article to any other foreign country ; nor shall any prohibition be imposed on the exportation of any article from the dominions and possessions of either of the two Contracting Parties to the dominions and possessions of the other which shall not equally extend to the exportation of the like article to any other country.

ARTICLE IV.

The subjects of each of the Contracting Parties shall enjoy, in the dominions and possessions of the other, exemption from all transit duties, and a perfect equality of treatment with native subjects in all that relates to warehousing, bounties, facilities, and drawbacks.

ARTICLE V.

All articles which are or may be legally imported into the ports of the dominions and possessions of Her Britannic Majesty in British vessels may likewise be imported into those ports in Italian vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in British vessels ; and reciprocally all articles which are or may be legally imported into the ports of the dominions and possessions of His Majesty the King of Italy in Italian vessels may likewise be imported into those ports in British vessels, without being

liable to any other or higher duties or charges of whatever denomination than if such articles were imported in Italian vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place of origin or from any other place.

In the same manner, there shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the dominions and possessions of either of the Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in Italian or in British vessels, and whatever may be the place of destination, whether a port of either of the Contracting Parties, or of any third Power.

ARTICLE VI.

No duties of tonnage, harbour, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever nature, or under whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, corporations, or establishments of any kind, shall be imposed in the ports of the dominions and possessions of either country upon the vessels of the other country which shall not equally and under the same conditions be imposed in the like cases on national vessels in general. Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

ARTICLE VII.

In all that regards the stationing, loading, and unloading of vessels in the ports, basins, docks, roadsteads, harbours, or rivers of the dominions and possessions of the two countries, no privilege shall be granted to national vessels which shall not be equally granted to vessels of the other country ; the intention of the Contracting Parties being that in this respect also the respective vessels shall be treated on the footing of perfect equality.

ARTICLE VIII.

The coasting trade is excepted from the provisions of the present Treaty ; its regulation remains subject to the laws which are or shall be in force in the dominions and possessions of the Contracting Parties.

ARTICLE IX.

Any ship of war or merchant vessel of either of the Contracting Parties which may be compelled by stress of weather, or by accident, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary stores and to put to sea again, without paying any dues other than such as would be payable in a similar case by a national vessel. In case, however, the master of a merchant-vessel should be under the necessity of disposing of a part of his merchandize in order to defray his expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any ship of war or merchant vessel of one of the Contracting Parties should run aground or be wrecked upon the coasts of the other, such ship or vessel, and all parts thereof and all furniture and appurtenances belonging thereunto, and all goods and merchandize saved therefrom, including any which may have been cast into the sea, or the proceeds thereof if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents when claimed by them. If there are no such owners or agents on the spot, then the same shall be delivered to the British or Italian Consul-General, Consul, Vice-Consul, or Consular Agent in whose district the wreck or stranding may have taken place, upon being claimed by him within the period fixed by the laws of the country ; and such Consuls, owners or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the like case of a wreck of a national vessel.

The goods and merchandize saved from the wreck shall be exempt from all duties of customs, unless cleared for consumption, in which case they shall pay the same rate of duty as if they had been imported in a national vessel.

In the case either of a vessel being driven in by stress of weather, run aground, or wrecked, the respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents

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shall, if the owner or master or other agent of the owner is not present, or is present, and requires it, be authorized to interpose in order to afford the necessary assistance to their fellow-countrymen.

ARTICLE X.

All vessels which, according to British law, are to be deemed British vessels, and all vessels which, according to Italian law, are to be deemed Italian vessels, shall, for the purposes of this Treaty, be deemed British and Italian vessels, respectively.

ARTICLE XI.

The Contracting Parties agree that, in all matters relating to commerce and navigation, any privilege, favour, or immunity whatever which either Contracting Party has actually granted or may hereafter grant to the subjects or citizens of any other State shall be extended immediately and unconditionally to the subjects or citizens of the other Contracting Party; it being their intention that the trade and navigation of each country shall be placed in all respects, by the other on the footing of the most favoured nation.

ARTICLE XII.

It shall be free to each of the Contracting Parties to appoint Consuls-General, Consuls, Vice-Consuls, and Consular Agents to reside in the towns and ports of the dominions and possessions of the other. Such Consuls-General, Consuls, Vice-Consuls, and Consular Agents, however, shall not enter upon their functions until after they shall have been approved and admitted in the usual form by the Government to which they are sent. They shall enjoy all the facilities, privileged exemptions, and immunities of every kind which are or shall be granted to Consuls of the most favoured nation.

ARTICLE XIII.

The subjects of each of the Contracting Parties who shall conform themselves to the laws of the country—

1. Shall have full liberty, with their families to enter, travel, or reside in any part of the dominions and possessions of the other Contracting Party.
2. They shall be permitted to hire or possess the houses, manufactories, warehouses, shops, and premises which may be necessary for them.
3. They may carry on their commerce either in person or by any agents whom they may think fit to employ.
4. They shall not be subject in respect of their persons or property, or in respect of passports, nor in respect of their commerce or industry, to any taxes, whether general or local or to imposts or obligations of any kind whatever, other or greater than those which are or may be imposed upon native subjects.

ARTICLE XIV.

The subjects of each of the Contracting Parties in the dominions and possessions of the other shall be exempted from all compulsory military service whatever, whether in the army, navy, or national guard, or militia. They shall be equally exempted from all judicial and municipal functions whatever, other than those imposed by the laws relating to juries, as well as from all contributions, whether pecuniary or in kind, imposed as a compensation for personal service, and finally from every species of exaction or military requisition. The duties and charges connected with the ownership or leasing of lands and other real property are, however, excepted, as well as all exactions or military requisitions to which all subjects of the country may be liable as owners or lessees of real property.

ARTICLE XV.

The subjects of each of the Contracting Parties in the dominions and possessions of the other shall be at full liberty to exercise civil rights, and therefore to acquire, possess, and dispose of every description of property, movable and immovable. They may acquire and transmit the same to others, whether by purchase, sale, donation, exchange, marriage, testament, succession, *ab intestato*, and in any other manner, under the same conditions as national subjects. Their heirs may succeed to and take possession of it, either in person or by procurators, in the same manner and in the same legal forms as subjects of the country.

In none of these respects shall they pay upon the value of such property any other or higher impost, duty, or charge than is payable by subjects of the country. In every case the subjects of the Contracting Parties shall be permitted to export their property, or the proceeds thereof if sold, freely and without being subjected on such exportation to pay any duty different from that to which subjects of the country are liable under similar circumstances.

ARTICLE XVI.

The dwellings, manufactories, warehouses and shops of the subjects of each of the Contracting Parties in the dominions and possessions of the other, and all premises appertaining thereto destined for purposes of residence or commerce, shall be respected.

It shall not be allowable to proceed to make a search of, or a domiciliary visit to such dwellings and premises, or to examine or inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the laws for subjects of the country.

The subjects of each of the two Contracting Parties in the dominions and possessions of the other shall have free access to the Courts of Justice for the prosecution and defence of the rights, without other conditions, restrictions, or taxes beyond those imposed on native subjects and shall, like them, be at liberty to employ, in all causes, their advocates, attorneys, or agents from among the persons admitted to the exercise of those professions according to the laws of the country.

ARTICLE XVII.

The subjects of each of the Contracting Parties shall have, in the dominions and possessions of the other, the same rights as native subjects in regard to patents for inventions, trade-marks and designs, upon fulfilment of the formalities prescribed by law.

ARTICLE XVIII.

The Consuls-General, Consuls, Vice-Consuls and Consular Agents of each of the Contracting Parties, residing in the dominions and possessions of the other, shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective countries.

ARTICLE XIX.

The stipulations of the present Treaty shall be applicable to all the Colonies and Foreign Possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

- India,
- The Dominion of Canada,
- Newfoundland,
- The Cape,
- Natal,
- New South Wales,
- Victoria,
- Queensland,
- Tasmania,
- South Australia,
- Western Australia,
- New Zealand :

Provided always that the stipulations of the present Treaty shall be made applicable to any of the above named Colonies or Foreign Possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative at the Court of Italy to the Italian Minister for Foreign Affairs, within one year from the date of the exchange of the ratifications of the present Treaty.

ARTICLE XX.

The present Treaty shall come into force on the 1st July, 1883, and shall remain in force until the 1st February, 1892, and thereafter until the expiration of a year from the day in which one or other of the Contracting Parties shall have repudiated it.

Each of the Contracting Parties reserves, however, the right of causing it to terminate on the 1st January, 1888, upon six months' notice being given previously.

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ARTICLE XXI.

The present Treaty shall be ratified by the two Contracting Parties, and the ratifications thereof shall be exchanged at Rome as soon as possible.

In faith whereof the Plenipotentiaries of the Contracting Parties have signed the present Treaty in duplicate, in the English and Italian languages, and thereto affixed their respective seals.

Done at Rome, this fifteenth day of June, in the year one thousand eight hundred and eighty-three.

(L. S.) A. B. PAGET.

(L. S.) P. S. MANCINI.

CONVENTION FOR THE EXTENSION TO BRITISH INDIA OF THE ANGLO-ITALIAN TREATY OF COMMERCE AND NAVIGATION OF JUNE 15TH, 1883.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Italy, with a view to the conclusion of the present Convention, have appointed as their Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: His Excellency the Right Honourable Sir James Rennel Rodd, Knight Grand Cross of the Royal Victorian Order, Knight Commander of the Order of St. Michael and St. George, Companion of the Order of the Bath, His Majesty's Ambassador Extraordinary and Plenipotentiary at Rome; and

His Majesty the King of Italy: His Excellency the Marquis Antonino di San Giuliano, Minister for Foreign Affairs, Knight of the Supreme Order of the Annunziata, Knight Grand Cross of the Orders of St. Maurice and St. Lazarus and of the Crown of Italy:

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:—

ARTICLE 1.

The Treaty of Commerce and Navigation of the 15th June, 1883, in force between Great Britain and Italy, together with its final protocol, is understood to apply to British India, including the territories of any native Prince or Chief under the suzerainty of Great Britain, subject to the modifications and reservations hereinafter specified.

ARTICLE 2.

The Government of India reserves the discretionary power to prevent foreigners, whose presence it may consider undesirable from residing or travelling in India, as above defined, without its consent.

ARTICLE 3.

In regard to native States of India, the rights of subjects of the Kingdom of Italy under Articles 1, 13, and 15 and the last paragraph of Article 16 of the said Treaty, are subject to the same limitations as those which are, or may be, in force as regards European British subjects.

ARTICLE 4.

The provisions of Articles 4 and 11, respectively, shall not be held to apply—

- (a) to any privilege, favour, or immunity which has been or may be granted by the Government of India in respect of trade to or from countries or States on the land borders of India;
- (b) to merchandise passing in transit through India to countries or States on the land borders of India.

ARTICLE 5.

The right to appoint Consuls under Article 12 of the said Treaty shall in India be restricted to the seaport towns of the provinces under the direct administration of

the Government of India; and such Consuls and their Consulates shall enjoy immunities and exemptions in the matter of customs duties similar to those granted to British Consuls and Consulates in Italy.

ARTICLE 6.

The Italian Government and the British Government, the latter on behalf of India, shall be able to denounce the present Convention in the manner laid down in Article 20 of the Treaty of the 15th June, 1883, independently of the maintenance of the same Treaty in regard to Italy and the United Kingdom.

ARTICLE 7.

The present Convention shall be ratified, and the ratifications exchanged at Rome as soon as possible. It shall come into force two months after the exchange of ratifications.

In witness whereof the respective Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Rome, the 15th day of June, 1914.

(L. S.) RENNELL RODD.

(L. S.) A. DI SAN GIULIANO.

TREATY OF COMMERCE AND NAVIGATION BETWEEN GREAT BRITAIN AND PORTUGAL, SIGNED AT LISBON, ON THE 12TH AUGUST, 1914.

Portugal.

ARTICLE 21.

The present Treaty shall extend, as regards Portugal, to the mother-country and adjacent islands (Madeira, Porto Santo and Azores), but shall not extend to any of the dominions, colonies, possessions, or protectorates of either Contracting Party unless notice of the desire of such Contracting Party that the Treaty shall apply to any such dominion, colony, possession, or protectorate, shall have been given to the other Contracting Party, before the expiration of one year from the date of the exchange of the ratifications of the present treaty.

Nevertheless, the goods produced or manufactured in any of His Britannic Majesty's dominions, colonies, possessions, and protectorates shall enjoy in Portugal complete and unconditional most-favoured-nation treatment so long as such dominion, colony, possession or protectorate shall accord to goods the produce or manufacture of Portugal treatment as favourable as it gives to the produce or manufacture of any other foreign country: and reciprocally the goods produced or manufactured in any Portuguese colony or possession shall enjoy like most-favoured-nation treatment in the United Kingdom of Great Britain and Ireland so long as such colony or possession shall accord to goods the produce or manufacture of the United Kingdom treatment as favourable as it gives to the produce or manufacture of any other foreign country.

Colonial goods re-exported from the mother-country of one of the Contracting Parties shall be treated in the territory of the other as proceeding from that mother-country, and shall therefore be exempt from supertaxes on indirect trade which may eventually be established.

CONVENTION BETWEEN GREAT BRITAIN AND CHINA RELATIVE TO BURMA AND TIBET, SIGNED AT LONDON, MARCH 1ST, 1894.

China.

VIII. Subject to the conditions mentioned hereafter in Articles X and XI, the British Government, wishing to encourage and develop the land trade of China with Burma as much as possible, consent for a period of six years from the ratification of the present Convention, to allow Chinese produce and manufactures, with the exception

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of salt, to enter Burma by land duty free, and to allow British manufactures and Burmese produce, with the exception of rice, to be exported to China by land free of duty.

The duties on salt and rice so imported and exported shall not be higher than those imposed on their import or export by sea.

IX. Pending the negotiation of a more complete arrangement, and until the development of the trade shall justify the establishment of other frontier Customs stations, goods imported from Burma into China or exported from China into Burma shall be permitted to cross the frontier by Manwyne and by Sansi.

With a view to the development of trade between China and Burma the Chinese Government consent that for six years from the ratifications of the present Convention the duties levied on goods imported into China by these routes shall be those specified in the General Tariff of the Maritime Customs diminished by three-tenths, and that the duties on goods exported from China by the same route shall be those specified in the same tariff diminished by four-tenths.

Transit passes for imports and exports shall be granted in accordance with the rules in force at the Treaty ports.

Smuggling or the carrying of merchandize through Chinese territory by other routes than those sanctioned by the present Convention shall, if the Chinese authorities think fit, be punished by the confiscation of the merchandize concerned.

X. The following articles, being munitions of war, shall neither be exported from Burma into China, nor imported from China to Burma, save at the requisition of the Government desiring their importation; neither shall they be sold to parties other than those who have been duly authorized by their respective Governments to purchase them:—

Cannon, shot and shell, cartridges and ammunition of all kinds, fire-arms and weapons of war of every description, salt-petre, sulphur, brimstone, gunpowder, dynamite, gun-cotton, or other explosives.

XI. The exportation from Burma into China of salt is prohibited.

The exportation from China into Burma of cash, rice, pulse and grains of every kind is prohibited.

The importation and exportation across the frontier of opium and spirituous liquors is prohibited, excepting in small quantities for the personal use of travellers. The amount to be permitted will be settled under Customs Regulations.

Infractions of the conditions set forth in this and the preceding Article will be punishable by confiscation of all the goods concerned.

XII. The British Government, wishing to promote frontier trade between the two countries by encouraging mining enterprise in Yunnan and in the new territorial acquisitions of China referred to in the present Convention, consent to allow Chinese vessels carrying merchandise, ores, and minerals of all kinds, and coming from or destined for China, freely to navigate the Irrawaddy on the same conditions as to dues and other matters as British vessels.

XIII. It is agreed that His Majesty the Emperor of China may appoint a Consul in Burma, to reside at Rangoon; and that Her Britannic Majesty may appoint a Consul to reside at Manwyne; and that the Consuls of the two Governments shall each within the territories of the other enjoy the same privileges and immunities as the Consuls of the most favoured nation.

Further, that in proportion as the commerce between Burma and China increases, additional Consuls may be appointed by mutual agreement, to reside at such places in Burma and Yunnan as the requirements of the trade may seem to demand.

The correspondence between the British and Chinese Consuls respectively, and the chief authority at the place where they reside, shall be conducted on terms of perfect equality.

XIV. Passports, written in Chinese and English, and identical in items to those issued to foreigners at the Treaty ports in China, shall, on the application of the proper British authorities, be issued to British merchants and others wishing to proceed to China from Burma, by the Chinese Consul at Rangoon or by the Chinese

authorities on the frontier and Chinese subjects wishing to proceed to Burma from China shall on the application of any recognized Chinese official, be entitled to receive similar passports from Her Britannic Majesty's Consul at Manwyne or other convenient places in China where there may be a British Consular Officer.

XV. Should criminals, subjects of either country, take refuge in the territory of the other, they shall, on due requisition being made, be searched for, and on reasonable presumption of their guilt being established, they shall be surrendered to the authorities demanding their extradition.

"Due requisition" shall be held to mean the demand of any functionary of either Government possessing a seal of office, and the demand may be addressed to the nearest frontier officer of the country in which the fugitive has taken refuge.

XVI. With a view to improving the intercourse between the two countries, and placing the Chinese Consul at Rangoon in communication with the High Provincial Authorities in Yunnan, the High Contracting Parties undertake to connect the telegraphic systems of the two countries with each other as soon as the necessary arrangements can be made; the line will, however, at first only be used for the transmission of official telegrams and of general messages for and from Burma and the Province of Yunnan.

XVII. It is agreed that subjects of the two Powers shall each within the territories of the other enjoy all the privileges, immunities and advantages that may have been or may hereafter be accorded to the subjects of any other nation.

XVIII. It is agreed that the commercial stipulations contained in the present Convention being of a special nature and the result of mutual concessions, consented to with a view to adapting them to local conditions and the peculiar necessities of the Burma-China overland trade, the advantages accruing from them shall not be invoked by the subjects of either Power residing at other places where the two Empires are continuous, excepting where the same conditions prevail, and then only in return for similar concessions.

XIX. The arrangements with regard to trade and commerce contained in the present Convention being of a provisional and experimental character, it is agreed that should subsequent experience of their working, or a more intimate knowledge than is now possessed of the requirements of the trade, seem to require it, they may be revised at the demand of either party after a lapse of six years after the exchange of ratifications of the present Convention, or sooner should the two Governments desire it.

XX. The ratification of the present Convention under the hand of Her Britannic Majesty and of His Majesty the Emperor of China shall be exchanged in London in six months from this day of signature, or sooner if possible.

AGREEMENT BETWEEN GREAT BRITAIN AND CHINA MODIFYING THE CONVENTION OF MARCH 1ST, 1894, RELATIVE TO BURMA AND TIBET, SIGNED AT PEKING ON THE 4TH FEBRUARY 1897.

XII. Add as follows:—

The Chinese Government agrees hereafter to consider whether the conditions of trade justify the construction of railways in Yunnan, and, in the event of their construction, agrees to connect them with the Burmese lines.

XIII. Whereas by the original Convention it was agreed that China might appoint a Consul in Burma, to reside at Rangoon; and that Great Britain might appoint a Consul to reside at Manwyne; and that the Consuls of the two Governments should each within the territories of the other enjoy the same privileges and immunities as the Consuls of the most favoured nation, and, further, that, in proportion as the commerce between Burma and China increased, additional Consuls might be appointed by mutual consent to reside at such places in Burma and Yunnan as the requirements of trade might seem to demand.

It has now been agreed that the Government of Great Britain may station a Consul at Momein or Shunning-fu, as the Government of Great Britain may prefer, instead of at Manwyne, as stipulated in the original Convention, and also to station a Consul at Ssumao.

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British subjects and persons under British protection may establish themselves, and trade at these places, under the same conditions as the Treaty ports in China.

The Consuls appointed as above shall be on the same footing as regards correspondence and intercourse with Chinese officials as the British Consuls at the Treaty ports.

XIV. Instead of "Her Britannic Majesty's Consul at Manwyne" in the original Convention read "Her Britannic Majesty's Consul at Shunning or Momein," in accordance with the change made in Article XIII.

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TREATY BETWEEN GREAT BRITAIN AND CHINA, SIGNED AT SHANGHAI, SEPTEMBER 5TH, 1902.

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ARTICLE IV.

Whereas questions have arisen in the past concerning the right of Chinese subjects to invest money in non-Chinese enterprises and companies, and whereas it is a matter of common knowledge that large sums of Chinese capital are so invested, China hereby agrees to recognise the legality of all such investments, past, present, and future.

It being, moreover, of the utmost importance that all shareholders in a Joint Stock Company should stand on a footing of perfect equality as far as mutual obligations are concerned, China further agrees that Chinese subjects who have or may become shareholders in any British Joint Stock Company shall be held to have accepted, by the very act of becoming shareholders, the Charter of Incorporation or Memorandum and Articles of Association of such Company, and regulations framed thereunder as interpreted by British Courts, and that Chinese Courts shall enforce compliance therewith by such Chinese shareholders, if a suit to that effect be entered, provided always that their liability shall not be other or greater than that of British shareholders in the same Company.

Similarly, the British Government agree that British subjects investing in Chinese companies shall be under the same obligations as the Chinese shareholders in such companies.

The foregoing shall not apply to cases which have already been before the Courts and been dismissed.

ARTICLE XV.

It is agreed that either of the High Contracting Parties to this Treaty may demand a revision of the Tariff at the end of ten years; but if no demand be made on either side within six months after the end of the first ten years, then the Tariff shall remain in force for ten years more, reckoned from the end of the preceding ten years, and so it shall be at the end of each successive ten years.

Any Tariff concession which China may hereafter accord to articles of the produce or manufacture of any other State shall immediately be extended to similar articles of the produce or manufacture of His Britannic Majesty's Dominions, by whomsoever imported.

Treaties already existing between the United Kingdom and China shall continue in force in so far as they are not abrogated or modified by stipulations of the present Treaty.

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COMMERCIAL CONVENTION BETWEEN JAPAN AND INDIA, RATIFIED ON THE 15TH MARCH 1905.

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Japan.

ARTICLE I.

Any article the produce or manufacture of the dominions and possessions of His Majesty the Emperor of Japan shall enjoy, upon importation into India, the lowest customs duties applicable to similar products of any other foreign origin.

ARTICLE II.

Reciprocally any article the produce or manufacture of India shall enjoy upon importation into the dominions and possessions of His Majesty the Emperor of Japan, the lowest customs duties applicable to similar products of any other foreign origin.

ARTICLE III.

The privileges and engagements of the present Convention shall extend to Native States of India, which by treaty with His Britannic Majesty or otherwise may be entitled to be placed, with regard to the stipulations of the Convention, on the same footing as British India.

His Britannic Majesty's Government shall communicate from time to time to the Imperial Government of Japan a list of these States.

ARTICLE IV.

The present Convention shall be ratified and the ratifications shall be exchanged at Tokio as soon as possible. It shall come into effect immediately after the exchange of ratifications, and shall remain in force until the expiration of six months from the day on which one of the High Contracting Parties shall have announced the intention of terminating it.

ELECTION OF MEMBERS OF DELHI UNIVERSITY COURT.

The HONOURABLE THE PRESIDENT: I would remind Honourable Members that on the termination of this morning's meeting they are requested to assemble in the Committee Room downstairs in order to elect two members to the Court of the Delhi University.

SESSION IN NOVEMBER.

The HONOURABLE THE PRESIDENT: I may also take this opportunity of informing members that I have now been able to come to a decision on the question of a meeting in November. I have received information from Government that there is no legislation which will justify, from their point of view, the holding of a Session in November. I have also ascertained informally from members generally that they are not in favour of a November Session and therefore the Council of State will, as usual adjourn, when it comes to be adjourned to a date in January to be hereafter notified.

RESOLUTION RE POLITICAL PRISONERS.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I beg to move the following Resolution:

"This Council recommends to the Governor General in Council to lay down that political prisoners, who are not convicted of violence to person or of destruction of property or of incitement thereto, should be treated as first class misdemeanants in England."

Sir, the question of the treatment of political prisoners has been agitating the public mind for some time past. Honourable Members who have studied the papers of all shades of opinion must have noticed that there is a strong feeling in the country that political prisoners are not treated as they ought to be and as they are treated in other countries. There has also been a difference in their treatment in the various provinces where political prisoners are sent to jail. Questions have been

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asked both in the Provincial Councils and in the Legislative Assembly as to the treatment meted out to these political prisoners. The replies that have been given in the Legislative Assembly do not give any further information except that orders have been issued by the Government of India to the various Provincial Governments to modify the present treatment and to make it more human. We would like, Sir, to know definitely what those orders are and if these orders give the same treatment that we want political prisoners to be given. Sir, Resolutions have been moved in the various Provincial Councils also. In my Presidency, this Resolution was carried against the Government because there is a strong feeling there against the treatment meted out to political prisoners. I am speaking at present of my province only. The treatment meted out in Bombay is not the same as that in the United Provinces and Bihar and Orissa. I know of an instance in the United Provinces where a young man of culture and spiritual attainments equal to any one of us merely because he made up his mind to disobey certain orders was sentenced to rigorous imprisonment. For the first few days he was treated like an ordinary criminal. Later on perhaps under instructions from the Government of India or because the Local Government thought better of it he and his colleagues were transferred to Agra where they were treated in a manner which he himself wrote to me was equal to that extended to gentlemen. They were treated as well as they expected. I believe they were some time back sent to another place where they do not receive the same treatment. It will thus be seen that even in the same province uniformity is not observed. The same complaint has been heard from Bihar and Orissa. At first the treatment was said to be very good. Thereafter the Local Government thought that it was too generous and they reversed their policy. In my province the treatment has not been so good as that and it was on that account that this Resolution was carried in that House against Government. I must here refer to the personality of the greatest and saintliest man this country has produced for generations, and we must acknowledge that fact in spite of our difference of opinion with him regarding his political views. That man was not treated even as his lieutenants were treated in the United Provinces or in Bihar and Orissa. That is why the feeling in Bombay was so strong and was clearly expressed in that Council. Soon after that Council meeting His Excellency made a statement that orders had been issued under which the treatment was to be more human and that there will be no reason for complaint. This question I know is a provincial one, as prisons is a provincial subject, but the Home Member in the Bombay Council said that he had made a reference to the Government of India. Moreover we know from replies given by the Home Member that instructions are being issued from the Government of India to the Local Governments. Therefore I believe I am justified in bringing this proposal here, although the subject is a provincial one. It has been said, Sir, by the Home Member in the Bombay Council that it will be very difficult to define the words 'political prisoners'. Perhaps it is so. But I am prepared to rush in where lawyers—not angels—have feared to tread, and it is because I believe that the definition that I have

suggested will meet with universal acceptance that I move this Resolution. It is said that the political prisoners may be persons who have been convicted of the actual crime of injury to person or destruction of property. I do not want them to be classed as political prisoners. You may treat them as ordinary criminals. What I want, Sir, is that persons who are convicted under section 108, read with section 114 or section 124-A or section 153-A, should be treated as first-class misdemeanants where they are not convicted of any injury to person or destruction of property. As regards the definition, I believe, the legal Pandits of the Government of India should be able to find out a definition which will cover all the cases that I recommend in this Resolution and which, I may say, the country wants. In one jail in Bombay the treatment meted out to some of the prisoners—two of them were prisoners from Sukkur, one of them a Principal of a national High School at Sukkur, another a member of a Congress Committee—was such that I am quite sure that if all the details were known to the Honourable Members of this House, they would think that it was not at all justifiable. Over and above that, I see in a recent number of *Young India* that a lawyer of 18 years' standing has given his own experience. He says that when he was carried from one jail to another he was fettered down with another prisoner all the way for 6 or 8 hours in the train. I am prepared to pass on that number to the Honourable the Home Secretary if he so desires. It may be that there is some exaggeration, but a lawyer of 18 years' standing, a graduate of the Madras University in law, will not I am sure—there may be a slight exaggeration—tell a lie. These prisoners, Sir, require to be treated as human beings and not as outcasts from the community. Lord Gladstone's Committee in England, referring to ordinary criminals, said that the treatment even in England at that time was that the prisoners were treated as if they were outcasts of the community and hopeless of reform. Young men, some of them very young men who have been misled, I admit, into showing their strength against established law and order have perhaps to be kept out from doing mischief, but is it right, is it fair that they should be treated as ordinary criminals? And, after all, what is the object of punishment? The object of punishment is either (1) retribution, (2) deterrence or reform. Unfortunately, if the treatment of political prisoners as ordinary criminals means retribution, then it means vindictiveness. Deterrence there cannot be; these men may be accused of moral turpitude, may be accused of upsetting law and order; but they do it merely because they think it is their duty to their country that leads them on, and they will not be prevented by imprisonment from carrying on their work after release. Are they to be treated as ordinary criminals? Whenever an individual, even the highest, challenges law and order, he being the weaker goes to the wall. So far we have nothing more to say. If Government in the Executive Department say, or in the Judicial Department say, that if an individual is allowed to carry on his propaganda, he will encourage the others, then Government may be quite justified in keeping him out in such a way that he will not at all be able to carry out his propagandist work. But, Sir, after getting these persons away, why should we not give them all the facilities that ordinary first-class

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misdemeanants in England are allowed? Is there any reason why a man like Gandhiji should not be allowed ordinary newspapers—as was acknowledged in the debate in the Provincial Council,—where is the harm? I know in the case which I have quoted in the United Provinces the prisoners were allowed to have magazines and books. I sent to one of them referred just now some books and these books passed the jailor. Why should not the same facilities be allowed to a man, decidedly a much greater man, and who, at any rate, will not do any mischief? Whatever can be said against him, he has laid all his cards on the table. He is the last man who will use any facilities given to him against established law and order. We want, Sir, uniformity of treatment. We want the Government of India to lay down that the treatment meted out to political prisoners who are convicted under the sections that are named, and who are not in any way convicted of injury to property or injury to person, should be treated as first-class misdemeanants. My plea, Sir, is based on two grounds. First is the ground of humanity; and the second that of statesmanship. These people, when they come out, will take their part in the civic life of the country and I hope in the political life also. Is it right, is it statesmanlike to act in such a way as would make them enemies of Government? Would it not be much better to treat them in such a way, that when they come out, they may be good citizens of the country, that they would co-operate with Government, and not non-co-operate? This is not the way to do so, it will merely drive them out of the fold. Now, Sir, I shall refer to one case in Bengal where political prisoners were whipped. Flogging is a punishment which I would like to see abolished, even if it be said on sentimental grounds. I may give an instance in Bombay where under the Police Act the question of whipping persons who were keeping houses of ill-fame and were guilty of maltreating young girls was brought in. In the Select Committee by a majority this clause was rejected, and the Council accepted the decision of the Select Committee. If, on humanitarian grounds we do not want even such persons to be whipped, much more is it necessary to rule that whipping should not be inflicted in jails on political prisoners. It is a surprising thing, Sir, that in an enlightened province like Bengal under the Governorship of one of the best administrators that England has sent out, this punishment should have been inflicted on political prisoners. The Honourable Member in charge gave an explanation of this incident in that Council; I do not think that that explanation was satisfactory. With reference to corporal punishment the Jail Committee have recommended, Sir, that such a punishment should only be inflicted in certain cases. They say: "Accordingly we recommend, first, that the punishment of flogging shall only be inflicted for mutiny or incitement to mutiny and for serious assaults on any public servant or visitor; and secondly, that a special report based on the record under section 51 of the Prisons Act to be made in the punishment book in every case in which flogging has been inflicted shall be properly submitted to the Inspector General of Prisons." The English Act goes still further. The English Act says "that flogging is now strictly limited as a penalty for gross personal violence to prison officers and for mutiny

or incitement to mutiny and then only in the case of persons convicted of felony or sentenced to hard labour." But I would like Honourable Members of the Council to note what follows: "The sentence can only be imposed by a tribunal consisting of not less than 3 persons, two of whom must be Justices of the Peace and the order for such treatment by such tribunals cannot be carried into effect until confirmation by the Secretary of State." I ask the Honourable the Home Secretary to adopt similar measures for this country. Personally I would prefer corporal punishment to go. But if that cannot be done in the name of law and order, let us adopt the English principle. That political prisoners do not stand on the same level as ordinary criminals, has been declared by an authority in philosophy and social reform: I mean Frederick Harrison, who says that "a political offender should never be regarded and punished in the same way as an ordinary criminal. For the former commits offences not for private gain but from a sense of public duty; instead of feeling himself humiliated, he regards his act as a public service; he is looked upon as a martyr by his own party, etc." I ask the Government not to make martyrs of all these people. It is in their own interest that I appeal to them not to do so. It is all very well for Government to say that they must do it in the interests of law and order and that they have the strength to do it. May I remind them that it is good to have a giant's strength but it is never good to use it as a giant.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary): Sir, I must congratulate the Honourable Mover on the lucid and moderate speech which he has made. I am glad that he has moved this Resolution, because it has afforded an opportunity for a discussion, which will, I hope, do something to remove the misapprehensions that are current with regard to the treatment of these prisoners. These misapprehensions have been sedulously fostered by the non-co-operation party. That party has carried on an assiduous campaign of calumny and misrepresentation on this subject. I cannot take the Council through all the false statements, false rumours and false reports which it has put into circulation; but I have here a partial collection of Communiqués issued by the various Local Governments. I shall be very glad to place this collection at the disposal of any Honourable Member, and I am confident that, when he has gone through it, he will be satisfied how little credence should be attached to the various statements that appear in the Press. The Honourable Mr. Lalubhai Samaldas referred to the treatment of political prisoners in Bombay. I have no detailed information on that subject; but there was, as he reminded us, recently a debate in the Bombay Legislative Council. I have been through the proceedings of that debate very carefully, and I find that the Honourable Home Member for Bombay gave a specific denial as regards the allegations of ill-treatment in the Visapur Jail.....

The HONOURABLE MR. LALUBHAI SAMALDAS: The Honourable the Home Member in reply to Mr. Harchandrai Vishindas in the other House placed a Bombay Press Communiqué on the table, and there it is said that they were treated, for reasons given, as ordinary criminals.

The HONOURABLE MR. S. P. O'DONNELL: That may be so; but what I had in mind was this statement by Mr. Hayward:

"Wherever specific misstatements have been made not of a vague general character, an inquiry has promptly been instituted, and, as a result, in every instance

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it was proved that the statements were malicious and stupid inventions devoid of all foundation. It will be enough to mention one or two as examples such as the deliberately false statements as to the ill-treatment at the Visapur Deccan Jail; the mischievous lies as to the ill-treatment of political prisoners in the Hyderabad Central Prison, and the rumours as to the ill-treatment of the Ali Brothers in the Karachi Prison, which were definitely disproved in the Law Courts in Karachi; and finally, that ridiculous story which was being circulated in Bombay not long ago of the flogging of Mr. Gandhi in the Yervada Prison."

But Sir, although the non-co-operators are assiduous in their attacks on the Government in regard to the treatment of these prisoners, they are generally silent or evasive as regards the conduct of many of these prisoners themselves. (Hear, hear). I am not referring to all these prisoners. There have been many who accepted without demur the inevitable conditions of jail life and to whose conduct no exception whatever can be taken. But there have also been many who have been guilty of the grossest indiscipline, who have set themselves deliberately to flout authority and to make the administration of the jails impossible. I may mention that there have been several serious jail outbreaks for which these prisoners have been directly or indirectly, wholly or partially, responsible. The Honourable Mr. Lalubhai Samaldas referred to the incident of the whipping of certain prisoners at Barisal. I think that case is a good illustration of the conduct of these prisoners. The case was fully discussed in the Bengal Legislative Council, and I will cite to the Council what the Honourable Mr. Stephenson said in regard thereto :

" 'I have here,' said Mr. Stephenson, a report from the Inspector General of Prisons dated the 11th May referring to the Alipore Central Jail and other jails to the effect that all of them were in an extremely bad state, namely, the determination of the political prisoners to smash the jail discipline and render it impossible to carry on the administration of the jail. On the 27th June they received a report from the District Magistrate of Backergunge who was himself in charge of the jail but was responsible for the peace of the jail. The District Magistrate said that the behaviour of the non-co-operation prisoners was most objectionable and insubordinate and it was difficult to keep them under control, and unless some steps were taken to restore discipline in the Barisal jail he would not be responsible for the peace of the jail. The Commissioner in forwarding this endorsed the District Magistrate's remarks and said it was absolutely necessary for the peace of his division that some steps should be taken to restore discipline not only in that jail but in the other jails. The House would agree that was a report which the Government could not ignore. It disclosed so serious a state of affairs that the Superintendent of the Barisal Jail was summoned to Calcutta to report on the actual condition of the jail and give his views as to the reasons for the state of things there. The Superintendent reported that several of the political prisoners had persistently refused to work or stand up in his presence and had committed various offences against prison discipline. Every punishment available had been resorted to. In some cases these punishments had been effective, in others not. The example of these prisoners was having a very bad effect on the other prisoners. In the Barisal Jail were a considerable number of prisoners who were there for different crimes, some of them of a desperate character, and it was impossible to allow these men to be influenced by the non-co-operation prisoners. The Superintendent of the Jail was convinced that the only remedy to restore to him the power—which had been taken away—was of inflicting whipping as the last resort. The Government had issued orders that no non-co-operation prisoner was to be whipped without special sanction."

I may mention that in March last the Government of India issued orders to all Local Governments that prisoners convicted of offences in connection with political movements were not to be whipped save in ex-

trene cases, in the last resort and by the order of the Local Government itself, not by the order of the Superintendent :

"On the 21st July the Government authorised the Superintendent to inform these prisoners that whipping would be resorted to if they refused to work and carry out orders."

Well, he did so, but in spite of several warnings they continued to behave as before, and in consequence five prisoners were whipped. Of these five prisoners, three had been convicted of the offence of theft and two of the offence of rioting. They were not prisoners, therefore, to whom the special treatment asked for in this Council would have been accorded. The only ground indeed on which they could be called political prisoners is that the offences had been committed in connection with the non-co-operation movement.....

The HONOURABLE SAYYID RAZA ALI : If they were guilty of theft how were they political prisoners ?

The HONOURABLE MR. S. P. O'DONNELL : I quite agree. But the offences had been committed in connection with the non-co-operation movement, and it was on that ground I presume that they have been described as political prisoners.

The Honourable Mover has referred to the treatment of prisoners in England and I gathered that he was under the impression—an impression very widely held in this country—that in England all political prisoners are treated as first-class misdemeanants. As a matter of fact that is a serious mistake. It is perfectly true that under an Act passed in 1877 persons convicted of sedition or seditious libel are so treated. But there are two points to be noted in regard to that. In the first place, of course, sedition in England is not only a comparatively rare offence, but also an offence which usually has no serious consequences. There is not in England, as there is in this country, a party whose avowed and express object is to spread disaffection, to tamper with the loyalty of the people, to paralyse the machinery of Government and subvert the existing constitution. It is usually possible therefore, in England to treat sedition and seditious libel with contempt. But, secondly, when prosecutions are launched in England and they some times are launched—it is not usual to prosecute for sedition. The accused is usually prosecuted under some other section of that comprehensive system, the common law. For example, Mrs. Pankhurst, whose name Honourable Members will perhaps remember, might I understand have been prosecuted for sedition. She was, however, not prosecuted for sedition but for conspiracy, and she did not get the benefit of the first division.

Then, Sir, sedition of course is not the only offence of a political character. There is also the offence of tampering with the loyalty of troops. Now, if anybody in England supposes that he can commit that offence at the risk only, if convicted, of imprisonment as a first class misdemeanant, he is reckoning without his host. Perhaps some Honourable Members will remember the case of Tom Mann, the well-known labour leader. He was prosecuted for that offence and he was not sentenced to imprisonment in the first division.

The HONOURABLE SAYYID RAZA ALI : What about the Irish political prisoners ?

[Mr. S. P. O'Donnell.]

The HONOURABLE MR. S. P. O'DONNELL : I am coming to that. I have seen it, Sir, stated repeatedly that in every country in the world except India all persons convicted of offences of a political character are treated as first-class misdemeanants. I have never, however, seen any evidence adduced in support of that allegation. Certainly I should be astonished to learn that on the continent of Europe any such practice obtains. There are, I believe, at the present moment in one part of Europe quite a number of prisoners who have been sentenced for offences of this character, and I should be astonished to learn that any of these prisoners are receiving treatment corresponding to treatment in the first division. I have no special information regarding the United States, but if the accounts in the newspapers are correct—I cannot of course vouch for their accuracy—there have been some pretty severe sentences passed on Communist agitators in that country.

Now, Sir, as regards Ireland to which the Honourable Saiyid Raza Ali referred, I hope to show later on that the instructions issued by the Government of India do not differ considerably from the special rules which were issued in the case of the Sinn Fein prisoners. But of course, it must not be understood that those rules represent the normal practice in Ireland. I happen to be an Irishman and I know something about the history of that land. There have been a considerable number of prosecutions in Ireland for offences of a political character, but I think Honourable Members may take it from me that not all the persons convicted have been given imprisonment in the first division. Those rules were passed in the course of an extraordinary emergency, at a time when three-fourths of the population were in active or passive rebellion, and they do not therefore represent the ordinary practice in Ireland. At the same time, as I have said I hope to show that the instructions issued by the Government of India do not compare unfavourably with the Irish rules.

And now, Sir, I shall explain what the instructions are which the Government of India have issued. But I wish to make it quite clear at the outset that it must not be assumed that because these instructions have been issued that therefore nothing had been done before. Numerous concessions had in fact been extended by the various Local Governments in the exercise of their rule-making power. But there was some diversity in the rules obtaining in the various provinces; the Government of India thought it very desirable that, as far as possible, there should be uniformity in this matter, and accordingly, after a conference with representatives of Local Governments at which all the questions involved were discussed, they issued general instructions to all Local Governments with the object of ensuring that the treatment of these prisoners should be regulated on more uniform lines. But in the main—and that is the point I wish to make clear—the instructions which I am going to explain to the House reproduce the existing practice.

The first point in these instructions relates to the criteria of exclusion and inclusion. The Honourable Mover recognises that it is not possible to accord special treatment to all prisoners convicted of offences in connection with political movements. He would exclude from that category persons who have committed crimes of violence and crimes against property. I think that, on reflection he will recognise that the limitation proposed

by him is unduly narrow. There are, for example, prisoners guilty of tampering with the loyalty of troops and the Police. There is not a—(The Honourable Mr. Lalubhai Samaldas :—Are these classed as political prisoners ?) I do not like the term “ political offence ” but tampering with the loyalty of troops and police is usually, as the Honourable Member will see if he looks up the references in the Press, described in this country, as a political offence. At any rate he will agree that persons who have committed this offence should be excluded. There is not a single country in the world in which that offence is not visited with severe treatment, and as I know of no reason why a different course should be adopted in this country. Then Sir, there have been amongst those who have been convicted during the last year, particularly under the Criminal Law Amendment Act, a large number of persons who have been hired to commit offences—Coolies, mill hands, hooligan have been hired in Calcutta and in Delhi to take part in volunteer demonstrations. I think the Council will agree that people of that sort should not be given special treatment. Accordingly, the instructions lay down that the following prisoners should be excluded from the class to which special treatment is to be extended; firstly, all persons convicted of any offence which directly involved violence, or an offence against property; secondly, persons who have incited others to crimes of this character; thirdly, persons hired to commit offences in connection with political movements or who have committed such offences in the hope that in the resulting disorder opportunities of looting might occur; fourthly; persons who have been guilty of attempts to seduce soldiers or police from their allegiance; and fifthly, persons convicted of offences directly involving criminal intimidation, at any rate, when violence has been used for the purpose of intimidation. I think the Council will agree that these classes of prisoners are not entitled to any special treatment. It does not, of course, follow that every one who is not excluded because he falls under any of these categories should necessarily and invariably receive differential treatment. Every case has to be considered on its merits, and therefore criteria of inclusion are required as well as criteria of exclusion. These instructions lay down accordingly that the selection of prisoners for differential treatment is to be based on the status, character and education of the prisoner and the character of his offence. I wish to invite the particular attention of Honourable Members to the inclusion of the element of character. It has been said that Government has indeed extended a certain amount of leniency to prisoners of high standing, but that prisoners of more lowly standing have been treated harshly and severely. That is not true. It may be that the majority of the prisoners who have been given special treatment have been persons of good standing, but that is because the other prisoners for the most part belong to the class to which I have referred, the class of prisoners who are hired to commit offences; but in any case the inclusion in the criteria of the element of character makes it perfectly clear that prisoners of more lowly standing, if they satisfy the other conditions, will be eligible for special treatment.

The next point Sir, is as regards the agency by which the selection of these prisoners is to be made. In this respect there has been great diversity in the practice of Local Governments. In some cases, the selection has been made by District Magistrates, in others by the Courts and in others, by the Local Government. I think it is obvious that if the selection is left entirely to the discretion of

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Magistrates or the Courts uniformity will not easily be attained. The Government of India considered that it was most desirable that as far as possible the classification should be made on uniform lines, and therefore the instructions lay down that the selection is to be made by the Local Government, or that if made by the Courts or District Magistrates, the orders passed in each case shall be subject to confirmation by the Local Government. Uniformity will thus be effectively secured.

And now, Sir, I come to the concessions to be given to these selected prisoners. (1) They are to be kept separate from the ordinary prisoners and there is to be nothing in the nature of solitary confinement. (2) They will be allowed to import their own food. Government will provide the food prescribed for ordinary prisoners of the same social class, but if they so desire they will be allowed to import additional food at their own expense. Articles of luxury are excluded but any food of a simple character may be imported. (3) They will be permitted to wear their own clothes. (4) They will be allowed to use their own bedding and, if practicable, they will be allowed to provide their own beds. I may explain that there are difficulties as regards the provision of beds. The jails were not built for the accommodation of people of this class, and obviously if there is a large number of these prisoners in one jail it would be difficult to let all of them bring in their own beds. There is also a further difficulty which applies particularly to the Punjab. The population of that province is, as we all know, warlike and virile, and it appears that, at any rate the non-co-operation prisoners in that province are apt to quarrel amongst themselves; and the Punjab authorities believe that if beds were generally provided they would be broken up and used as weapons. However, so far as is practicable, these prisoners will be supplied at their own expense with beds. (5) They will further be allowed books and magazines. Newspapers will not ordinarily be permitted. I want to explain quite clearly the reason for the decision on this point. That decision was not inspired or influenced in any way by the desire to shut these people out from any news of the outside world. It would, in any case, be hardly practicable to do that since fresh prisoners are constantly coming into the jails. The decision is based simply on practical experience. Newspapers were permitted in a number of jails and the consequences were unfortunate. They were used for propaganda purposes, and there is every reason to believe that the serious outbreak in the Lahore Jail was directly due to their use for this purpose. Therefore the instructions lay down that normally newspapers will not be supplied but that in exceptional cases they may be. Local Governments can in exceptional cases allow newspapers. But as the prisoners are provided with books and magazines, it cannot be said that their intellectual needs are not adequately catered for. (6) These prisoners will be allowed to write and receive a letter once a month, but on urgent occasions the rule may be relaxed at the discretion of the Superintendent. (7) Visits will also be permitted once a month. These concessions are of course greatly in excess of anything allowed to any other class of prisoners. (8) They are not only to be relieved from the obligation to labour but they are also to be relieved of all menial duties. (9) As regards the supply of furniture, the rule is practically the same as regards the supply

of beds; that is to say, where possible, furniture of a reasonable character and amount will be allowed and, if the prisoners so desire, they may use their own feeding utensils. (10) Finally, Sir, it is laid down that hand-cuffs and fetters should not be imposed on these prisoners except by way of punishment or when if this were not done there would be danger of the prisoner's escape or of an attack being made on the jail staff. That means of course that if the prisoners are ordinarily well behaved fetters and hand-cuffs will not be imposed. The rule applies also to these prisoners when under trial. Of course all these privileges are subject to good conduct. They can be withdrawn for misconduct. But while the Superintendent can withdraw any individual privilege he cannot remove a prisoner from the special class. That can be done only by the Local Government.

I think the Council will agree that these instructions carry leniency as far as is practicable or desirable. Indeed the only question that arises is whether they do not carry it too far. After all imprisonment is intended to have a preventive and deterrent effect. That is the only justification for passing a sentence of imprisonment, and it is essential that its deterrent character should not be destroyed. Subject to that fundamental condition however the Government have done what is possible to mitigate the conditions of jail life for those prisoners to whom treatment more lenient than that accorded to the ordinary criminal may reasonably be extended.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan): Sir, this Resolution defeats itself. It says:

"Prisoners who are not convicted of violence to person or of destruction of property or of incitement thereto."

I do not think it will be very easy to find out a man who is not guilty of these things, and who is considered a political prisoner. I think the greater the members of these political prisoners the more they have been accused of such things. In fact they were not dealt with and the dupes in their place have been suffering.

The HONOURABLE MR. LALUBHAI SAMALDAS: You are talking of the Punjab.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I am talking of India. I will come to Punjab later on. It has been suggested that political prisoners should get a lot of concessions. If they are so well treated, I think the jails will be charitable institutes or poor houses because if the poor people once come to know that there is a way in which they could be treated as first class prisoners, they will rush to the jails. Most of these volunteers I think get pay from their organisations and I think they are budmashes of the worst character and instead of doing mischief by themselves, they combine to make an organisation so as to terrorise the people. These are the people who directly they have done the mischief go to jails as Government guests. These are weaknesses. If a man has done mischief he should be treated as he deserves. If he is treated well, that is considered a weakness. There was a strong man who put a stop to such a thing. But his policy was not considered good enough but after two years the same policy had to be adopted with about 20 times more rigour, but what happened in the meanwhile. There have been disorders everywhere, in nearly every presidency and hundreds of lives have

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been lost. I do not know how others think about this, i.e., the man who starts such a propaganda, the outcome of which is all these murders. I call him a murderer and worse than a murderer, because a murderer for some motive kills perhaps one or two men and is finished consequently but a man who brings about a sort of chaos in the country must be responsible for all the mischief and troubles that go on in it and the mischief ought to be attributed to him and him alone.

Now, Sir, the only danger is that if such things go on, what will happen? It is absolutely clear, things

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are working towards it,—it would be either a sort of civil war or revolution, and I think those who see the papers can see what has happened to Ireland. Are we going to be in such a condition ourselves? We ought to learn a lesson. In the Punjab, Sir, and I come to the Punjab now, (pointing to Honourable Mr. Lalubhai) like the Moplahs, who are a fighting race, you have seen how much money Government had to spend on them, and how many men were killed there. Now take, for instance, Multan. Exactly as it has been in the Moplah country, the same has happened in Multan, and that is, that these men of various factions have gone there and incited the people, and when the people were incited, they fought and broke each other's heads. But who are the murderers, and who are the people who ought to be blamed? Those who have put them on to it. Now, Sir, for instance take the Punjab; from there so many people have been going into the army as soldiers. If such things go on, there is every danger that these soldiers may get imbued by such ideas,—because a soldier is not always in the army, he must go to his village, he must go backwards and forwards, and if such things go on in their villages, they must partake of them; so it is a very very dangerous thing, particularly in my part of the country,—and it is more so I think in my friend's—the Honourable Major Mahomed Akbar Khan's—country, where there is danger of invasion, a foreign invasion, either from a foreign country or from the borderland. We have seen, Sir,—I was in the midst of it myself—that whatever was going on in the middle of the Punjab, there was no such difficulty, but directly they reached Peshawar, in came the invasion; and we always see in the budget that a big sum was spent on the 'experiment' for allowing these things to go on; and if such goes on as happened before, naturally there will be again expense. So I think, Sir, that those who want economy, should try and put a stop to this. Now, Sir, something has been said about India and its political prisoners, and also about England and other countries: but in the latter they are a nation, and whatever the parties want, their idea is to go to their country in one way or another. If one proves not a good way, they say, we will do it in any other, but they are really for the good of the country; but here, it is quite different. To begin with, we are various nations and various communities and religions, if there is any trouble, amongst us it is attributed to the Government, which is considered to be foreign. But we have to see, Sir, that if we unite and, as we call it, if Swaraj is going to come, well I think we have seen a little portion of it in Multan,—what will be is that there will be a civil war, we will fight amongst each other, and that is why we want a Government which is of a different faith to come in and do justice between

the contending parties. It has been seen, Sir, from the time of Alexander and even before, that India has always been a country which has been invaded, and every time that invasion came, the outsiders won.

The HONOURABLE MR. LALUBHAI SAMALDAS : That is rather our misfortune.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : So, if the things be such, then why not have the nation who has organized us during the last century or more and who has been giving us protection from such trouble? We have come to such a stage that we have got these reforms, and we come and stand here and speak (Laughter). But if some of our other friends from outside came, well, I do not think we would be here in this Chamber (Laughter). Then, Sir, we have seen that all these undesirable people, change from time to time,—at times they brought in the Rowlatt Act, and they found, too much of the Rowlatt Act, people did not like it, they turned to something else, and then perhaps to the Prime Minister's speech, and then perhaps to something else (Laughter).

The HONOURABLE THE PRESIDENT : The Honourable Member is straying a bit.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : I mean this, that their being in jail is a useful thing, there is not too great a trouble to them there. (Laughter). But if we are going to have jails, such jails that they will invite them, well what else do they want? First, they will become martyrs, and then they will have a very nice time. A jail must really be such that they should not like to go to that jail again. (Laughter). But as regards the jail about which my friend, the Honourable the Home Secretary has to-day said, well, there I do not even agree with the Government. They have created an agreeable atmosphere for these men who are the plague of the country, to go more to it and even invite those who do not want to do these things. Well they say, these have gained a name, a notoriety, and are doing very well in the jail, why not follow them? So, I hope, Sir, that when we are here, invited to be a part and parcel of the Government, we really should see that we govern ourselves, and should look after the country and see that such things do not occur. But if we are here to defeat the Government or do something which will give them trouble, that is not doing our duty, and I hope, Sir, that the House will reject this Resolution which is now before it, because this is a House, that is the highest in a way in the Legislature and should see that the members act up to their duty.

The HONOURABLE SAIYID RAZA ALI (United Provinces, East : Muhammadan) : Sir, I think the Council must have welcomed the lucid statement that was made on the subject by the Honourable Mr. O'Donnell. If I rise early, Sir, by justification for that is to examine the soundness of the principle that was enunciated by the Home Secretary and to find out how far that principle can satisfactorily work if applied to the conditions obtaining in this country. Towards the close of his speech the Honourable Mr. O'Donnell made a very important pronouncement when he claimed for the draft rules the merit of being as desirable and

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satisfactory as leniency could under the circumstances go. It is, Sir, with a view to finding out whether, really, this claim that has been put forward on behalf of the Government is a right claim that I wish to devote a few minutes of my speech to it. I need hardly go into the details of the entire question; the Honourable Mr. O'Donnell has carefully gone into the facts of the case.

Very briefly stated, the position of Government as disclosed by the Home Secretary's speech is that the presence of these non-co-operators in jails has led to a serious breakdown of discipline, and therefore the Government, while desiring to remove what appear to them legitimate grievances, are not prepared to satisfy public feeling in its entirety. Sir, my short reply to that question would be that it unfortunately appears that the struggle between the Government and the non-co-operators is going to be a long one. This is not the time to go into the merits of the question; but if I am right in that estimate, then I submit that it is the duty of Government to separate non-co-operator prisoners from the others. If, as is admitted by the Honourable Mr. O'Donnell, there are among these prisoners men who are of very high character and against whom, except their political opinions, not their bitterest enemy, not even my friend Malik Sir Umar Hayat Khan, can urge anything, then surely it is time that some adequate provision be made for separating these two classes of prisoners. To a certain extent I must agree with the Honourable Mr. O'Donnell that the appearance of some non-co-operators in certain jails has tended at times to have a prejudicial effect on the discipline of the jails. But the remedy is to have separate jails, as has been done, for instance, in my province, for political prisoners. I do not think it is necessary for me to go into details, but I would respectfully and strongly protest against unnecessarily harsh measures being taken against these prisoners, whether in the form of whipping or in any other form, in the blessed name of discipline. No doubt, Sir, we have to maintain discipline; but then there is a limit to it, and if the Government cannot maintain discipline in these jails without having recourse to strong measures, for which I submit there is no justification, then surely the only way to accomplish the object which is so close to the heart of this Council—minus one member I believe—is to separate the two classes of prisoners. Time does not permit me to go into the conditions of political prisoners, either in England or in Ireland. But surely we were entitled to hear something from the mouth of that distinguished Irishman who sits on the Government Bench about the treatment of Irish prisoners, say, in the year 1914 or 1915, when Sinn Feinism had not come to the forefront in Irish politics. The list of concessions that has been announced, I believe, would go to allay the excitement in the public mind to a certain extent. But all the same, the conditions that have been laid down are so severe and so rigorous that practically the Government are taking away with one hand what they are giving with the other. The list has been read out by the Honourable Mr. O'Donnell, and I do not think, Sir, that so far as these conditions are concerned, the Government can claim to be in a position on which they can be congratulated by this Council.

Then, Sir, I would propose in this connection the amendment that stands in my name. My amendment is:

"That towards the close of the Resolution that has been moved the following words be added:

"and that inquiries should at once be made into the condition of political prisoners in the North-West Frontier Province."

The reason, Sir, why I propose this amendment is that in all other provinces where considerable sections of non-co-operators have been sent to jail, we have local Legislative Councils in which the grievances of those prisoners can be agitated. Whereas, in the case of the Frontier province, there is no Council, and it is this Council which serves as the local Council for that province. Now, without going into details, I would submit that only two days ago I put a certain number of questions on the treatment of political prisoners in the Frontier Province. My object was to elicit certain information from the Government. I gave notice of my questions on the 5th, and on the 18th the reply by the Government was that inquiries were being made and the information would be communicated to me as soon as it was available. Now, Sir, I thought that Peshawar was one of those places under British rule that were telegraphically connected with Simla. All the same it appears that 12 clear days were not sufficient to enable the Government to get the necessary information from Peshawar. Whether this attitude was right or not, I leave to the Honourable Members on the Government Benches to decide. In the absence of that information, all the statements that I may make, will unfortunately be open to the objection of being *ex-parte*. The trouble in the Frontier Province so far as non-co-operating prisoners are concerned, is three-fold. I will state the broad points alone. The first difficulty is that food is not allowed to be supplied, except perhaps in one or two cases, to political prisoners from their homes; they are not allowed to get this and have to be contented with jail diet. The second trouble is that in almost every case they are not allowed to wear their private clothes and have to wear jail clothing. That is a matter which not only the non-co-operators, who are supposed to be at war with the Government, but also those who are watching this contest between the two contending parties, cannot look upon with unconcern and remain passive spectators. They feel that if the attitude of Government is unreasonable, then it is time they should intervene. The third grievance is that, though a large number of political prisoners have been sentenced to simple imprisonment in the Frontier Province, yet they were put into solitary confinement within a few days of their admission to jails. In fact, cases have been brought to my notice of people who were put into solitary confinement on the 7th of April and who were still in solitary confinement towards the end of August.

I do not mean that all this time they were under solitary confinement, but with very brief intervals most of their time was spent in solitary confinement. Now, there is no province in India in which a thing like that can happen. Though my Honourable friend, Mr. Lalubhai Samaldas has mentioned the province to which I belong as one where there have been cases of improper treatment, I can assure the Council that if the treatment that has been extended to the political prisoners of my province were to be followed in the other provinces the lot of these unfortunate

[Saiyid Raza Ali.]

political prisoners would be much better than it is to-day. (*The Honourable Sir Maneckji Dadabhoy* :—Will you tell us about the social position of these prisoners ?) So far as the social position is concerned, I must agree that a uniform treatment cannot be insisted upon and that a prisoner's status ought to be taken into consideration. I am taking the case of prisoners occupying a certain social position in my province in order to compare their case with that of political prisoners of similar social position in the North-West Frontier Province. As regards the gallant speech made in the course of this debate, the highest compliment that I can pay to the author of that speech is to ignore that speech totally.

The HONOURABLE THE PRESIDENT : To the Resolution under discussion, amendment moved :

" That at the end of the Resolution after the word ' England ' the following be added :

' and that inquiries should at once be made into the condition of political prisoners in the North-West Frontier Province '."

That amendment is now under the consideration of the Council and discussion must be confined to that amendment.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I have no detailed information regarding the treatment of these prisoners in the North-West Frontier Province. The Honourable Mr. Raza Ali asked certain questions the other day on that subject and he has complained that the information has not yet been supplied. I do not think, Sir, that there was any excessive delay on the part of the Government of India in asking for this information. It may have been that the letter to the Chief Commissioner did not issue for two or three days. It must be remembered however that there are a very large number of questions not only in this Council but also in the other Chamber to be dealt with, and the pressure of work sometimes renders it impossible to treat every question as absolutely of immediate urgency. However the information has been asked for from the Chief Commissioner and will be supplied to the Honourable Member when received. But I understand that the general position as regards political prisoners in the North-West Frontier Province is this. The conditions of that Province are exceptional. It is inhabited by a very virile, vigorous people ; it contains much inflammable material ; it is full of modern weapons ; it has on its borders the trans-frontier tribes ; and any weakening of authority inevitably re-acts on these tribes. I understand that for these reasons the Chief Commissioner did not in the past see his way to extending any preferential treatment to any of these prisoners. There are I may mention as a matter of fact, only 41 of them and of this small number 23 are imprisoned, I understand, under the Frontier Regulation for failure to furnish security and can obtain their liberty at any time by furnishing security. However, Sir, the instructions which I have already explained to the Council apply just as much to the North-West Frontier Province as to any other Province, are just as binding on the Administration there as on the administration

of any other Province, and since Monday last when I replied to the question, it has been reported that draft rules to give effect to these instructions have been prepared by the jail authorities in that Province and are under the consideration of the Chief Commissioner. That means that the treatment of prisoners convicted of offences in connection with political movements in that Province will be brought into line with other Provinces. I hope that will satisfy my Honourable friend in regard to his amendment. I hope to have an opportunity of replying later to the general observations he made. At present I am only dealing with the particular amendment under discussion. As regards that amendment, the position is as I have said, namely, that draft rules have been prepared to give effect to these general instructions which I have explained to the Council.

The HONOURABLE THE PRESIDENT : The question is that the following amendment be made :

" That at the end of the Resolution after the word ' England ' the following be added :

' and that inquiries should at once be made into the condition of political prisoners in the North-West Frontier Province '."

The HONOURABLE SAIYID RAZA ALI : In view of the statement of the Honourable Mr. O'Donnell, if the Council permits me, I won't press it.....

The HONOURABLE THE PRESIDENT : I am afraid I have to put the amendment to the vote of the Council. The Honourable Member should have risen before I began to put the question. I gave him ample opportunity to do so. The question is that the following amendment be made :

" That at the end of the Resolution after the word ' England ' the following be added :

' and that inquiries should at once be made into the condition of political prisoners in the North-West Frontier Province '."

The Amendment was rejected.

The HONOURABLE SAIYID RAZA ALI : I ask for a division

The HONOURABLE THE PRESIDENT : The request for a division is, I fear, frivolous, and I disallow it.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muham-madan) : I think this Council and the country at large have reason to be thankful to the Government for the lucid statement made on their behalf this morning by the Honourable the Home Secretary on the very vexed question which has excited so much attention in the public press, particularly the non-co-operation press on the question, as I say, of the treatment extended to political prisoners in this country. Sir, the Honourable Mr. O'Donnell has not only explained the position of Government so far as political prisoners are concerned, but he has made a very important pronouncement in regard to the concessions which are to be extended to them hereafter. These concessions are what were necessary, but there are one or two points in regard to them to which I will refer later, and if when the Honourable Member rises to address the Council again his explanation is equally satisfactory I for one will request the Honourable Mover to withdraw the Resolution.

[Mr. Phiroze Sethna.]

The Honourable Mr. O'Donnell commenced his remarks by a reference to the speech of the Home Member of the Bombay Government when a similar Resolution was discussed in July of this year at Poona. The Honourable Mr. O'Donnell referred in particular to what was stated by Mr. Hayward, the Home Member of the Bombay Government as to the false rumours circulated in the non-co-operation press in regard to the treatment extended to political prisoners. I will admit that the non-co-operation press is, unfortunately for themselves, given very much to exaggerate as also not always to make sure of their facts by which in difference their statements are often discredited, but whilst Mr. Hayward was right in contradicting those false rumours perhaps Mr. Hayward did not answer satisfactorily some of the points that were raised in the discussion at Poona. He was asked why men who were convicted for seditious offences in England were treated comparatively more lightly than they are in this country. To this matter the Honourable Mr. O'Donnell has also referred and has tried to explain to us the difference between seditious offences in England and in this country. The Honourable Mr. Hayward of the Bombay Government said that seditious offences were rare in England whereas they were so frequent in India. The Honourable Saiyid Raza Ali to-day interrogated Mr. O'Donnell by inquiring in regard to the seditious offences in Ireland. Mr. O'Donnell in answering I believe referred to the rules which have been recently passed in Ireland for the treatment of political prisoners. I refer to the Prison Act in Ireland of 1877 passed half a century ago. If it is admitted that there exists sedition in India to-day, I think Honourable Members will admit that sedition in Ireland fifty years ago was no less rampant and yet in that year the Prison Act of 1877 laid down that "every prisoner under sentence inflicted on conviction for sedition or seditious libel and any person who shall be imprisoned under any rule, order or attachment for contempt of Court shall be treated as a misdemeanant of the first division."

Much has been said in regard to the definition of a political prisoner. Mr. Hayward in Bombay expressed his inability to define the term. I do hope that the legal talent associated with the Government of India could frame a very workable definition, but whether they do so or not Mr. O'Donnell has told us that political offenders will now receive special or preferential treatment. In regard to that, Sir, I would like to point out that if any definition is proposed, the opinion expressed by the present Under Secretary of State for India on March 27th in the House of Commons would help in arriving at such definition. He observed :

"There is a large class of cases in which a man who presumably from honest motives expresses political views, the public expression of which is an offence under the law, should not be subjected to humiliating treatment or classed with criminals whose offences show moral obliquity."

The Honourable Mover in carefully drafting his Resolution has certainly excluded men who are convicted of violence to person or destruction of property or incitement thereto. The Honourable Mr. O'Donnell referred to others, particularly those tampering with soldiers and also to those hivelings engaged in Calcutta and elsewhere for creating disorder

and inquired how they could be excluded. I may say that the Honourable Mr. Lalubhai Samaldas would be the first to exclude such persons as well and whilst the Honourable Mr. O'Donnell refers to the tampering with soldiers, I myself would also include tampering with the police. I am sure, Sir, that the Council are at one in thinking that no mercy should be shown to them whatever.

My Honourable friend, Mr. Raza Ali, in the course of his speech observed that non-co-operators might be put in separate jails. I hold that this is almost an impossible proposition. Does my friend mean that hooligans taken from jute mills and paid daily wages, for creating disorder and whose activities have involved great loss of life and property, should be located separately and treated as other than ordinary criminals, simply because they happen to be non-co-operators? Surely, Sir, the Council cannot possibly endorse his proposal.

My friend, Mr. Lalubhai, referred at some length to the difference in the treatment extended in the different provinces in India to political prisoners. I am glad to learn from the Honourable Mr. O'Donnell that the Government of India will endeavour to secure uniformity of practice in all provinces in the matter of the treatment of political offenders and that they are issuing recommendations to the different provinces to preserve that uniformity and try to level up the treatment to the extent that prevails in some provinces, and not level it down to the methods adopted in provinces where hitherto they have not been inclined to be lenient.

The Home Secretary has given us a list of offenders who will be given special treatment. He however has made an exception in the case of five classes of political offenders. He says that preferential treatment will not be extended to those who are committed for using violence, who are committed for inciting to crimes of violence or offences against property and who tamper with soldiers. So far as that goes, I am in perfect accord with him, but in regard to the other two I would ask for more explanation from Mr. O'Donnell as regards items 3 and 5. In regard to No. 3, if I understood him rightly, he said that persons who in what they say or write do anything as a result of which ultimate disorder and looting might follow are not to be given special treatment and in the last category similarly comes any one who does anything which may even remotely involve criminal intimidation. Now, Sir, the explanation I seek in regard to Nos. 3 and 5 is this. Very wide discretion is given to those who will decide in regard to these two points. I venture to say that even a man like Mr. Gandhi could not be given special treatment under 3 and 5. It might be argued that he has written something in "Young India" or that he has made a speech which if it did not lead directly to disorder, would have a tendency to do so later. I would like the Home Secretary to explain to what extent he proposes these two conditions, Nos. 3 and 5 to go. If they are as satisfactory as the rest, I repeat, Sir, that I will request my Honourable friend on my right (Mr. Lalubhai Samaldas) to be satisfied with the explanation of Government, because I do believe that they have tried to meet the popular demand as best they could under existing conditions.

[Mr. E. L. L. Hammond.]

The HONOURABLE MR. E. L. L. HAMMOND (Bihar and Orissa : Nominated Official) : There is one remark which fell from the Mover of the Resolution which I think calls for some explanation. He referred to the province of Bihar and Orissa and said that at first preferential treatment was accorded to the people who go by the name of political prisoners.....

The HONOURABLE MR. PHIROZE SETHNA : As compared to other provinces.

The HONOURABLE MR. E. L. L. HAMMOND : Quite so : and that subsequently this treatment was withdrawn. That statement was quite right. It was withdrawn because although these gentlemen were treated as first class misdemeanants their behaviour in jail became on a par with that of the common felon. They ceased in fact to be entitled to the words 'first class misdemeanant'. I do not want to trouble the Council with a large number of instances but I can give one or two, and I would ask Honourable Members to consider whether a man of the description which I am going to give is entitled to the least consideration. The person, I would rather not mention names, was convicted under the Criminal Law Amendment Act. That happened to be the offence regarding which there was clear proof, but there was every reason to believe, in fact it was known that he was one of the parties, who in the alleged interests of temperance had exhumed the body of a liquor vendor and had thrown it on the roadside. This man was convicted under the Criminal Law Amendment Act. So I think I am right in saying that he was treated as a first class misdemeanant. He went to the Hazaribagh jail. There he managed to stir up a good deal of trouble. He and his friends amongst other things circulated a lie to the effect that the Koran had been insulted. One of the privileges allowed these men was that they might read the Koran. Of course it was intended that they should read the Koran at proper intervals and with due reverence and not to use it as a means for furthering indiscipline. The jailor happened to pass along and he found the man reading the Koran out of the prescribed hours and he told him not to read it. It was alleged that the Koran was kicked out of the man's hand and that abusive language had been used. Inquiries were at once made and it was found that the story was absolutely false and without any foundation. That did not satisfy these political prisoners. They set themselves to work to make the administration of the jail absolutely impossible, and eventually the Deputy Commissioner had to hold an inquiry and the leader was sentenced to be flogged. The order was duly carried out. Shortly afterwards there were articles in the Bombay newspapers in which reference was made to the flogging in jail, of a gentleman described as the "Reverend Maulvi".

This was a man who, as I say, had been a party to the exhumation of a corpse, who had been given this preferential treatment, and who had so far declined to accommodate himself to the conditions of a jail as to work up what was in fact a revolution within the jail. That is one case. Another trouble is this. When you get in jail these educated gentlemen, to whom the Honourable Mover has referred, it is of course, sometimes difficult to treat them properly and to give them this preferential treatment. There was one man, Mr. Muhammad Shafi in Muzaffarpur,

a leading pleader who abandoned his practice and a man who is generally held in very high esteem. He was sentenced to a year's imprisonment under section 107 of the Criminal Procedure Code and was sent to the Muzaffarpur jail, where his personal influence was such that the two assistant jailors sent in their resignations. I may add that before he went there, proceedings had been drawn up against both these jailors which might in any event have terminated their employment ; but they took advantage of Mr. Muhammad Shafi's presence there to make a demonstration, and resigned. He was transferred then to the Buxar jail, where again he began tampering with the jail staff. Obviously, that could not be allowed. Equally so, it was decided that he ought to be given treatment that would have been given to a European prisoner ; so he was put into a separate cell, arranged for that purpose, a large spacious cell, with its own court-yard, and this was represented as inhuman treatment,—because he was sentenced to solitary confinement ! So, Sir, it is really very hard to please these people.

Obviously, it appears that the statement made by the Home Secretary fully meets the requirements of the Honourable the Mover of the Resolution. I would like, however, speaking on behalf of a provincial Government, to say that there is a necessary condition, a condition precedent to the granting of these privileges, and that is that there must be reciprocity on the side of these prisoners. If they are given special treatment, surely they ought to show their gratitude, at least by refraining from trying to make jail discipline impossible. They are people, many of them, who can undoubtedly affect the other persons in the jail and make matters very difficult. One instance of that which I can give occurred only a few weeks ago. I refer to Mr. Mazarhul Haq, a name well-known, a gentleman, I believe, who before now has spoken in this very Council Chamber. He has just been sentenced for defaming the Inspector General of Prisons. He said that the Inspector General of Prisons went out of his way to insult the Muhammadan religion and a Muhammadan prisoner : and Sir Banatvala Hormusji, the Inspector General of Prisons, was allowed by Government to prosecute Mr. Mazarhul Haq for defamation. Mr. Mazarhul Haq, being a non-co-operator, could not or would not plead, and he is now in jail, where I am told he has just begun a modified form of hungerstrike ; and I see it announced in a paper that he "has done away with two-thirds of the grievances in the jail." Well, now a man like that comes into a prison ; he can make jail discipline and jail administration impossible ; and I do hope, Sir, that nothing will be done to fetter or tie the hands of the Local Government or the jail authorities in maintaining the discipline of the jail. (Applause).

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : Sir, I do not propose to take much time ; I wish to make only two observations and to correct what is I think a mistake of fact, and that mistake of fact arises this way. The Honourable gentleman who spoke a little time before me mentioned that there was a strong man, and he introduced a certain policy, and that policy has been abandoned, and that that policy is now being re-introduced. I humbly submit that no such thing has happened. There was a strong man, I know,—I need not mention his name ; but we all

[Mr. G. S. Khaparde.]

know that the Government of India condemned him, and the Secretary of State also condemned him, and that policy certainly is not being revived—for the simple reason that the speech which the Honourable Mr. O'Donnell made this morning hardly shows that that policy is now in vogue. On the contrary, the Government of India are endeavouring to meet the popular opinion on this point and trying to soften the rigours of jail life and discriminate between good men and bad men,—a man who has been duped and a man who has been the principal offender, and so on. So, that is a mistake of fact which I thought it proper to condemn. Another thing which I wish to mention is that there appears to be an idea that if a man has committed a very bad offence, he should be treated with exceptional rigour, that he should be given exceptional trouble,—and the justification of that doctrine was that if you make jails very attractive, then people will give up their houses and will go back and stay in jail. That was put forward here seriously ! It has amused me that such a thing should be put forward. Nobody likes to be in confinement : take a bird, and you give it good fruit and so on,—but open the door, and the parrot flies out. So it is ; no human being, nobody, likes to be in jail ; nobody believes or can possibly believe that the jail is so comfortable that he had better not live with his wife and children but go back to jail. That kind of assumption is entirely wrong. As I myself believe, violence is never cured by violence. Hate is never cured by hate. It is only by contraries : if there is a fire, you pour water on it, and not add fuel to the fire. If you indulge in violence,—well if a man pricks me with a pencil, then I prick him with a sword, and then he shoots me with a revolver,—how would it end ? If you prick me with a pin, I say, ' all right, don't do it again, it hurts me,' and I treat you better, then the chances are that you will repent, and such things would not happen. A man by the roadside hurt me at the toes, I got to the roadside, and only stayed there, said nothing at all. He looked back, and said, ' Have you been hurt ? ' I replied, ' Yes.' Then he said, ' Well, I am sorry.' The poor man came round and attended to me, and then we went back home, and afterwards he turned out to be a very very good man indeed. (Laughter). So it comes to this that small injuries have got to be forgotten. It is not that a small injury has to be retaliated with a higher injury. Similarly, in taking measures, it is well-known—I suppose I am not guilty of saying anything improper—that the people who have always to deal with public enemies generally get a certain amount of severity instilled into them. A gentleman, a captain leading an army in a foreign country, an enemy country, would adopt very different measures from an officer, a military officer, putting down a rebellion here,—for this reason, that, after all, when we are dealing with our own countrymen and in our own country and in our own Empire, we recognize that it may be that one section has hit another section ; it may be, when I am speaking, that the tongue gets between my teeth ; but I do not pull out the tongue nor the teeth. You have only got to take care that the tongue does not get between the teeth. Similarly—I am not in love with the non-co-operators, I dislike them—I remember that, after all, they are our countrymen ; we cannot put them down in the same way as I should put down a rebellion in Russia or somewhere else. You have got to treat

them and if you treat them kindly, the chances are that these people will repent and will come back and will become good members of society, whereas if you treat them with great severity and give them any amount of trouble, people may get hardened and ultimately they come out worse than they were when they went to jail. So I beg humbly to submit that I thought, when I heard my Honourable friend, Mr. O'Donnell, that this Resolution was really half accepted practically, but this subsequent discussion has shown that there is an element in this Honourable House who believe in severity, who believe that the punishment should be severer than the offence that has been committed and who urge that life must be made a burden to the prisoner who is sent to jail. I humbly submit these are wrong views. I think the original Resolution should be supported, and even the amendment that was moved ; the amendment is very innocent, it only says, ' you kindly make inquiries in certain provinces.' The amendment is a very innocent one. It only asks that inquiries may kindly be made in a certain province. That is a small matter. But the main proposition is really a move in the same direction in which Government is already moving gradually. As far as possible, all the rigours of prison life should be softened ; so softened that people will really get the idea that Government is after all kind to them, and then when they get out they will be duly grateful and will, I hope, behave better. With these words, Sir, I support both the Resolution and the amendment.

The HONOURABLE THE PRESIDENT : The amendment has already been rejected by the Council.

The HONOURABLE MR. LALUBHAI SAMALDAS : Sir, I must begin by saying that I am very thankful to the Honourable the Home Secretary for his sympathetic reply. He spoke of two matters not referred to by me in my speech. One was that I did not say anything about tampering with the army, and the other point was about using hirelings as Volunteers. I am prepared to admit, Sir, that it never occurred to me that tampering with the army was classed as a political crime. If it had, I would surely have included that offence under one of the exceptions. (Hear, Hear).

With reference to the Bijapur jail—although it is a small matter—I would like to draw the Home Secretary's attention to the fact that the two members who were fettered are not the members who are referred to in the Honourable Mr. Hayward's reply. If he would please look up the Assembly debates he will find that the Honourable the Home Member has referred to the press communiqué regarding these two people who are said to have been fettered. They belonged to socially a high class and were classed as political prisoners.

With reference to whipping, I see that there has been lately a marked improvement in this matter. The final authority is now the Local Government and not the Superintendent of a jail or the Inspector General of Prisons. That is an improvement, but I may be permitted to say that it is not quite in keeping with the English practice. In England whipping is inflicted by the orders of the Home Secretary on being recommended by three persons, of whom two must be Justices of the

[Mr. Lalubhai Samaldas.]

Peace. I would ask the Home Secretary to consider this matter and see if the present rules cannot be modified, so that some non-official visitors may have to be consulted before orders of whipping are passed.

Sir, I won't refer for more than a minute to what fell from my Honourable friend Sir Umar Hayat Khan. Although he said he was speaking for the whole of India, I am quite sure his knowledge of the conditions in other provinces did not justify him to do so. He naturally generalized from what he has seen first-hand in the Punjab, and perhaps his military training teaches him that severity is the only way in which you can reform individuals. We who have not been brought up under military discipline realize that it is, as my Honourable friend Mr. Khaparde said, good and kind treatment that reforms individuals and not harsh measures.

My Honourable friend the Home Secretary referred to the various concessions that he said will be granted to political prisoners who do not come under five categories. As regards Nos. 1, 2 and 4 of those categories, I have no complaint. As regards the third, I think the meaning of that clause can be extended to include men who are really not criminals but only offending for principles and high ideals. The same might be said about No. 5. Criminal intimidation is a word that has been used with reference to volunteers who have gone round to piece-goods shopkeepers trying to prevent them from selling foreign piece-goods. If my memory is correct, Pundit Jawaharlal Nehru was convicted of criminal intimidation under that clause, and if exception No. 5 stands, he will not be treated as a political prisoner or a first-class misdemeanant. He will not be allowed the benefit of these concessions simply because he asked certain persons not to sell foreign piece-goods and that if they did so they would be socially boycotted. Similarly the boycott of liquor shops has been classed as criminal intimidation. If my Honourable friend is prepared to modify clauses 3 and 5, so that their scope cannot be extended to the class of persons whom I have mentioned, and whom I believe the Government also has in view, namely, men of good educational and social status, then I will be prepared to consider whether it would not be advisable to withdraw this Resolution. The Home Secretary said that papers will not be supplied. Perhaps in the Punjab, in Lahore, that restriction might have been necessary because papers were smuggled from one man to another. I have only in mind a man like Gandhi; you ought not to keep him in ignorance of what is going on outside the jails. It is criminal on the part of Government to keep a man like Gandhi ignorant of what is going on outside. I hope Government will see its way to utilize the good-will of all these men whom they have thought it necessary to send to jail; so that when they come out of jail they will be supporters of Government and will not oppose it.

I am sorry to have to refer to the Honourable Sir Umar Hayat Khan's statement that if Britishers were not here we would not be sitting here and would not be allowed to speak out our minds as we are allowed to do to-day. I entirely agree. We want Britishers to stay, and we want Britishers to help us to keep off our enemies and other Frontier tribes whom we do not want to come and terrorize us.

The HONOURABLE MR. S. P. O'DONNELL: Sir, the Honourable Mr.

1 P.M. Sethna referred to the conditions in Ireland in the year 1877, and I think he said that sedition was as rampant there in 1877 as it has been in India in the last two years. Well, I was in Ireland in 1877; I admit that I was not very old at the time, but I have a clear recollection of the conditions in Ireland in the eighties. I was during part of that time in the south-west of Ireland, not far from the neighbourhood of Counties like Clare, where if there is trouble in Ireland, there is sure to be trouble. At that time there was a good deal of agrarian agitation going on in Ireland, but I do not think there was anything comparable to the campaign of sedition which has been going on for a few years past in this country.

The Honourable Mr. Sethna and the Honourable Mr. Lalubhai Samaldas—at any rate the Honourable Mr. Sethna—referred to the definition of political offences. I wish to make it clear that Government do not admit that all persons convicted of offences inspired by a political motive are *ipso facto* and as such entitled to preferential treatment. On that point they agree with the view expressed in the Report of the Jails Committee where Honourable Members will find strong reasons adduced against recognising the element of motive as a reason for differentiation. I do not think, however, that we need quarrel about the question of definition. I have indicated the criteria which the Government have laid down and if these criteria are satisfactory it is unnecessary to dispute about definitions. I am sorry I did not make as clear as perhaps I ought to have, the categories of prisoners who are to be excluded. I will therefore give them again. The first category is—persons who were convicted of any offences which directly involved violence or an offence against property. The second is—persons who have incited others to crimes of this character :—(The Honourable Mr. Lalubhai Samaldas :—I agree); the third is—persons hired to commit offences—(The Honourable Mr. Lalubhai Samaldas :—Hirelings we do not want) or who have committed offences in the hope that in the resulting disorder opportunities of looting might occur—that is the hooligan class—I think there can be no objection to the exclusion of these gentlemen. The fourth is—persons who have been guilty of attempting to seduce soldiers or the police—I ought to have made it quite clear (I thought I had done so) that attempts on the police were included—from their allegiance, and the fifth is—persons convicted of offences directly involving criminal intimidation, at any rate when violence has been used for the purpose of intimidation. Where there has been no violence there is not necessarily any exclusion, and therefore the persons to whom the Honourable Mr. Samaldas referred would not necessarily be excluded. (The Honourable Mr. Lalubhai Samaldas :—Mr. Jawaharlal Nehru?) As far as I know the facts of that case he would not be excluded under this provision. I hope that will make it clear that categories 3 and 5 are categories to which no exception need be taken.

Then the Honourable Mr. Lalubhai Samaldas referred to the question of newspapers. I thought I had made it quite clear, that while normally newspapers will not be supplied they can be supplied in exceptional cases by the Local Government. I think that is practically all that I have to say—(The Honourable Mr. Lalubhai Samaldas :—Whipping). As regards whipping, the orders are that whipping is only to be inflicted in

[Mr. S. P. O'Donnell.]

extreme cases in the last resort and by the order of the Local Government. It has been suggested that non-officials should be given an opportunity of looking into such cases first. I do not think that any one who is familiar with the jail administration in this country would consider that to be a practicable proposition. It must be remembered that every case goes to the Governor in Council, that is to a body which includes at least three high officials and it may be more than three officials—(*The Honourable Mr. Lalubhai Samaldas* :—Not the Ministers ?)..... The Governor in Council includes in the Presidencies four Members apart from the Governor—five officials altogether. Half the Council too is, in each case, Indian.

The Honourable Mr. Raza Ali referred to the question of separation. The Honourable Mr. Sethna has quite correctly pointed out that separation in the sense of putting these prisoners in separate jails is not always practicable. I pointed out however that one of the concessions given to the selected class of prisoners is that they are to be kept apart (*The Honourable Mr. Raza Ali* :—The thing has been given a successful trial and is done in the United Provinces.)..... I know it has been done in the United Provinces, but it does not follow that it is practicable in all provinces. A particular method may be adapted to the conditions of a certain province, but it does not follow that that method will be suited to conditions in other places. That is all I have to say. I hope Honourable Members will be satisfied that the rules which the Government have framed are reasonable.

The HONOURABLE MR. LALUBHAI SAMALDAS : I want to say—

The HONOURABLE THE PRESIDENT : The Honourable Member has had two opportunities of speaking and he will not be given an opportunity of making a third speech. It must be perfectly clear that if the Honourable Member wishes to ask the leave of the Council to withdraw the Resolution he must do so without further debate.

The HONOURABLE MR. LALUBHAI SAMALDAS : I do so.
The Resolution was, by leave of the Council, withdrawn.

AMENDMENT OF STANDING ORDERS.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, I beg to move that the Report of the Select Committee appointed to consider and report on certain proposed amendments in the Standing Orders, be taken into consideration.

I will not take very long in explaining to the House what changes have been proposed by the Committee appointed last Session. Altogether about 11 changes have been introduced and only a few of them are of some importance. The Report clearly explains the nature and scope of the changes. When the question was first raised I explained to the Council why the changes were called for. The Committee has not seen its way to adopt all the changes I recommended, but, on the whole, I am satisfied with such changes as have been accepted by the Select Committee, and I have every confidence that this House will accede to those changes. There are only one or two amendments to which a reference seems here to be neces-

sary. For example, in standing order No. 18, in asking questions, under the standing orders as they are to be found at the present moment, only that member who has given notice of a certain question can ask that question, but it is now proposed that any member of the House might request that the answer may be given to the question put by an absent member. It has also been proposed that the words "on the ground of public interest" should be omitted because it may be assumed that all questions that are asked in this House are asked on the ground of public interest, and therefore it was thought that these words were superfluous and they are proposed to be dropped. Then some of the other changes, namely, those in standing orders 22 and 23, are only verbal. They do not involve any important principle at all. The next question refers to the quorum and the taking of a count. The Select Committee gave its best consideration to the question as to how a count should be taken, and it was generally agreed that it should be left to the discretion of the President to allow a count to be taken or himself to take a count when he found it necessary to do so. The next important question relates to the motion for a closure. When I made my last speech on the proposed changes in the Standing Orders I expressed the view that when a closure is moved, it would be desirable that the mover of a motion or a Resolution should be given a chance of reply. There was a good deal of discussion on this point and ultimately it was decided that the President's discretion should be relied on for this purpose. No other solution calculated to prove satisfactory to the majority could be arrived at and therefore no radical change was made in the existing Standing Order. The other changes which the Honourable Members will find in this Report are not changes of very great importance, and therefore I shall not be justified in taking up the time of this House in explaining them except for one observation regarding standing order No. 60.

The change proposed in that Standing Order is the addition :

"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."

It is proposed that if on the agenda there are Resolutions in the same words given notice of by two or three members, any member who has his own Resolution lower down on the list of business, may, with the permission of the President, be allowed to be authorised by a Member who stands first in or next in the order, to move the Resolution in his place. That is the only change which has been made in the Standing Order, and I think the House will agree that it is a very sound and reasonable change. With these words, Sir, I move that the Report of the Select Committee be taken into consideration.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : Sir, I have much pleasure in supporting the motion of my Honourable friend Mr. Kale. Mr. Kale has explained briefly the purport of the more important amendments which the Select Committee has recommended to the Council and I think I may say that if those amendments are passed, considerable improvement will have been effected in the procedure of this Council. I think the Council owes a debt of gratitude to Mr. Kale for the energy he has displayed in this matter and the interest he has taken in taking steps to effect these improvements.

The HONOURABLE THE PRESIDENT : The question is :

" That the Report of the Select Committee appointed to consider and report on certain proposed amendments in the Standing Orders " be taken into consideration.

The motion was adopted.

The HONOURABLE MR. V. G. KALE : Sir, I move that the amendments proposed by the Select Committee be passed and in doing so I need not make any further remarks except to say that myself, the Select Committee as well as this House owe a deep debt of gratitude to you, Sir, for the assistance that the Committee has derived from your ripe experience and judgment in disposing of many of the amendments which were originally proposed. I have also to thank the Honourable Mr. Moncrieff Smith for the ready assistance he gave to the Committee and to myself.

The HONOURABLE THE PRESIDENT : I am very much obliged to the Honourable Mr. Kale for the kind remarks he has made in regard to the assistance that I have been able to give to the Committee. It is true that I have been connected with the legislative business of the Government of India for many years and have perhaps acquired some experience. I may assure the Council that my services and experience will always be available to the House, if they are needed.

The HONOURABLE THE PRESIDENT : The question is :

" That the amendments proposed by the Select Committee " be passed.

The motion was adopted.

ELECTION TO PANELS OF STANDING COMMITTEES.

The HONOURABLE THE PRESIDENT : I understand that to-day is a particularly suitable day for holding the election to the panels of these Standing Committees, as there are a large number of members present who may not be present later on. I have discussed with the Honourable Member in charge of the legislative business of Government and I understand he is perfectly prepared to take that up on Saturday morning. In these circumstances I think it would be well if we proceed to the election of members of Standing Committees now, if it is convenient to Honourable Members. I imagine Honourable Members have the ballot papers in their hands (*Voices* : No). Honourable Members will see that these ballot papers contain the names of the candidates to be nominated and there are notes at the bottom of the ballot paper which are headed ' Instructions to Members.' They are very full. The first instruction runs ' Each member has one vote and one vote only ' Honourable Members should place figure 1 opposite the name of his first choice. That is to say, in the list of names, if he prefers, say, John Brown, to all others, he should place figure 1 against the name of John Brown. He is also invited, he is not bound, to place figure 2 opposite the name of his second choice. Supposing for example he thinks that Mr. Smith, next to Mr. John Brown, is the best candidate, he should place the figure 2 against Mr. Smith's name. In this way he can exercise his choice in the case of as many

candidates as he likes, in the order of his preference. The number of preferences is not necessarily restricted to the number of vacancies. If he chooses, he can arrange all candidates in the order of merit. I must add that a vote will be entirely useless if more than one No. 1 is placed on the paper. I think the Council will not now have the slightest difficulty in proceeding to election.

The HONOURABLE SIR MANECKJI DADABHOY : May I inquire if these ballot papers are to be signed by the Members ?

The HONOURABLE MR. H. MONCRIEFF SMITH : I think the instructions are that Members should after making their entries fold the paper in such a way that the Secretary's initials can be seen before the paper is deposited in the ballot box. The papers will not be signed ; otherwise they are invalidated.

(The Elections then commenced.)

The HONOURABLE THE PRESIDENT : I understand that the ballot papers will be placed in the boxes and the result will be announced by Saturday if possible. It takes some time to work out the result on the single transferable vote system.

MESSAGE FROM LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL : The following message has been received from the Legislative Assembly :

" Sir, I am directed to inform the Council of State that the following motion was carried in the Legislative Assembly in the meeting on the 20th September 1922, and to request the concurrence of the Council of State in the recommendation contained therein, namely,—

' That this Assembly do recommend to the Council of State that the Bill to amend and consolidate the law relating to regulation and inspection of mines be referred to a Joint Committee of this Assembly and of the Council of State, and that the Joint Committee do consist of 18 members '."

GOVERNMENT BUSINESS.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, I understand that two Bills which have recently been passed by the Legislative Assembly will be brought forward for the consideration of this Council on Saturday the 23rd, and it is hoped that they may be passed. The Bills I refer to are the Police (Incitement to Disaffection) Bill and the Negotiable Instruments (Amendment) Bill.

In connection with the message which has just been received from the Legislative Assembly recommending that the Indian Mines Bill be referred to a Joint Committee, a motion recommending the acceptance of that recommendation and nominating members of this Chamber to serve on the Joint Committee will be taken up on the same day.

[Saiyid Raza Ali.]

The HONOURABLE SAIYID RAZA ALI : May I know, Sir, whether the Police (Incitement to Disaffection) Bill has been passed by the Legislative Assembly ?

The HONOURABLE THE PRESIDENT : If the Honourable Member had been following the course of business in this Council he would have known that that Bill was placed on the table a day or two ago.

Honourable Members who are non-officials have now to elect two Members for the Court of the Delhi University ; but of course that has nothing to do with the proceedings of the Council, and therefore the election will take place after the House has adjourned. As the law lays down no method of procedure, it will not be wrong for members to elect their own Chairman.

The Council then adjourned till Eleven of the Clock on Saturday, the 23rd September, 1922.

COUNCIL OF STATE.

Saturday, the 23rd September, 1922.

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

QUESTIONS AND ANSWERS.

GOVERNMENT OF INDIA LIST.

153. The HONOURABLE LALA SUKHIBIR SINHA : Will Government be pleased to order that a copy of " Government of India List " may be supplied to all members of the Legislature ?

The HONOURABLE MR. S. P. O'DONNELL : Twelve copies of the List are kept in the Members' Library. Any Honourable Member who asks to be supplied with a copy will receive one.

LADY CLERKS IN POST OFFICES.

154. The HONOURABLE MR. V. G. KALE : (a) Will Government be pleased to state the specific classes of business in the Post Offices for which lady clerks are supposed to be specially useful ?

(b) Will Government be pleased to state if the maximum percentage limit, prescribed for the employment of lady clerks, is maintained in the case of lady clerks in the Bombay General Post Office ?

The HONOURABLE MR. B. N. SARMA : (a) Lady clerks are specially useful as typists, stenographers and for preparing statements of all kinds ; also in the Inquiry Branch. Their attendance is usually excellent and their work quick and accurate.

(b) There is no maximum limit prescribed. The Director General of Posts and Telegraphs, however, has recently decided that in view of the fact that women are more expensive than men, the number of lady clerks should not ordinarily exceed one per cent. of the total clerical staff. In the Bombay General Post Office and its town sub-offices, the proportion is higher (approximately 4 per cent.) owing to the number employed in the Inquiry Branch, which is very large and where, as already stated, lady clerks are particularly useful.

BOMBAY POSTAL CLERICAL ESTABLISHMENT.

155. The HONOURABLE MR. V. G. KALE : (a) Will Government be pleased to state if the maximum of the time scale of pay and the rate of annual increment sanctioned for the postal clerical establishment in Bombay city are on a par with the rates of pay sanctioned for the Mechanical Branches of the clerical establishment in Local Government offices in Bombay city ?

(b) If the answer to (a) above be in the negative, will Government be pleased to state if the pay of the postal establishment in Bombay city will be brought to the level of the Local Government offices?

The HONOURABLE MR. B. N. SARMA : (a) The time-scale for B. cadre clerks in the Local Government Secretariat in Bombay is understood to be Rs. 60—4—100—3—160. The scale of pay for the postal clerical establishment in Bombay City is Rs. 50—50—60—3—105—5—140, and for the Foreign Mail Division, Railway Mail Service and the Dead Letter Office, it is Rs. 50—50—55—3—100—4—120—5—130.

(b) Government do not propose to level up the pay of the postal establishment in Bombay City to that of the Local Government offices merely in order to make them level, for it cannot be said for certain whether in all cases the work done by the B. cadre clerks of the Secretariat and by the postal clerical establishment in Bombay is exactly comparable. The Director General, however, is considering whether there is any justification for further improving the sanctioned scale of pay for Bombay City in view of the fact that there are a considerable number of Selection Grade appointments above the time-scale to which the efficient men of the clerical personnel can aspire.

SCALE OF PAY FOR DEAD LETTER OFFICE, BOMBAY.

156. The HONOURABLE MR. V. G. KALE : Has the attention of Government been drawn to the discontent which prevails regarding the scale of pay sanctioned for the Dead Letter Office, Bombay?

The HONOURABLE MR. B. N. SARMA : Yes. The scale was fixed in accordance with the recommendations of the Postal Inquiry Committee of 1920, and the question of its suitability was subsequently examined, but sufficient justification was not found for making any change. The matter is, however, being examined by the Director General again.

RAILWAY MAIL SORTING OFFICES.

157. The HONOURABLE MR. V. G. KALE : (a) Has the attention of Government been drawn to the conditions of work at stationary Railway Mail Sorting Offices, where the staff is required to work throughout the year without respite on Sundays and Post Office holidays?

(b) Do Government intend to consider the question of improving the conditions of service?

The HONOURABLE MR. B. N. SARMA : (a) and (b). The matter has received attention from the Director General of Posts and Telegraphs who has already issued orders to reduce the working hours of sorters in stationary Railway Mail Sorting Offices.

TIME-SCALE OF PAY FOR POSTMASTERS-GENERAL.

158. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Is it a fact that the Postal Officers' Association addressed a letter to the Government of India on the 9th September 1920, asking that an inadequate time-scale of pay should not be substituted for the existing graded scale for all Postmasters-General?

(b) Is it a fact that the Government of India replied to the said letter on 16th October 1920, stating that "the prayer for the retention of a

graded scale of pay has been rejected because on examination it has been found that, when the new rules with regard to acting allowances in officiating posts are introduced, a time-scale of pay will be of greater advantage to Postmasters-General?"

The HONOURABLE MR. B. N. SARMA : (a) The Postal Officers' Association addressed a letter to the Government of India on the 9th September 1920, asking among other things that a time-scale of pay for Postmasters-General should not be introduced, but that the grades of these officers should be altered as follows :

	Rs.		Rs.
1st grade from	2,500	to	3,000
2nd grade from	2,250	to	2,750
3rd grade from	2,000	to	2,500
4th grade from	1,750	to	2,250

(b) The answer is in the affirmative.

PAY OF POSTMASTERS-GENERAL.

159. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Is the Government aware that the separate revised scales of pay for Civilian and non-Civilian Postmasters-General, sanctioned in Commerce Department Notification No. 853-S., of 30th May 1921, was entirely to the advantage of the former class of officers, who thereby received an extra duty allowance of Rs. 250 a month in addition to the time-scale pay and overseas allowance admissible to them in the regular line?

(b) Has the attention of Government been drawn in this connection to the recommendation in paragraph 2, Annexure XVII, of the Report of the Royal Commission on Public Services in India that members of the Indian Civil Service holding posts as Postmasters-General "should have no special privilege in the matter of salary or status to differentiate them in any way from their colleagues of the same rank"? If so, what are the reasons for departing from the said recommendation?

The HONOURABLE MR. B. N. SARMA : (a) If the Honourable Member means that the revision was not to the advantage of the departmental Postmasters-General, the answer is in the negative.

(b) The attention of Government has been drawn to the recommendation referred to. The scale of pay for I.C.S. Postmasters-General was fixed at a rate which was considered to be the lowest on which suitable officers could be induced to relinquish their prospects in the ordinary line and to elect for service in the Post Office. That for non-civilian Postmasters-General was fixed with reference to the length of service, which they normally put in before rising to be Postmaster-General and to the scale of pay sanctioned for the corresponding officers of administrative rank on the Telegraph Engineering side.

PAY OF I. C. S. AND NON I. C. S. POSTMASTERS-GENERAL.

160. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : Is Government aware that, whereas the members of the Indian Civil Service holding appointments as Postmasters-General received windfalls in the shape of large sums as 'back pay,' in addition to immediate increases in their emoluments in consequence of the revised scale of pay?

being introduced with retrospective effect from 1st December 1919, the majority of departmental officers of the Post Office holding the same posts received retrenchment orders from their Accountant-General asking them to refund large sums alleged to have been overdrawn from that date?

The HONOURABLE MR. B. N. SARMA : After the 30th May 1921, the date of issue of orders introducing revised scales of pay for Postmasters-General with retrospective effect, namely, from the 1st December 1919, the Accountant-General, Posts and Telegraphs, made an adjustment in respect of salary drawn under the former graded system of pay and that admissible under the revised scales. It was found by him after audit that certain amounts were short drawn by I.C.S. Postmasters-General and that, of the four departmental officers of the Post Office then permanently in the cadre of Postmasters-General, two received payment of certain amounts in excess. These two officers have since retired from the service and Government propose to waive recovery of the amounts overdrawn by them. Of the four departmental officers of the Post Office now holding permanent appointments as Postmaster-General, three received an increase of pay on coming on to the revised scale, while the remaining officer who has been paid an amount in excess in his officiating appointment under the former system, will not actually be required to refund that amount, as his total service, both officiating and permanent, will ultimately count for increments in the revised scale.

ALLOWANCES TO OFFICERS OF THE POST OFFICE.

161. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : Is it a fact that the assurance given by Government in its letter, dated 16th October 1920, referred to above, has not been fulfilled up to date, in spite of repeated representations from the Postal Officers' Association, and that officers of the Post Office proper have been excluded from the benefits of the new rules with regard to acting allowances in officiating posts, with the result that such allowances due to them have been curtailed and increments withheld for the past two years in several cases?

The HONOURABLE MR. B. N. SARMA : The new acting allowance rules are applicable to services organised on a time-scale basis and could not therefore be applied at once to the Postal Service which is not so organised throughout. Certain proposals have, however, already been submitted to the Secretary of State for India in this connection which, if approved, will admit of the new rules being applied to the Post Office with effect from the 1st July 1922.

The question of increments, which, it may be mentioned, has nothing to do with the new acting allowance rules, has also been under the consideration of the Government of India and proposals are under submission to the Secretary of State under which officiating service rendered by Postmasters-General as such will be permitted to count for increments in their time-scale.

PAY AND PROSPECTS OF OFFICERS OF POST OFFICE.

162. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : Is Government aware that there is great discontent

among senior officers of the Indian Post Office, who have received no satisfactory reply to numerous memorials submitted on the question of their pay and prospects?

The HONOURABLE MR. B. N. SARMA : The Government of India are not aware of the great discontent alleged. As stated in reply to the previous question asked by the Honourable Member on the subject, steps have already been taken to meet the legitimate grievances relating to acting allowances and increments in question.

MESSAGES FROM LEGISLATIVE ASSEMBLY *RE* INDIAN EXTRADITION (AMENDMENT) BILL AND INDIAN MUSEUM (AMENDMENT) BILL.

The SECRETARY OF THE COUNCIL : Sir, a message has been received from the Legislative Assembly.

The HONOURABLE THE PRESIDENT : Let it be read.

The SECRETARY OF THE COUNCIL : Sir, I am directed to inform you that the Legislative Assembly have at their meeting of the 20th September, 1922, agreed without amendments to the following Bills which were passed by the Council of State on the 15th September, 1922 :—

1. A Bill further to amend the Indian Extradition Act, 1903.
2. A Bill further to amend the Indian Museum Act, 1910.

INDIAN TRANSFER OF SHIPS RESTRICTION (REPEALING) BILL.

The SECRETARY OF THE COUNCIL : Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table a copy of the Bill to remove the restrictions imposed on the transfer of ships registered in British India, which was passed in the Legislative Assembly on the 20th September, 1922.

PANELS OF STANDING ADVISORY COMMITTEES—HOME, COMMERCE AND INDUSTRY, REVENUE AND AGRICULTURE, EDUCATION AND HEALTH DEPARTMENTS.

The HONOURABLE THE PRESIDENT : I have to announce to the Council the results of the elections held on Wednesday the 20th. They are as follows :—

To be Members of the panel from which the Members of the Standing Committee to advise on subjects in the Home Department will be nominated—

- The Honourable Sir Zulfiqar Ali Khan.
 The Honourable Sir Maneekji B. Dadabhoy.
 The Honourable Sir Benode Chandra Mitter.
 The Honourable Mr. Phiroze C. Sethna.

[The Honourable the President.]

To be Members of the panel from which the Members of the Standing Committee to advise on subjects in the Departments of Commerce and Industries will be nominated—

The Honourable Sir Maneckji B. Dadabhoy.
The Honourable Khan Bahadur Sir Ahmedthamby Maricair.
The Honourable Rai Bahadur Lala Ram Saran Das.
The Honourable Mr. Vaman Govind Kale.
The Honourable Sir Alexander Murray.
The Honourable Mr. Phiroze C. Sethna.

To be Members of the panel from which the Members of the Standing Committee to advise on subjects in the Department of Revenue and Agriculture will be nominated—

The Honourable Colonel Sir Umar Hayat Khan.
The Honourable Lala Sukhbir Sinha.
The Honourable Sardar Jogendra Singh.
The Honourable Major Mohamed Akbar Khan.
The Honourable Maharaja Bahadur Keshva Prasad Singh of Dumraon.
The Honourable Maharaja Shoshi Kanta Acharyya Chaudhuri of Muktagacha.

To be Members of the panel from which the Members of the Standing Committee to advise on subjects in the Department of Education and Health will be nominated—

The Honourable Mr. Vaman Govind Kale.
The Honourable Mr. Lalubhai Samaldas.
The Honourable Sir Benode Chandra Mitter.
The Honourable Sir Zulfiqar Ali Khan.

POLICE (INCITEMENT TO DISAFFECTION) BILL.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I beg to inquire whether you would be willing that the Bill to provide a penalty for spreading disaffection among the police and for kindred offences, as passed by the Legislative Assembly, should be taken next. My reason for asking if you are willing to adopt this course is that it is very desirable that a message from this Council explaining what amendments have been made should be communicated to-day to the Legislative Assembly. I have ascertained from the Honourable Mr. Lindsay that he has no objection to that course being adopted.

The HONOURABLE THE PRESIDENT : I take it the House has no objection either.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I beg to move that the Bill to provide a penalty for spreading disaffection among the police and for kindred offences, as passed by the Legislative Assembly, be taken into consideration.

I shall have occasion, Sir, later to move certain amendments. At present I am concerned only with the principle of the Bill. I do not think it is necessary that I should take up the time of the Council with lengthy arguments in support of that principle. During the course of the debate on Wednesday last on the subject of political prisoners one Honourable Member recommended that persons guilty of attempting to seduce the police from their allegiance should not receive differential treatment, and that recommendation seemed to meet with the general assent of the Council. (Hear, hear). I take it, therefore, for granted that this Council regards attempts to promote disaffection amongst the police as a very serious matter, and is satisfied that the law should contain adequate provisions for the penalisation of such attempts. Nor, Sir, is it necessary for me to argue at length that such attempts have been made. It is indeed notorious that they have been made. It may be that at present they are not being made on the scale on which they were being made some time ago, and it is quite true that, despite these attempts—and in conditions that not long ago were very trying—the loyalty of the vast majority of the police has remained unimpaired, and for that I think we all owe them a debt of gratitude. (Hear, hear). The fact remains, however, that attempts have been made, not long ago they were being made on a serious scale, and in some few instances they have been made successfully, even now they have not altogether ceased, and there is no guarantee that they will not be renewed on some future occasion with increased vigour. In these circumstances it is essential that an adequate and an effective remedy should be available. At present that is not the case. It is true that section 124-A can be applied, but there are objections to placing sole reliance on that section. I shall not go into these objections at present because I anticipate there will be an opportunity of doing so later in connection with an amendment which may come before the Council. Again, section 29 of the Police Act, read with the abatement sections of the Indian Penal Code, is entirely inefficacious. Section 29 of the Police Act was never intended for that purpose, and any one who examines that section and considers what the difficulties are of proving a conviction under that section will realise that that remedy is entirely ineffective. It is important, therefore, that legislation should be passed on the lines of this Bill. I may add that this Bill is based on an Act passed in England in 1919 for the same purpose. It differs from the English Act in two respects. In the first place, it embodies certain safeguards not to be found in the English Act; and, in the second place, the penalty proposed is much less severe. Under the English Act the penalty may extend to two years' imprisonment. Under this Bill as it now stands the penalty cannot exceed six months' imprisonment.

The HONOURABLE SAYYID RAZA ALI (United Provinces, East : Muhammadan) : Sir, I wish to avail myself of this opportunity by saying a few words on the general principles underlying the Bill. Sir, when fresh legislation is undertaken, it is the duty of Government to convince the Legislature that any necessity has arisen for that legislation being placed on the Statute-book. I was very anxious to know from the Honourable Mr. O'Donnell as to what was the occasion which has induced the Government to propose this Bill. The solitary argument, or the almost solitary argument, that he advanced, so far as I was able to follow him, was that in the year 1919 a similar Act had been passed in England. He



[Saiyid Raza Ali.]

also remarked in this connection that there was agitation in the country, and with a view to remove all the undesirable forms of that agitation it was necessary to pass this motion into law.

Now, Sir, as one who has tried to go somewhat carefully into the Bill, it seems to me that the Bill provides two remedies for enabling the Executive to deal with offences contemplated by it. The first is to punish those who cause disaffection towards His Majesty or the Government among the police force, and the second is intended to punish those who bring about or induce the police to withdraw their services from the State.

Now, as the Home Secretary has himself admitted, the general law of the country is quite sufficient to meet both these cases. The Honourable Member has himself admitted that, so far as sedition goes, we have section 204-A, and so far as the spreading of pernicious doctrines among the police is concerned, we have section 29 of the Police Act read with certain sections of the Indian Penal Code. Now, Sir, the Honourable Member says that the general law is insufficient to enable the Government to cope with this agitation. It is here, Sir, that I join issue with the Honourable Mr. O'Donnell. I put it to you, Sir, and I put it to the Council and to the Honourable the Home Secretary, is he really justified, are the Government justified, in asking us to pass this law.

Then the Government has not even attempted to make the statement that so many prosecutions were undertaken by them of persons who were trying to spread these pernicious doctrines among the police, either to ferment disaffection or in order to induce the police to withdraw their services from the State. Sir, I speak with great respect, but I do feel it my duty to say, and say emphatically, that if the Government wants to pass this Bill it is the duty of Government to convince us that the present law has proved ineffective, and that could not be done unless the Government laid before us facts and figures showing that out of 100 cases undertaken against this sort of criminals, the Government could not secure conviction in more than 15, because the present general law of the country is inadequate. If that were the case, I for one, Sir, I assure this Council, would have been quite prepared to support this measure, very stringent in its terms though it is. But Sir, I entirely fail to see how the Government hope successfully to induce any Legislature, without giving it facts and figures and without bringing forward any arguments, simply by enunciating the proposition that the general law is insufficient and saying "Therefore, gentlemen, you have got to pass this Bill." I submit, Sir, that that is not a position that any Government can take up. It is a wholly untenable position. No facts have been given by the Honourable the Home Secretary. Now if I were one of those who take every step made by the opposite benches for gospel truth, as I believe there are some of us here unfortunately who are inclined to take that view—then I for one would be prepared to support this measure. But as it is, in the absence of any information from Government, I, Sir, do not see that the Government are justified in asking us to pass a Bill of this character. If the Honourable Mr. O'Donnell is prepared to give us some information which would go to show that the present general law of the country is insufficient and inadequate, then I can say that I would be prepared to give my careful and best consideration to the problems of the Bill. But, Sir, in the absence

of any such information, I submit, to put it at the very lowest, no case has been made out by Government for inducing us to take this Bill into consideration. As a lawyer, I may put it like this, that the Government are the plaintiff in the case and the onus of proof is on the Government which they have not yet properly discharged.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I am not only disappointed with the speech of the Honourable Saiyid Raza Ali, but I must say I am extremely surprised to hear many of his remarks, especially when he stated that the Government had not made out the necessity for this legislation. I believe the Honourable Member who has just spoken has been in constant touch with the state of affairs in the country during the last two years—I mean the state of affairs which has not only brought about a serious volume of trouble in the country but also dislocation of all trade and business and among other things, a violation of peace. I should have thought that, considering all this, my Honourable friend, Saiyid Raza Ali, should have given his support to this Bill.

The HONOURABLE SAIYID RAZA ALI : Peace comes afterwards : first trade.

The HONOURABLE SIR MANECKJI DADABHOY : We are all aware, and I am certain my Honourable friend, is more than aware of the activities of the non-co-operators. My Honourable friend wishes to know what has made it necessary to introduce this legislation. He knows that in his own part of the country there have been cases where mischievous people have attempted to seduce the loyalty of the police and prevented them from discharging their duty. And what after all is this legislation aiming at ? Is there anything very serious, anything very objectionable and repugnant in this little piece of legislation ? Is there anything in this legislation for any honest man to dread ? All that this legislation seeks is to prevent mischievous people from interfering with the police discharging their honest duty, interfering with their ordinary work, inducing them by false promises and hopes, by misrepresentations, from withdrawing from their public duty at most critical times. Do you call that an unnecessary or a mischievous piece of legislation ? Does my Honourable friend as a lawyer need to be told that for the maintenance of law and order one thing is very essential, and that is a reliable police. (Hear, hear.) And does he want to destroy the fabric, the foundation on which all peace and tranquillity rests—the proper administration of all police work. I personally think that this Bill is too weak. I personally think that the Bill has been sent up to this Council wholly emasculated by the Legislative Assembly. If people do not want the maintenance of order, law and peace, let them have the courage to stand up in this Council and boldly say that they shall have no legislation of this kind ; that they do not wish to strengthen the hands of Government with legislation of this kind to maintain peace and order in the country. Let them say that they want chaos, they want anarchy, they want dislocation of all trade and business.

I am extremely sorry that the Legislative Assembly did not handle this Bill in the fair and open manner in which it ought to have been

[Sir Maneckji Dadabhoy.]

handled. The object of the Bill is to enforce discipline in the ranks of police officers and men and not to allow mischievous people to tamper with their loyalty and their daily duties. I think that a man who in time of trouble, in time of riot, seduces a police officer and prevents him from discharging his duty is guilty of a very heinous crime and that six months' imprisonment is too little for an offence of that nature. I am extremely grieved therefore to find that the penalty of two years which was a most reasonable punishment, has been in its discretion, modified by the Assembly, thus making the provision of law almost nugatory and of no value. No penal law is of any use unless it has a deterrent effect, and an offence of this kind ought to be adequately and properly punished.

My friend, the Honourable Saiyid Raza Ali, has stated that the onus of proof is on Government to show that this legislation is necessary, and that Mr. O'Donnell has not mentioned anything in support of this Bill. He said that for this reason the plaintiff's suit ought to be non-suited. I presume my Honourable friend has followed the debate in the other House. When a Bill comes from another House to this Chamber, after being passed there, it is not necessary for any Member of Government to prove at length that such a Bill is necessary—and I may say here that I do not hold any brief for Government. But as my Honourable friend has made this remark, I may remind him that it is not necessary that any reasons at length should be given. I am quite certain that he has read the speech of the Honourable Sir William Vincent, and if he is not convinced after that, then I say he refuses to be convinced. Then, as regards the statement that the present law is sufficient, my Honourable friend as a lawyer of long standing ought to know that it has been found to be wholly insufficient. You cannot put the machinery of the law under section 124-A in operation in small cases, such as breaches of discipline or where a small police officer has been seduced from doing his ordinary duty; and I am doubtful, extremely doubtful, myself—and I think my Honourable friend as a lawyer will agree with me—that a conviction could be obtained under section 124-A for seducing a police officer from doing his duty in time of trouble or difficulty. I say definitely—and my Honourable friend knows very well—that the law is not sufficient, and that this sort of special legislation is expedient and necessary. The Local Governments have been shouting for the last two years for legislation of this nature to protect honest people in the performance of their duty and to prevent a breach of the peace in various localities. I am only surprised that two long years have been allowed to elapse since this matter was taken up. This Bill was introduced in March last and this incomprehensible delay has prevented the proper administration of the law at many anxious times. You are aware, of course, as the Honourable Mr. O'Donnell has pointed out, that this legislation now may not be necessary to that very degree and extent that it was two years ago, when the non-co-operator was in the zenith of his glory and probably in the zenith of his mischievous activity, but I believe that if an Act of this sort exists on our Statute-book it will be of immense service and will prevent a repetition or recurrence of the mischief.

The very existence of this law will deter mischievous people from intervening and seducing honest police officers from discharging their duties. It cannot, therefore, be said that the Bill has been hastily brought in and passed or that the provisions of the existing law are sufficient to meet the exigencies of the case created by a new state of affairs. I think this is a most eminently desirable piece of legislation, and I hope this Council will with one voice accept this legislation. There is only one other matter which I should like to refer to in connection with this Bill. I have heard and I have read in a responsible paper that this is a repressive Act. The word "repressive" has been given such wide significance now-a-days that it is very difficult to answer such allegations. This is by no means a repressive Act. This Act merely enforces discipline. It only seeks to keep down irrepressive and dangerous people who could not be kept down by the provisions of the existing law without some delay and difficulty. I therefore see no harm in this legislation. Though the Bill has been seriously emasculated by the Lower House, I think there is no alternative now for us but to accept the legislation in the form in which it has come before us.

The HONOURABLE SAIYID RAZA ALI: You could have moved amendments.

The HONOURABLE SIR MANECKJI DADABHOY: I know I could have moved amendments, and thus delay the passing of this Bill, to see which result you are so anxious.

The HONOURABLE SAIYID RAZA ALI: Not necessarily:

The HONOURABLE SIR MANECKJI DADABHOY: No. We shall accept for the present this Bill and see how it works in practice, and if it is necessary I shall move amendments at the next Session. It can be easily done then. But at this Session we shall see that this Bill is passed. I hope, therefore, that Honourable Members will support this Bill. My Honourable friend, Saiyid Raza Ali said it is the duty of Government to convince the Council. I think it is the duty of every man to convince himself, and if a man has no prejudices and is open to conviction and reason, he will see that no greater measure of safety for the peace of the country could have been devised than the one which we are now discussing. For these reasons, Sir, I give my emphatic support to this Bill as a most eminently necessary and desirable piece of legislation.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I think this Bill is not good enough to be supported, but it is said that half a loaf is better than none, and it is only for this purpose, and this purpose alone, that we have to support it.

The HONOURABLE SAIYID RAZA ALI: But it is the offenders who get the sentence.

The HONOURABLE THE PRESIDENT: The Honourable Member is adopting the practice of interrupting Honourable Members when they are speaking. I would desire him to refrain from that practice.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, each question has got two sides, and unfortunately if we try to put the other

[Colonel Sir Umar Hayat Khan.]

side of the case we are interrupted. It might happen perhaps that only one person will remain here and all the rest of the Council would have to go, because they may not have the same idea as the Honourable Member. But of course one has got a duty to do, and though one is blackmailed by Extremists, or those who help them, or the Extreme press, one has to say what one feels. In other countries, the police is a sort of army. The police is meant for dealing with internal trouble, and directly the police is not capable of doing the work, it at once resorts to calling out the army to help them. Under the law anyone who seduces a soldier is punished. I think men belonging to the police force are also soldiers, and I do not know why in the very beginning it was not enacted that all those who seduce the police will also be punished just as those who seduce the soldiers. The police also for this purpose come under the category of the army. This law has been ignored. Even in England, they have come to the decision that it is necessary that there should be such a law as this. Then, again, Sir, we have got very able Members in the Lower House, and if the Bill is passed in the other House and comes to us, at any rate it must be thought that there is some need for it. Of course many things have not been brought out either in the speeches there or here; but all of us who are in the mofussil know how things are going on. It is better if we just say certain things for the information of the House. A policeman is an inhabitant of the country. He was before enlistment in the country, and after taking service he continues to be a resident of the country again, and when a servant he is not absolutely aloof from the public, but has got relations, social ties and all sorts of such things. If this Bill was not passed there would have been a hundred and odd things that could be brought against a policeman which he could not possibly resist. You must have heard of the case that occurred in Delhi, where a man who was on the Government side and who was trying to do justice was refused burial. A police constable is a poor man, and one who is not educated, and if he were told that when he died he was not going to be buried, it would be a very bad thing for him to hear.

Again, Sir, if a policeman has a son whom he wants to get married, and has been giving all his hard-saved earnings into a family for that purpose and is told afterwards that no one will give his daughter to him in marriage, he would lose perhaps Rs. 1,000 or more by such an act, and there is no law to come to his help. In the same way his water and hookah can be stopped; no sweeper will come and work for him, and no bhustie, and he is accordingly put into such a position that it becomes intolerable.

Then, Sir, imagine if a constable at the nick of time were not to do his duty, what would happen? We had a case recently at Multan. If the poor fellow does not do his duty, we are at him, and if he does, even then we are against him. I don't know where the poor fellow is to go. If any other law could have served the same purpose, as is said by my Honourable friend, I think the whole of the Government and its officers, who are very handsomely paid, and the Legislative people as well, would have found it out. They would not have resorted to this Bill.

Then, again, we all know that a police constable is not very handsomely paid, and I think it is common knowledge that the very best English officers, who were in the Police Service, are leaving the service, because their pay was not sufficient. Directly they are removed, the discipline will fall to a very low standard, and then they will be perhaps governed by their own men. But as it is said, "familiarity breeds contempt." I don't think by the removal of these officers, the discipline will be improved. With the removal of these officers, together with the low pay that constables receive, and the fact of the agitators getting at these poor people, it will be too much for a poor constable to offer resistance.

Whenever a useful law is introduced, there is always a cry that it is not wanted. If the law is not amended now and then, one would be obliged to say either end it or mend it. I would not mind if the law was altogether abolished, because very soon it will be seen, and perhaps by the very people who do not want it to be strengthened, that these people themselves will come to grief. There will be hundreds of rascals getting at them, and if they have any property it will be taken away. If the police were not in the country, and a man was beaten, or his belongings stolen, what is he going to do? He would have to go to the rascals and beg them to restore his property for which he will get a slap and be asked to go away. If this Bill is passed now, it will be meant for such rascals only who want to paralyse the police, and not for those who are frightened of it.

I have spoken on the Bill only in a general way, and though not with a full heart owing to its being a weak one, all the same I support it.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan): Sir, from what I have seen and heard, I think that this Bill is a necessity. Spreading disaffection among the police or the army should be treated as a very serious offence. Various cogent reasons have already been given in support of the introduction of this Bill, and so I also support the Bill.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan): Sir, I have listened with very great interest to what has been said on both sides with regard to this question; but I regret to find that no answer has been given to one important question which has been put by the Honourable Mr. Raza Ali, namely, the necessity of this particular Bill at this particular moment. The Honourable Sir Umar Hayat Khan made a number of very interesting, and some of them very jocular, remarks, but he fought shy of the one important question to which I have made reference, namely, what is the necessity of this Bill? Cannot the object sought to be attained by this Bill be attained by the ordinary law as it exists? Sir Maneckji Dadabhai made great efforts to establish the necessity of this Bill. He out-governed Government and went further and blamed Government for having brought forward a very weak Bill. But he has also evaded that important question, namely, whether the present law is ineffective for the attainment of the object which is sought to be attained by the Bill before the House. So far as I see, spreading disaffection is covered by the existing law, and I do not see why that law should not be put into operation in this instance. We have not

[Mr. V. G. Kale.]

been convinced as to the reasons why that law should be ineffective or not prove useful.

Under these circumstances, I think that some further light ought to have been thrown on the whole question before we are called upon to give our support to this Bill. With these remarks, Sir I would ask the Honourable the Home Secretary to tell us exactly how the difficulty to which I have made reference can be got over.

The HONOURABLE Mr. S. P. O'DONNELL : The Honourable Mr. Raza Ali said that the only argument I had adduced in support of this Bill was the fact that similar legislation had been passed in England. I am at a loss to understand how anybody could possibly place that interpretation upon my remarks. I did refer to the English Bill, but simply as an indication of the fact that India was not the only country in which the necessity for this legislation had been proved to exist. As, however, the Honourable Mr. Raza Ali does not admit that serious attempts on the loyalty of the police have been made, I think, in that respect he is in the position of *Athanasius contramundum*. I will refer to one report received from a particular province. I do not propose to mention the name of the province, as I do not think it desirable, in the public interest, to do so :

“ In the matter of agitation against Government servants, there has been greater effort and more result. The doctrine of the sinfulness of Government service was preached at meetings in 16 districts before Christmas and in 14 since. It has also been enunciated by perambulating volunteers. One Police Sub-Inspector, two Head Constables and 23 Constables from 11 districts have succumbed.”

I think, Sir, that establishes that propaganda of this kind has been carried on. So far back as 1920, when these attempts had not assumed the magnitude which they subsequently assumed, the Local Governments were almost unanimously of the view that legislation was essential. I am prepared to admit that during the last six months there has been some slackening off in the efforts of the extremists in this direction, but I think he would be a bold man who would say that they will not be resumed when a favourable opportunity in the judgment of the non-co-operation party arises. It is not so long ago that the Congress decided that funds should be provided to support those people who resigned Government service, an ominous indication of the intentions of that party, when they judge the time ripe.

Then, Sir, I have been asked why we cannot rely on the ordinary law. Now, Sir, I am prepared to admit that, so far as the promotion of disaffection is concerned, section 124A of the Indian Penal Code is legally applicable. The objection to relying on that section is simply the great delay involved. A prosecution under section 124A is in the nature of a State trial. It cannot be instituted without the sanction of the Local Government. The case is first sent up by the District Magistrate to the Local Government. There is, then, a preliminary examination by the Secretariat. The case is then sent on to the legal advisers of Government, the Legal Remembrancer or the Advocate General, as the case may be. When his opinion is received, the case is again examined in the Secretariat. The orders of the Local Government

have then to be taken and they have then to be communicated to the District Magistrate. With the best desire on the part of every one to expedite these processes delay is inevitable, and may extend over weeks or even longer. Now, Sir, we cannot afford that kind of thing. The promotion of disaffection amongst the police is far too serious a matter to admit the application of so dilatory a remedy. We cannot afford to allow attempts to be made on the police with impunity for weeks at a time. That, Sir, is the reason why a remedy more prompt than that available under section 124A is necessary.

Then, Sir, I will explain for the benefit of the Honourable Saiyid Raza Ali—I should have thought that an accomplished lawyer like the Honourable Member did not need such an explanation from me—why it is not possible to rely on section 29 of the Police Act read with the abetment sections of the Indian Penal Code. The objection to relying on these provisions is, in the first place, that it is extremely difficult to prove the abetment of an offence of this kind. Where the incitements take the form of solicitations addressed to particular police officers it is obvious that the only evidence available will usually be that of the police officers concerned. The people who go in for propaganda of this kind do not operate openly ; they operate secretly ; and, therefore, the only evidence available is likely to be that of the particular officers who have been approached, and even that evidence will only be available if the abetment has actually been unsuccessful. On the other hand, Sir, when the abetment takes the form of general propaganda, it is extremely difficult to prove the connection between such abetment and any act or omission on the part of a particular policeman or policemen. The second objection, Sir, to relying on these sections is that delay is inevitable, for it is usually not possible to prosecute until after the mischief has occurred, and, therefore, the remedy is in the nature of closing the door of the stable after the horse has been stolen. The third objection is that the penalty provided is too small. The maximum penalty would be three months' imprisonment, and even that maximum would not in all cases be possible, as Honourable Members will see if they read the abetment sections in the Indian Penal Code. These are the reasons why legislation is essential and why we cannot rely on the existing provisions of the law.

Lastly, the Honourable Saiyid Raza Ali said that the measure is of a very stringent character. If the Bill is passed, it will actually be possible to impose a sentence of six months' imprisonment for promoting disaffection amongst the police. Well, Sir, I can only say that the suggestion that this Bill is unnecessarily stringent, is a suggestion which defies comment.

The motion was adopted.

The HONOURABLE THE PRESIDENT : We will now proceed with the consideration of the Bill clause by clause and will, as usual, reserve the Preamble to the end. I observe that on clause 1 there is an amendment* standing in the name of the Honourable Saiyid Raza Ali. That

* “ That in sub-clause (1) of clause I of the Bill for the word ‘ disaffection ’ the words ‘ withdrawal of services ’ be substituted.”

[The Honourable the President.]

amendment is consequential on the substantive amendment to clause 3. Therefore, we will return to clause 1 after we have discussed clause 3. I think that the Honourable Member will agree that that will be convenient.

The HONOURABLE SAIYID RAZA ALI : Yes, Sir.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I rise to object under Standing Order No. 74 (1) on the ground that two days' notice of this amendment from the Honourable Saiyid Raza Ali has not been received. The Bill was passed by the Legislative Assembly on the 18th ; it was laid on the table here on the 19th, and I understand that copies of the Bill were then placed in front of every Member. The other amendments of which notice has been given have been received within the period prescribed *viz.*, two days. I should not have raised this objection to the amendments of the Honourable Saiyid Raza Ali had they been small amendments, but his amendments are practically in the nature of wrecking amendments. If they are accepted, the Bill will be emasculated and will be rendered absolutely ineffective.

The HONOURABLE SAIYID RAZA ALI : Sir, it is true that I gave notice of this amendment yesterday and the rules provide for two days' notice. But the fact, Sir, is that I got a copy of this Bill on the 21st to the best of my recollection and I took some time, in fact, to consider the question. That is the reason why I could not give notice in time. In fact, it seems, Sir, that I could not possibly have given notice in time, having received a copy of the Bill, as I remember on the 21st. That is the reason why my amendments were delayed. That is one point. The next point, Sir, is that, having regard to the rules which provide for legislation by the two Chambers, it is open to Government no doubt to take advantage of the rules to introduce a measure in this Council only after three days. That is quite true, but, all the same, you will see, Sir, that three days is hardly sufficient to enable Members to go through a very important Bill like the present one. The Government have taken advantage of course of the rules. I do not say they have no right ; they have every right, I admit that. All the same, you will see, Sir, that the rules only give three days' time.

Lastly, I appeal to you to suspend the rules. You have power under the rules to suspend the rules and to enable me to move this amendment. My friend, the Honourable the Home Secretary need not be anxious as to what is going to happen to my amendment, because we know what the result will be.

The HONOURABLE THE PRESIDENT : I noticed myself that these amendments were received somewhat late, because I make it a practice to go through amendments in order that I may be in a position to put them to the Council in their proper place. I therefore called for a report on the facts of this case, which is now before me.

I am afraid the Honourable Member is not altogether on strong ground. I find, according to the report before me, that the Bill was passed in the

Legislative Assembly on the 18th. It was actually laid on the table

of this House on the 19th, and in addition to being laid on the table of this House, on the seat of every Honourable Member a copy of the Bill was placed. I can only imagine that the Honourable Member, if he tells me that he did not get the Bill till the 21st, failed to examine the papers in his place. On the information before me, therefore, the Bill was actually given him on the 19th. I have frequently called the attention of Honourable Members to the desirability of giving early notice of any amendments they wish to move to a Bill. They ought to do this in every instance. It is not fair to the Department concerned and it is not a wise way of proceeding to legislation to discuss unexamined amendments.

On the other hand, I find some difficulty in accepting the Honourable Mr. O'Donnell's argument that because these amendments are wrecking amendments, it was all the more necessary to give full two days' notice of them. I should have thought, on the contrary, that shorter notice in the case of wrecking amendments is necessary than would be necessary in the case of amendments of an intricate legal character.

In all the circumstances of the case, however, I think I will allow the amendments to be moved though the Honourable Saiyid Raza Ali ought to express his regret for the mistake he has made as to the date on which he received the Bill.

The HONOURABLE SAIYID RAZA ALI : It may be that the Bill was put here, and if you say that the Bill was put here, then it must have been put here. But I can assure the Council I did not examine the Bill on the 21st.

The HONOURABLE THE PRESIDENT : Then I think the Honourable Member on his own showing is convicted of a regrettable piece of negligence. (Laughter).

The HONOURABLE THE PRESIDENT : The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

The HONOURABLE SAIYID RAZA ALI : Sir, I beg to move that the following words be omitted in clause 3. This is the passage, Sir, that I propose to be deleted :

"or does any act which he knows is likely to cause disaffection towards His Majesty or the Government established by law in British India amongst the members of a police force, or induces or attempts to induce, or does any act which he knows is likely to induce."

Sir, the principles of the Bill having been discussed I do not think it is necessary for me to support this amendment with any lengthy speech. I do not at the same time think it necessary to defend myself against the insinuation that has been made as to how far some of us are prepared to support the Government. It is for those who made the insinuation to decide how far that insinuation is worthy of them, and at that I am content to leave it, Sir.

This section, Sir, is intended to attack a two-fold evil. The first is to prevent the spreading of disaffection among the police, and the second object is to deal with those who induce these officers not to serve Govern-

[Saiyid Raza Ali.]

ment. The object of my amendment, I must state at once, is this—that instead of disaffection finding a place in clause 3, that clause should be confined solely to those cases in which persons are prosecuted for persuading police from serving Government. That, I must at once say, is the real intention of this amendment.

Now, Sir, it was pointed out that it is a lengthy procedure to obtain the sanction of Government for all prosecutions under section 124-A, and therefore it was pointed out that with a view to providing a speedier procedure, this part of the clause was drafted in those words. Now, Sir, I am free to admit that the procedure relating to the section is rather a lengthy one. But a serious objection that I can urge against this portion of the clause which I propose to omit, Sir, is this—that practically you are not relying on section 124-A to deal with seditionists or those who commit offences under section 124-A, but to divide the public into so many classes. First you have got your general law under which if a man commits that offence he can be prosecuted, namely, 124-A. Then you have got this particular law which is proposed to be enacted in this clause 3 to deal with that section of the public who dissuade these officers from discharging their duty. The serious objection to this procedure, as the Honourable Mr. O'Donnell will I think see, is that if you so divide your general law as to split it up into portions, each portion, if this policy is pursued, will enable the Government to deal with one section of the public ignoring the others. My submission is that this is not at all sound in policy, and the Honourable Member will be hard put to it, I think, to find any precedent of this character in any other Code. But my submission is, you have your general law—you rely on that and don't bring those who have been subject to this under clause 3, because my submission is that it does not stand on a new principle. Well, if that is done, Sir, I for one am quite prepared to say that I may be in a position to support the rest of the clause. I admit that in the second part perhaps the Government are on firmer ground, and as regards that, it is perhaps one which the Government can ask the Council to take into consideration and pass—it may be with amendments, it may be without amendments. But the first portion, I submit, gives very large powers indeed to those who have it in their power to launch these prosecutions, and my submission is that instead of having this new clause we can amend section 124-A itself in such a manner as to enable Government to deal with this class of people; but to divide the general law into so many portions, having one bit here and one bit there, one law to deal with one section and another law to deal with another section of people—that, I submit, is very unsound in principle and therefore I submit, Sir, that at least this portion should be deleted in the words of the amendment that I have moved.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I gather that the Honourable Mr. Raza Ali does not for one moment suggest that it is desirable that acts which are likely to cause disaffection towards His Majesty or the Government established by law in British India amongst the members of a police force, should be permitted with impunity. His objection, if I understood him aright, was of a different nature. He did not contend doubtless, after considering the remarks I previously made, that the provisions contained in section 124-A constitute an adequate remedy. But

he went on to say that what the Government ought to have done is to amend section 124-A so as to serve the same purpose which this Bill would serve. His objection, therefore, appears to me to be entirely of a formal character. He does not object to the substance of this clause of the Bill, but he merely says that Government should have adopted the alternative course of bringing in an amendment to the general law instead of passing a separate Bill. Well, Sir, it hardly seems to be necessary to discuss at any length a contention of this kind. Since the Honourable Member himself admits that he has no objection of substance, I am content to leave it to the Council to decide.

The HONOURABLE THE PRESIDENT : I will put the amendment in the proper Parliamentary way, that is that the words referred to in the amendment do stand part of the clause and those who wish to retain the words in the clause will vote for the motion.

The question is :

“ That the words—

‘ or does any act which he knows is likely to cause disaffection towards His Majesty or the Government established by law in British India amongst the members of a police force, or induces or attempts to induce, or does any act which he knows is likely to induce ’.”

stand part of clause 3 of the Bill.”

The HONOURABLE SAIYID RAZA ALI : May I say a word, Sir? There are two more amendments on the same point. If this amendment is put in the form in which you propose to put it, the other two amendments will go.

The HONOURABLE THE PRESIDENT : That is my point in putting it in that form.

The question is that these words do stand part of the clause.

The motion was adopted.

The HONOURABLE THE PRESIDENT : That disposes the other two amendments of the Honourable Saiyid Raza Ali.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I beg to move :

“ That in clause 3 of the Bill for the words ‘ member of a police force to withhold his ’ the words ‘ members of a police force to withhold their ’ be substituted.”

My object in moving this amendment is this. So far as I understand the object of this Bill is to prevent people from seducing the police not individually but collectively. I find this from the Statement of Objects and Reasons and also from the first part of clause 3, where they speak about members of a police force. In the Statement of Objects and Reasons also it is said “ to induce members of a police force or to spread disaffection amongst them.” From these I find that the object of the Bill is to penalise the inducing of a police force as a whole, not in individual cases. The Bill refers to the police force as a whole, or to more than one man. By having the words, as they are, in clause 3 of the Bill, viz., “ any member of a police force to withhold ” it will mean that any member of a police force may bring a charge against any person as an individual case. For instance, if a police constable has got some

[Lala Sukhbir Sinha.]

grudge against any person, then he can go and report that he was induced to leave the police service, and in that way the Act could be misused. I want to make the singular into plural. I think Honourable Members will understand what I mean. The object is to prevent people from deserting the police force as a whole, but as the Bill is framed now, individual policemen will have the right to make a report. If a man seduces a police force as a whole or at least more than one policeman, then the offence may be made punishable, but not otherwise. That is my object. Therefore, I move this amendment.

THE HONOURABLE MR. S. P. O'DONNELL : Sir, the Honourable Lala Sukhbir Sinha expressed the hope that the meaning of his amendment was clear to the Council. I do not know if the meaning is clear to the Council, but it is not clear to me. But I gather that what he desires is that it should be open to anybody to approach a particular member, an individual member of the police, and induce him to withhold his services, and that no prosecution should be for doing that. (*The Honourable Lala Sukhbir Sinha* : That is what I want.) All I can say then is that I hope the Council will summarily reject this amendment.

THE HONOURABLE SIR MANECKJI DADABHOY : I understood my Honourable friend to refer to the plural number, because there was a difficulty. But under the general clause the singular includes the plural, and so there will be no difficulty, so far as prosecutions are concerned.

THE HONOURABLE THE PRESIDENT : The question is :

"That in clause 3 of the Bill for the words 'member of a police force to withhold his' the words 'members of a police force to withhold their' be substituted."

The motion was negatived.

THE HONOURABLE MR. S. P. O'DONNELL : Sir, I beg to move :

"That in clause 3 of the Bill the words 'otherwise than in a manner expressly authorised by or under any law for the time being in force' be omitted."

This, Sir, is certainly a drafting amendment. I will move later an amendment to clause 4 of the Bill, and in view of that amendment, the retention of these words is unnecessary.

THE HONOURABLE SIR MANECKJI DADABHOY : Sir, I support the amendment. Not only are these words unnecessary, but to my mind they are meaningless, and will only cause complication if they are allowed to be retained. I therefore support the amendment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I beg to oppose the amendment.

THE HONOURABLE THE PRESIDENT : Does the Honourable Member intend to give reasons, or does he confine himself to the bare statement ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I will only confine myself to the statement, because the reasons are obvious.

THE HONOURABLE THE PRESIDENT : The question is :

"That in clause 3 of the Bill the words 'otherwise than in a manner expressly authorised by or under any law for the time being in force' be omitted."

The motion was adopted.

THE HONOURABLE THE PRESIDENT : The question is :

"That clause 3 as amended stand part of the Bill."

THE HONOURABLE SAIYID RAZA ALI : I have got one more amendment on clause 3, viz., that the words "or to commit a breach of the discipline" be omitted.

THE HONOURABLE THE PRESIDENT : The Honourable Saiyid Raza Ali is entitled to move this.

THE HONOURABLE SAIYID RAZA ALI : Sir, I move :

"That in clause 3 the words 'or to commit a breach of discipline' be omitted."

Sir, the clause that we are discussing goes further in its terms than section 124-A of the Indian Penal Code. Honourable Members will see that in the opening part of the clause the words are :

"Whoever intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection towards His Majesty, etc."

which, Sir, are much wider than anything we have in section 124-A of the Indian Penal Code.

It was claimed by the Honourable Mr. O'Donnell, and on the whole I should think to some extent rightly, that there are cases of disaffection in which delays are dangerous. Therefore, even if you have a law, apparently you are going to have another law to supplement section 124-A. I submit that we should be very careful not to extend the scope of the new law too wide. As I have pointed out already, this law goes much further than section 124-A, but we are now dealing with a matter which, I submit, is as deliciously vague as anything under the sun can be. Discipline is the word that has been used in this Bill. That has not been defined anywhere in any clause. The result, if these words are incorporated, as it is proposed to do in the section, will be that it will be open to an unscrupulous policeman—of whom I hope there are not very many in this country—to bring a charge which it will not at all be difficult for him to substantiate. After all, we do not know what is meant by the commission of a breach of discipline. As I have submitted, the term has not been defined, and in the absence of that, we will have to rely on the judicial interpretation of this term by the highest Court in the country. We know that the police force is a sort of regular force, and many of the rules which apply to one also apply to another. I can easily contemplate cases in which a most inoffensive request made to a police officer can fall within these words in the clause, and if an unscrupulous policeman is so minded, he can prefer a charge, though, as I have submitted, the man who used that language towards the policeman, never meant his words in that sense. We are dealing with a rather important matter ; therefore we should try to be as definite and as specific as possible. In fact it should not be necessary for me to draw attention to the matter, if some indication had been given as to what are the cases that are contemplated to be covered by these words, though assurance of that sort would come to very little in a court of law. The words are very vague, and the result will be that a number of cases will be launched and after all these words will have to go to the highest Court for judicial interpretation. On the other hand, if we remove these words, I submit that the difficulty with which the Government has been confronted in the past, and which they are not confronted with, at the present moment, will, to a large extent, be removed. In fact, my case is, Sir, that having regard to the ambiguous character of these words, every general case can fall under those words,

[Saiyid Raza Ali.]

and it will give rise to a very great difficulty, and mostly to unfounded charges being preferred by unscrupulous policemen. Therefore, my submission is that these words be omitted.

The HONOURABLE LALA SUKHBIR SINHA : Sir, I support this amendment, and agree with what the Honourable Saiyid Raza Ali has said. If these words remain, it will be a weapon in the hands of the police to challan any man and say that he induced him to commit a breach of discipline. I think the words "breach of discipline" are too wide, and they should be omitted.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : Sir, this is the only time I think I heard the word "discipline" being called vague. I wish my friends were all in a place where there was discipline.....

The HONOURABLE THE PRESIDENT : Is the Honourable Member reflecting on the procedure of this House ?

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : I think those who have been in the police or army can very well realise what discipline is, and if this word were omitted, I think it would be quite wrong.

The HONOURABLE MR. S. P. O'DONNELL : The Honourable Saiyid Raza Ali has taken two objections to the retention in clause 3 of the words "or to commit a breach of discipline". In the first place he argues that the insertion of these words makes this clause wider in its scope than section 124-A. I think if the Honourable Member will refer to the preamble to the Bill he will find the solution of his difficulty. The preamble says :

"Whereas it is expedient to penalize the spreading of disaffection among the police and other kindred offences."

Now, to cause a police officer to commit a breach of discipline is not necessarily an offence under section 124-A ; but this Bill has a two-fold object. It is intended to penalize the spreading of disaffection and also to penalise people who induce a police officer to commit breach of discipline.

The second objection which the Honourable Saiyid Raza Ali took was that the term "breach of discipline" was very vague, and he warned us that if these words were allowed to remain, we may find unscrupulous officers bringing charges against innocent persons, and that the unfortunate Courts having no definition of the term in front of them might give decisions which would involve grave injustice. I do not believe that there is any practical difficulty whatever as regards the meaning of the term, "commit a breach of discipline", and I believe that every Member of this Council, including the Honourable Saiyid Raza Ali, knows perfectly well what the meaning of those words is. If however the Honourable Saiyid Raza Ali would like a definition from me, I would refer him to section 23 of the Police Act. Under that section every police officer must obey all orders lawfully issued to him, and if he does not do so, he commits a breach of discipline.

The HONOURABLE SIR LESLIE MILLER (Madras : Nominated Non-Official) : Sir, I have a certain amount of sympathy with the Honourable Saiyid Raza Ali, as it is not quite clear to me that the words "or to

commit a breach of discipline" are not too wide, and after hearing read to us the section of the Police Act in which discipline is defined, it seems to me the difficulty is not diminished but rather increased. It is quite impossible, of course, for any member of the public to know what orders have been lawfully issued to any particular policeman. It may be that I have myself intentionally induced a policeman on point duty to commit a breach of discipline by driving my motor car too near him to make him get out of the way. I do not deny that for offences of that kind I may have deserved six months' rigorous imprisonment, but I do not think the Bill was meant to cover cases of that kind and I should like to have, if possible, some clearer definition in the Bill so that we may be in a position to realise a little what we are doing, and what penalties we are incurring.

I am not at all perturbed by the trouble that seems to have in part actuated this amendment, that is to say, the possibility of false charges by unscrupulous policemen. The favourite false charge is probably that of obstructing a policeman in the execution of his duty, and as that always remains open to the police, recourse to the provisions of this Bill will rarely appear necessary. There is not a section in the Penal Code which contains a penalty on which a policeman, if he chooses, cannot make false charges, and this Bill by adding one more offence, will not materially or appreciably increase the danger of the public. I do feel, however, that the words, "or to commit a breach of discipline" are very wide, and unless it can be said that other provisions of the Bill are a sufficient safeguard, may lead to charges which are not contemplated by the Bill.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : Sir, I think the answer to Sir Leslie Miller's difficulties is contained in the Bill itself. There is great safeguard in clause 5 of the Bill. I do not think that he need have any apprehension that he may be prosecuted for any of the acts which he mentions, or that there is any risk at all of a police officer launching frivolous charges against him under the Act. Under clause 5 of the Bill no prosecution can be launched until the sanction of the District Magistrate has been obtained. If the Honourable Member has any doubts of the probity of the police I am sure that he will be prepared to concede that he can trust the District Magistrate.

The HONOURABLE THE PRESIDENT : The question is :

"That in clause 3 the words 'or to commit a breach of discipline' be omitted."

The motion was negatived.

The Honourable Mr. Khaparde withdrew his amendment which runs as follows :

"That in clause 3 of the Bill the existing explanation be numbered as 'Explanation I,' and below it the following be added, namely :—

'Explanation II.—Nothing in this section shall apply to advice given by a relation or friend interested in a police officer, when such advice is given with the intention of procuring in a lawful manner the absence from duty or resignation of a member of the police force for the purpose of bettering his prospects or otherwise furthering his welfare.'"

The HONOURABLE THE PRESIDENT : The question is :

"That clause 3, as amended, stand part of the Bill."

[The Honourable the President.]

The motion was adopted.

Clause 3, as amended, was added to the Bill.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I beg to move that in clause 4 of the Bill :

(i) after the words " which is done " the following be inserted, namely :—
" in good faith—

(a) for the purpose of promoting the welfare or interests of any member of a police force by inducing him to withhold his services in any manner authorised by law ; or

(b)."

(ii) that the words " in good faith " be omitted.

I think, Sir, that the object of this amendment will be clear from its terms. As the Bill at present stands, there is a clause which is intended to save acts done in certain circumstances by police associations. I think it will be agreed by the Council that that clause does not go far enough, and that it is essential also to save acts which are done in good faith for the purpose of promoting the welfare or interests of any member of a police force by inducing him to withhold his services in any manner authorised by law. I do not think any possible objection can be taken to a provision which has that effect.

The motion was adopted.

The HONOURABLE MR. V. G. KALE : Sir, I beg to move that in clause 4 of the Bill for the words :

" has been authorised or recognised by the Government and the act done is done in good faith under any rules or articles of the association which have been approved by the Government."

the following words be substituted, namely :

" conforms to the rules made by Government in that behalf."

Sir, I appreciate the necessity for Government laying down rules for the guidance of associations of its employees, and, if associations which are started for the purpose of helping the police and bettering their conditions are prepared to conform to the rules made by Government in that behalf, I think that safeguard ought to be enough. It is for this reason that I move the amendment.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I do not think that the addition of this amendment will be an improvement to the Bill. On the contrary, it seems to me it is open to objection. The Honourable Mr. Kale has said that it ought to be sufficient if the association is one which conforms to the rules made by Government in that behalf. In the first place, however, Sir, that amendment omits the words " in good faith." It seems to me very important that any act which is done by the Association and which is to be exempted should be an act which is done in good faith. In the second place, it is not clear to me that, if this amendment is accepted, the act must necessarily be one which is done under the rules or articles of the association. It might be argued that, because the Association is one whose articles conform to the rules made by Government, that is sufficient, even though the act is one which has nothing to do with the purposes for which the Association has been

formed as embodied in the rules and articles of that Association. I do not suppose for a moment that the Honourable Mr. Kale intended that effect. I think he would entirely agree that the act must be one which is done not only in good faith but in accordance with the rules and articles of the Association which define the purposes for which the Association has been formed. There would be no justification whatsoever for exempting an act which is done for some purpose which has nothing whatever to do with the rules and articles which define the purposes of the Association.

On that ground, Sir, I oppose this amendment.

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

" That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill

The HONOURABLE MR. S. P. O'DONNELL : Sir, I beg to move that in clause 5 of the Bill the words :

" if any, to whom such Court is subordinate."

be omitted;

The object of this amendment, Sir, is simply to remove certain objections which were taken to the clause as it originally stood. It has been suggested that it is undesirable that the Magistrate must necessarily be a Magistrate subordinate to the District Magistrate.

I therefore propose that these words " if any, to whom such Court is subordinate " be omitted.

The motion was adopted

The HONOURABLE SAIYID RAZA ALI : I am afraid I must make it clear that the amendment that I have proposed, namely :

" that in clause 5 for the words ' District Magistrate, if any, to whom such Court is subordinate or in the case of a Presidency Town or the Town of Rangoon, of the Commissioner of Police ' the words ' Member of the Executive Council in charge of Police, or of the Local Government ' be substituted " ;

will not find quite that favour with some Honourable Members which I would otherwise expect. The difficulty, Sir, is one which most of us realise. That was clearly pointed out in the beginning by Mr. O'Donnell. At the time I drafted the amendment, I myself realised that it might give rise to some difficulty. Now, the position, Sir, is this—that if the power of launching prosecutions is given to the District Magistrate, then I am afraid that at times, specially when local feeling in a particular area is excited, and that excited feeling must react on the authorities, unfortunately some District Magistrates might make a wider use of the provisions of this clause than would be justifiable or than would be the case if this power were reserved to an officer who would be somewhat removed from the excited local area. That, I must say, is the objection on the one hand, and I do not think that I have put it unfairly. Without saying that the District Magistrate would be so perverse as to make an improper use of the provisions of this clause, I simply say that at times

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the force of circumstances and the excited feeling in a particular area may act in such a manner as to induce him to make a very wide use of this section. That is the objection, Sir. On the other hand, if the power were reserved to the Government, then the delay that would sometimes be experienced before sanction is obtained from the headquarters of Government, would be undesirable. I am not going into the question as to what would be the additional amount of work that would be thrown on the Government or the Member of the Executive Council in charge of Police. But, Sir, I have taken this into consideration, and that no doubt raises some difficulty. Therefore, Sir, the question if I may be allowed to put it that way, is that neither proposition is free from difficulty. My amendment raises some difficulties I must admit, but the difficulties that have been raised by the adoption of the words that are to be found here in this clause are greater than would be the case if my amendment is accepted. I do not think I need put it higher than that; but that is the position. I do not say that this is an ideal amendment, or that it would work quite as satisfactorily or smoothly as we would all desire. But, on the other hand, the Government's proposition raises worse difficulties. Therefore I say on the whole, not minimising the difficulties that are incidental to my amendment, it would be better if we adopted this amendment and gave this power in the major Provinces to the Member in charge of Police, who of course is not responsible to the Electorate and on this principle I do not think the Government will be in a position to object to that. In those cases where there is no Executive Council the power should be given to the Local Government.

With these words I commend this amendment to the consideration of the Council.

The HONOURABLE SIR MANECKJI DADABHOY : Sir, in my opinion this amendment is most undesirable. My Honourable friend wants to substitute the machinery of a Member of the Executive Council for the District Magistrate. He has acknowledged that in many cases considerable delay would be caused, if his suggestion was adopted, but I should like to ask him one simple question. When the question is referred to a Member of the Executive Council of Government, on what information will he rely before he passes his order? He will have to depend on the information of the District Magistrate in the first instance. He will have no personal knowledge of the affair. The District Magistrate who is on the spot and who has made personal inquiries and investigations, and is supported by evidence, is in the best position to know and to decide whether it is desirable to launch a prosecution or not; while, on the other hand, the Executive Member of Council will have to depend on secondary information and will not be in the same position as the District Magistrate to come to a conclusion,—apart from the question of delay which in some cases will defeat the ends of justice. I think on this very ground, apart from all other reasons the amendment ought not to be supported.

The HONOURABLE MR. S. P. O'DONNELL : Sir, the objection to this amendment is precisely the same as the objection which attaches to relying on section 124-A, namely, the great delay involved. The Honourable Saiyid Raza Ali has not denied that delay will occur. Nor does

he deny that the occurrence of such delay would be an evil. He contends, however, that although his amendment is open to objection, the objection to it is less than the objections which attach to the clause in the Bill as it at present stands. I maintain, Sir, that the position is just the reverse, namely, that the objections to this amendment are far greater than any objections which can reasonably be urged against the Bill as it at present stands. It is quite certain that delay will occur. It is quite certain that on occasions the delay will be considerable, and as I argued before, it is absolutely essential that in a matter of this kind, namely, attempts to create disaffection among the police, a remedy should be available which can be promptly applied.

I do not believe that the apprehensions which have been expressed by the Honourable Saiyid Raza Ali as to District Magistrates using their powers unwisely—I do not think those apprehensions have any serious foundation. I do not think any District Magistrate would institute or sanction a prosecution without due cause. Should he do so, however should a prosecution be launched without sufficient evidence, then the remedies provided by the ordinary law are available. There is the right of appeal, and the case can be taken up on revision to the High Court. As a matter of fact, however I do not believe there is any risk whatever in accepting this clause as it stands.

Therefore I oppose the amendment.

The HONOURABLE THE PRESIDENT : The question is :—

“that in the clause under consideration, for the words ‘District Magistrate, if any, to whom such Court is subordinate or, in the case of a Presidency Town or the Town of Rangoon, of the Commissioner of Police’ the words ‘Member of the Executive Council in charge of Police, or of the Local Government’ be substituted.”

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“That clause 5, as amended, stand part of the Bill.”

The motion was adopted.

Clause 5, as amended, was added to the Bill.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I move :

“That after clause 5 of the Bill the following clause be added, namely :—

“6. (1) No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act.

(2) Notwithstanding anything contained in Chapter XXII of the Code of Criminal Procedure, 1898, no offence under this Act shall be triable summarily.”

The object of this amendment is obvious. It is designed in the first place to ensure that no case shall be tried except by a Magistrate of considerable experience, namely, a Presidency Magistrate or a Magistrate of the first class. It is also designed to ensure that no case shall be tried summarily. There must be a full hearing. I think the Council will have no hesitation in accepting this amendment.

The HONOURABLE SAIYID RAZA ALI : This is a very necessary amendment, Sir, and I am glad that the Government have seen the necessity of bringing this. I have no doubt that both the amendments will be passed by this House.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : The question is :

“ That after clause 5 of the Bill the following clause be added, namely :—

“ 6. (1) No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act.

Trial of cases.

Act.

(2) Notwithstanding anything contained in Chapter XXII of the Code of Criminal Procedure, 1898, no offence under this Act shall be triable summarily.”

The motion was adopted.

Clause 6 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ That clause 1 and the Preamble stand part of the Bill.”

The motion was adopted.

Clause 1 was added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. S. P. O'DONNELL : I beg to move that the Bill as passed by the Legislative Assembly, and amended by the Council of State, be passed.

The HONOURABLE SAYID RAZA ALI : Sir, the stage has come when the question whether the Bill should be passed has to be decided. Sir, whatever may have been the differences of opinion on the necessity of the Bill, now that the Bill has been taken into consideration clause by clause and we have voted upon it, I think it behoves us all to do what we can to see, on the one hand, that not many opportunities, or as few as are in our power, for enforcing the provisions of the Bill arise ; and, on the other hand, Government should see that the provisions of this Bill are not enforced with a light heart. Sir, I am glad that the official amendments that were moved and passed by this Council earlier in the day have made this Bill much more acceptable to the people than would otherwise have been the case. I, for one, have no hesitation in saying that instead of these amendments having been moved by the Honourable Mr. O'Donnell, if a non-official Member had been able to induce the Government to take this view and modify their attitude and to agree to these amendments being passed, the Government would have been entitled to congratulation from us. But, Sir, we should not disguise from ourselves that the position is that the amendments that were moved and accepted to-day were mostly those that had been promised by the Home Member in the other House ; and when we remember that, Sir, though fortunately the Bill has been considerably improved upon, I do not think, Sir, that we can claim much credit for having passed these amendments. In fact, the announcement was made by the Honourable Sir William Vincent in the other House that most of the amendments that were moved to-day would be moved when the Bill came to this House. I am not, Sir, one of those who would unnecessarily like to meddle with a Bill that has been duly taken into consideration and passed by the other House, simply because we must justify our existence. That is not, Sir, the view I take. All the same, I have been watching at several Sessions from day to day that the tendency has unfortunately been for us to take everything that comes from the other House for granted, which leads in fact to the position of this Council going down very considerably in the public estimation. I do hope, Sir, that having regard, after all to the output of our exertions, though those exertions were made by the Honourable Mr. O'Donnell, that the public will not be in a position to take the view that we could take everything

that comes to us. The only remark that I will make, Sir, is that the Bill has been passed now and even those who have differed, and strongly differed, from Government would, I hope, deem it their duty now to see, on the one hand, that no occasion arises for the enforcement of these provisions, and secondly that if an occasion does arise, then the Government would keep a watchful eye over the District Magistrates, though they are a very experienced body, a body of men really who serve this country to the best of their ability, and see that they are not carried away by excitement in local areas. The District Magistrates, Sir, are after all human beings, and I do not think it can be claimed by anybody that no District Magistrate ever makes a mistake. Having that in mind, Sir, I do hope that the Government will see to it that the power which has now been given to the District Magistrates is exercised by them properly and not indiscriminately. With these words, Sir, I support the passing of this Bill.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : Sir, I congratulate the Government on the passing of this Bill, though it has come very late. I would say one thing, Sir, that this will put a stop to a struggle which was going on in the country. In hundreds of places there used to be written appeals saying *Police aur Fauj ki mulazmat haram hai* that it is *haram* according to religion to serve the army or the police. There are some volunteers who are doing mischief. I do not know why they are called volunteers when they all have got salaries from various funds. If those appeals had continued to come to the ranks of the police, they would have got less and less, and the rebel army would have been increased. People may say that the volunteers have not got arms, that is because they have not got them and therefore they are not carrying them. So I am really very glad that, at the end, such a Bill has come into existence, which will put a stop to such things and prevent the police being at the mercy of their opponents, and will be able to see that the Government has come forward to safeguard their interests and themselves.

The HONOURABLE NAWAB SIR BAHIRAM KHAN (Punjab : Nominated Non-Official)* : Sir, on the present Bill which is introduced to punish the persons who want to keep the police off from doing their duty a good deal has been said by the Honourable Colonel Sir Umar Hayat Khan and the Honourable Sir Maneckji Dadabhoy. I entirely associate myself with them in the matter. I want to further emphasise that many an enemy of the country and the Government have left no stone unturned to keep the people off from serving the Government in general and the police force in particular. I have seen it with my own eyes in print where it was declared that to serve the Government was prohibited by religion by using the word *Haram* to which reference in his speech has been already made by the Honourable Colonel Sir Umar Hayat Khan. I strongly urge the necessity of such a measure and support the Bill accordingly.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to provide a penalty for spreading disaffection among the police and for kindred offences, as passed by the Legislative Assembly and amended by the Council of State, be passed.”

The motion was adopted.

* “ Translation of a speech delivered in the vernacular.”

NEGOTIABLE INSTRUMENTS (AMENDMENT) BILL.

The HONOURABLE MR. E. M. COOK (Finance Secretary) : Sir, I beg to move :

“ That the Bill further to amend the Negotiable Instruments Act, 1881, as passed by the Legislative Assembly, be taken into consideration.”

This is a small and unpretentious Bill, designed to bring the Indian law into conformity with the law of England in respect of crossed cheques. It was pointed out to us last year by the Indian Merchants' Chamber and Bureau, Bombay, that section 131 of the Negotiable Instruments Act, which protects a banker who has in good faith and without negligence received payment for a customer of a crossed cheque, the title to which proves defective, does not protect a banker who credits a customer's account with the amount of a cheque before its realisation. It was suggested by the Indian Merchants' Chamber that it was desirable that in such a case also a banker should have protection. We consulted the other Chambers of Commerce, who were unanimous that this provision should be introduced in the Negotiable Instruments Act. I think the Bill is entirely non-controversial.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, I support the passing of this Bill and congratulate the Honourable Member of the Finance Department for having adopted the suggestion made by the Indian Merchants' Chamber and Bureau. I think this Bill will remove the anomaly which has existed up to now.

The motion was adopted.

The HONOURABLE MR. E. M. COOK : I now beg to move that the Bill be passed.

The motion was adopted.

INDIAN MINES BILL.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, I beg to move :

“ That this Council do agree to the recommendation of the Legislative Assembly that the Bill to amend and consolidate the law relating to the regulation and inspection of mines be referred to a Joint Committee of the Council of State and of the Legislative Assembly and that the Joint Committee do consist of 18 Members.”

The object of this Bill may be very briefly stated. It defines the respective functions of the Central and Provincial Governments in respect of mining law. It also provides for the regulation of hours of work and employment of children in accordance with certain principles adopted at the Washington Conference. The House will note that the motion refers to a Joint Committee consisting of 18 members. On this point I feel that an explanation is due to the House. On the 14th instant, on

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the motion of the Honourable Mr. Sethna, as amended by the Honourable Mr. Kale, the House recommended to the Legislative Assembly that a Joint Committee should usually consist of not more than 14 members. Let me at once assure the House that had this Committee been formulated after the recommendation had been passed, the maximum number would have been restricted to 14. Unfortunately the number 18 had been selected, and the Members had been approached, and had signified their assent, before the 14th instant when the recommendation was passed. It would have been difficult, not to say invidious, to reduce the number of the committee after the members had been approached and had agreed to serve. I trust, therefore, that the House will accept this motion and agree to 18 members.

The motion was adopted.

NOMINATION OF MEMBERS OF JOINT COMMITTEE.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, I beg to move :

“ That the following Members of the Council of State be nominated to serve on the Joint Committee to consider and report on the Bill to amend and consolidate the law relating to the regulation and inspection of mines, namely.”

The Honourable Mr. H. Moncrieff Smith,
The Honourable Diwan Tek Chand,
The Honourable Sir Alexander Murray,
The Honourable Mr. Lalubhai Samaldas,
The Honourable Sir Maneckji Dadabhoy,
The Honourable Mr. G. S. Khaparde,
The Honourable Rai Bahadur Lala Ram Saran Das,
The Honourable Sirjut Chandradhar Barua, and
The Honourable Mr. V. G. Kale.”

The motion was adopted.

COURT-FEES (AMENDMENT) BILL.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I beg to move that the Bill further to amend the Court-fees Act, 1870, as passed by the Legislative Assembly, be taken into consideration.

This Bill, Sir, is of a very simple and non-controversial character. The High Court at Allahabad has recently held that no Court-fee is leviable under section 4 of the Court-fees Act in an appeal under the Letters Patent of the various High Courts from the judgment of one Judge of the Court. That, of course, was never the intention of the law. It was always understood, before that decision of the High Court was given, that Court-fees were leviable in appeals from the judgment of one Judge. Possibly, at the time when the Act of 1870 was passed, such appeals were always heard by two Judges. At present, and for some time past, at any rate, the High Courts under the rules which they are empowered to make, have directed that certain classes of appeals, namely, appeals of a minor character, should be heard by a single Judge. There is obviously no reason why in the case of such appeals Court-fees should not be leviable.

The motion was adopted.

[Mr. S. P. O'Donnell.]

The HONOURABLE MR. S. P. O'DONNELL : Sir, I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

PARSI MARRIAGE AND DIVORCE (AMENDMENT) BILL.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I beg to move that the Bill further to amend the Parsi Marriage and Divorce Act, 1865, as passed by the Legislative Assembly, be taken into consideration.

In the trial of cases under the Parsi Marriage and Divorce Act, 1865, the presiding Judge is aided by delegates. In the Parsi Chief Matrimonial Courts eleven delegates and in the Parsi District Matrimonial Courts seven delegates are required. Naturally, difficulties have been experienced in the trial of cases which take more than one day, because these large numbers of delegates must be present at each hearing before the case can proceed. The delegates, like the rest of us, are human beings, and it happens occasionally that some of them are unable to attend. The Bill proposes that the trial shall proceed if nine or six delegates, as the case may be, are present throughout the proceedings. There is also a consequential amendment made in section 41 by which the presiding Judge will have the casting vote on the facts if the delegates are equally divided in opinion.

The motion was adopted.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

OFFICIAL TRUSTEES AND ADMINISTRATOR GENERAL'S ACTS (AMENDMENT) BILL.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I beg to move that the Bill further to amend the Official Trustees Act, 1913, and the Administrator General's Act, 1913, as passed by the Legislative Assembly, be taken into consideration.

Sir, although this Bill contains seven clauses and although it purports to amend several sections, both of the Official Trustees Act and of the Administrator General's Act, its object is merely to effect one formal change. Under the Devolution Rules Administrators General and Official Trustees is a provincial subject and, therefore, the receipts accruing in respect of the work done by these officers are credited to provincial revenues. On the other hand, the Act at present purports to make the revenues of the Government of India liable for sums required to discharge any liability which the Official Trustee or the Administrator General, as the case may be, would be personally liable to discharge. Now, Sir, that provision was quite suitable in the past,

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because, although the receipts in the past also went to the provinces, still, at that time, provincial revenues were simply part of the general revenues of the Government of India. At present, as Honourable Members are aware, revenues have been allocated to the various provinces, and I think it will be agreed, therefore, that it is reasonable that, since the provinces are to receive the receipts, they should bear any liability that may be incurred. Local Governments were informed of the intention to introduce legislation upon these lines, and no objection has been received from them.

The motion was adopted.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

MESSAGE FROM LEGISLATIVE ASSEMBLY REGARDING JOINT COMMITTEE ON COTTON TRANSPORT BILL.

The SECRETARY OF THE COUNCIL : Sir, a message has been received from the Legislative Assembly.

The HONOURABLE THE PRESIDENT : Let it be read.

The SECRETARY OF THE COUNCIL : The message runs as follows :—

"Sir, I am directed to inform the Council of State that the following motion was carried in the Legislative Assembly at their meeting on the 23rd September, 1922, and to request the concurrence of the Council of State in the recommendation contained therein, namely :—

'That this Assembly do recommend to the Council of State that the Bill to provide for the restriction and control of the transport of cotton in certain circumstances be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of ten Members.'"

The HONOURABLE MR. H. A. F. LINDSAY : Sir, in regard to this message, I had hoped to be able to move in the House on Monday that the recommendation for the appointment of a Joint Committee be accepted, but I understand that the Agenda has already been circulated. I trust that there will be no objection, with your permission, Sir, to an amendment of the Agenda.

The HONOURABLE THE PRESIDENT : I do not think it is necessary to amend the Agenda. The Honourable Member has given notice to the Council that he proposes to move. Unless anybody objects, I shall let him move.

The Council then adjourned till Eleven of the Clock on Monday, the 25th September, 1922.

COUNCIL OF STATE.

Monday, the 25th September, 1922.

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

QUESTIONS AND ANSWERS.

ARTICLES IN ENGLISH PRESS *RE*: INDIANIZATION OF THE INDIAN ARMY.

163. The HONOURABLE MR. LALUBHAI SAMALDAS : Will Government be pleased to say whether they have noticed the following remarks in *The Nation* and *The Athenaeum* of August 12th :

‘ I take a critical question—the Indianization of the Indian Army. It is quite unavoidable, and it has long been considered. Its principle, the inevitable subordination of some Englishmen to some Indians—already applied to the civil sphere—was, I believe, approved by Lord Hardinge. Lord Reading, if I am not mistaken, has gone further. He has made himself responsible for drafting a moderate measure, setting up a gradual scheme of appointment for Indian officers, to mature in thirty years. What has been the fate of this measure ? I believe that the Cabinet has considered and rejected it.’

and say what truth there is in the statement ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The Government have seen the remarks in question. As regards the second part, the question of the measures to be adopted for the Indianisation of the Indian Army at present forms the subject of correspondence between the Government of India and the Secretary of State, and the Government of India are not at present in a position to make any announcement on the subject.

UNAUTHORISED PUBLICATION OF FISCAL COMMISSION REPORT.

164. The HONOURABLE SIR EDGAR HOLBERTON : (a) With reference to the reply given on the 6th September 1922, to the question No. 38* asked by the Honourable Maharaja Sir Manindra Chandra Nandy, will Government be pleased to state :

(1) whether the Report of the Fiscal Commission has now been received and, if so, when ; and

(2) whether it has been published or copies sent to the Press ?

(b) If the Report has not been published or distributed to the Press, are Government aware that criticism of the unpublished Report has appeared in the edition of the “ *Bombay Chronicle* ” published on Saturday, the 16th September 1922 ?

(c) Have any inquiries been instituted, with a view to discovering whether and by what agency the Report was improperly disclosed ?

* *Fide* page 28 of Volume III, No. 2.

(d) Will Government be pleased to state whether it is intended to take any disciplinary action to deal with the present case and what action, if any, it is proposed to take to avoid the premature leakage of such papers in the future?

The HONOURABLE MR. H. A. F. LINDSAY : The facts are as follows :—

The report was signed by all Members of the Commission at Simla on July 6th last. Five Members of the Commission, however, signed the report subject to a minute of dissent, and in order to avoid expense to Government, the Commission dispersed before the minute of dissent was actually written. The minute of dissent did not reach the Government of India till September 8th, and final arrangements were then made for the publication of the complete report to-day, September 25th.

The Government of India have seen the article in the "Bombay Chronicle" to which the Honourable Member refers, and subsequent articles on the same subject. The Editor has announced in the issue of the 19th instant that they are from the pen of a well-known Economist. No copy of the report has been sent to this paper by the Government of India. It is clear, however, that either the "Bombay Chronicle" or this 'well-known economist' was in possession of, or had had access to, a copy of the majority report. All the members of the Commission took away with them, it is believed, copies of the majority report when the Commission dispersed in July, and the Government of India can only suppose that one of these copies found its way into the hands of the "Bombay Chronicle" or the well-known economist. It will be considered whether inquiries should be made though it is unlikely that they will lead to any result.

The Government of India doubt whether any disciplinary action is possible, or could usefully be taken in the present case. If they are right in their surmise that one of the copies of the majority report taken away by the Members of the Commission in July last found its way into the hands of the newspaper or this well-known economist, the Government of India are unable to see what particular precautions they can take against leakage of this kind in future. They can only impress upon the members of Commissions the necessity of taking scrupulous care to prevent the premature disclosure of documents which they are in honour bound to treat as strictly confidential until the documents have been submitted to the Government of India and published by them.

The HONOURABLE SIR EDGAR HOLBERTON : Are the Government of India in a position to inform us of the name of the well-known economist who is referred to in their reply?

The HONOURABLE MR. H. A. F. LINDSAY : I regret that the name is not known. It may possibly come out if inquiries are made.

The HONOURABLE MR. LALUBHAI SAMALDAS : Is it a fact that the Honourable the President of the Commission had to attend to his duties as a Member of the Executive Council and was very busy with the Legislative Council's work when the Commission was formally dissolved on the 6th of July?

The HONOURABLE MR. H. A. F. LINDSAY : I understand that that was the case.

The HONOURABLE SIR EDGAR HOLBERTON : If the results of the inquiry disclose a sufficiency of evidence to justify disciplinary action, is this House to understand that Government will be prepared to take it?

The HONOURABLE MR. H. A. F. LINDSAY : I am afraid that my reply would be an answer to a hypothetical question.

The HONOURABLE SIR ARTHUR FROMM : Sir, is Government prepared to state whether there is any time limit in which dissenting members of a Commission should write their dissenting report. It seems to me a great deal of time has been wasted over this, and it is possibly this which led to the trouble we are now discussing.

The HONOURABLE MR. H. A. F. LINDSAY : There is no time limit.

The HONOURABLE SIR EDGAR HOLBERTON : May I be informed, Sir, whether there is any other Statute under which disciplinary action could be taken in this country except the Official Secrets Act? I refer, of course, to the fact that a similar state of leakage can be dealt with at Home under the Parliamentary Discipline Act or the Breach of Parliamentary Practice Act.

The HONOURABLE MR. H. A. F. LINDSAY : I am afraid I must have notice of that question.

STATEMENT LAID ON THE TABLE.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I lay on the table the information promised in reply to a question by the Honourable Sir Dinshaw Wacha on the 11th September, 1922, regarding the number of officers in the Indian and Provincial Civil Services.

Statement showing the number of officers in the Indian Civil Service and the Provincial Civil Service on the 30th June 1914 and on the 30th June 1922.

Province.	ON 30TH JUNE 1914.				ON 30TH JUNE 1922.			
	I. C. S.		P. C. S.		I. C. S.		P. C. S.	
	I. C. S. Alone.	Mixed Commission.	Executive.	Judicial.	I. C. S. alone.	Mixed Commission.	Executive.	Judicial.
Madras ...	178	...	137	149	168	...	157	175
Bombay ...	180	1	86	123	162	...	90	162
Bengal ...	179	...	327	297	183	...	321	299
United Provinces ...	243	...	316	114	217	...	406	174
Punjab ...	168	28	141	48	150	14	226	141
Burma ...	125	50	137	29	127	27	144	107
Bihar and Orissa ...	113	...	258	98	115	...	221	103
Central Provinces ...	96	11	112	49	93	4	108	125
Assam ...	42	8	69	*	47	2	84	*
Total ...	1,324	98	1,583	907	1,262	47	1,757	1,286

* Assam has no separate judicial cadre of its own, but a joint one with Bengal.
N.B.—The figures in the above statement exclude "listed" posts but include officers serving on probation and temporarily in the Provincial Civil Service.

MESSAGES FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

The HONOURABLE THE PRESIDENT : A message from His Excellency the Governor General :

'Whereas the Legislative Assembly has refused leave to introduce a Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt, or to excite disaffection against, Princes or Chiefs of States in India or the Governments or Administrations established in such States, a copy of which is hereto annexed);

Now, therefore, I, Rufus Daniel, Earl of Reading, in exercise of the powers conferred by sub-section (1) of section 67-B of the Government of India Act, do hereby certify that the said Bill is essential for the interests of British India.

READING,

Viceroy and Governor General.

The 24th September 1922.

Another message from His Excellency the Governor General :

'I, Rufus Daniel, Earl of Reading, in exercise of the powers conferred by sub-section (1) of section 67-B of the Government of India Act, do recommend that the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt, or to excite disaffection against, Princes or Chiefs of States in India or the Governments or Administrations established in such States, be passed in the form annexed hereto.'

READING,

Viceroy and Governor General.

The 24th September 1922.

INDIAN STATES (PROTECTION AGAINST DISAFFECTION) BILL.

The SECRETARY OF THE COUNCIL : Sir, in accordance with the provisions of section 67-B of the Government of India Act, I lay on the table a copy of the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt, or to excite disaffection against, Princes or Chiefs of States in India or the Governments or Administrations established in such States, leave to introduce which was refused by the Legislative Assembly at its meeting of the 23rd September 1922, the said Bill having been certified, under the provisions of the same section, by the Governor General as essential for the interests of British India.

The HONOURABLE THE PRESIDENT : I direct that the certificate of His Excellency the Governor General and the recommendation of His Excellency the Governor General be endorsed on the back of the Bill.

PROCEDURE IN REGARD TO BILL WHICH LEGISLATIVE ASSEMBLY REFUSES LEAVE TO INTRODUCE.

The HONOURABLE MR. J. P. THOMPSON (Political Secretary): I rise, Sir, with your permission, to explain, with reference to the form in which the motion has been placed on the agenda list for to-morrow that there are no precedents and no rules to guide us as to the form of that motion. I venture, therefore, to ask, Sir, that you will give us a ruling as to the procedure which should be followed.

The HONOURABLE THE PRESIDENT : This, I think, is the first occasion when a Bill certified under section 67-B of the Government of India Act has been brought before the Council of State or indeed the Indian Legislature. I therefore think the Honourable Member is perfectly justified in asking for my views in the matter. The rules do not provide in terms for the consideration of certified Bills. Apparently, the same rules apply as in the case of other Bills. I therefore think that I ought to indicate to the Council my views as to the procedure to be followed, and I will further take this opportunity of making certain remarks on the constitutional aspect of this matter. The section is certainly not easy to construe and such a survey may assist Honourable Members in approaching the Bill. It will be observed that section 67-B, which Honourable Members will find reprinted in the Appendix to this Red Manual, falls into two parts. It deals, in the first place, with Bills which have already been passed by the other Chamber. I need not trouble the Council with that because this Bill has not been passed by the other Chamber. We learn from the certificate of His Excellency that leave to introduce the Bill has been refused. That brings us to the second part of sub-clause (b) of section 67-B, which I think I had better read to the Council. It runs as follows :

"If the Bill has not already been so passed, the Bill shall be laid before the other Chamber, and, if consented to by that Chamber in the form recommended by the Governor General, shall become an Act as aforesaid on the signification of the Governor General's assent, or, if not so consented to, shall, on signature by the Governor General, become an Act as aforesaid."

Honourable Members will see that Parliament has directed that where leave to introduce a Bill has been refused by one Chamber and a certificate has been given by the Governor General, the Bill shall be laid before the other Chamber. That is a statutory direction, and it must be given effect to. The Bill has in fact been laid. I think therefore the position is analogous to that created by Rule 25 which directs that Bills that have been passed by the Assembly shall be laid before the Chamber, and that rule goes on to say (or the next rule, I forget which) that when a Bill has been laid, then a motion for consideration may be made. In other words, there is no motion for leave to introduce, and I think the Act itself contemplates that in

[The Honourable the President.]

this case also there should be no motion for leave to introduce. Otherwise the words of the section which I have read to you would be inoperative. The procedure to be followed hereafter appears to me to be the same as is followed in this Chamber when we are considering an ordinary Bill; that is to say, there must be a motion for consideration, and there must be a motion for the passing of the Bill. To put it shortly, the consent referred to in sub-clause (b), the consent of the Council, is to be ascertained in exactly the same way as the consent of the Council is ascertained in the case of any other Bill. There is no difference between the two. That, I think, clears up the question of procedure.

There remain one or two other points to which I should like to draw the attention of the Council. I would point out to them that this Bill is not merely a certified Bill but is also a recommended Bill, and therefore, if the Bill is passed by this Council in a form not recommended by the Governor General, the last words of sub-clause (b) may operate, that is to say,

“or, if not so consented to, shall, on signature by the Governor General, become an Act as aforesaid.”

However, I should like to make it quite clear to the Council that they are in a position to express their views on the Bill as fully and freely as though it is an ordinary Bill. I should like to make this quite clear because I have heard suggestions that debates on a certified and recommended Bill must necessarily be entirely infructuous. That, I submit, is far from being the case, and I think the House will see this at once if I read section 67 (2) to the Council. That sub-section runs as follows :

“Every such Act shall be expressed to be made by the Governor General, and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat; and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor General, the Act shall have the same force and effect as an Act passed by the Indian Legislature and duly assented to.”

I have read this sub-section to the House for this reason. It will be seen that if this Bill is passed into law, it must be laid before the Houses of Parliament and any observation made by this Council must inevitably therefore come under the consideration of the Mother of Parliaments.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, if I understood your ruling aright I think it comes to this, that the Bill which has been placed upon the table to-day, will be discussed in the same manner as any other Bill that comes to us from the other House. But without anticipating the discussion that will take place here to-morrow, Sir, may I inquire if the House will have the same opportunities of going into the details of the Bill as we do generally have in the case of other Bills? That is to say, shall we be in a position to ‘take the Bill into consideration,’ as the usual language goes? So far as I can see, the motion that is coming up to-morrow

is in the form of a Resolution, i.e., the House is called upon to assent to the Bill. So that, if that motion is carried, it means that all discussion is practically stifled. I should like to have a ruling on that point, Sir.

The HONOURABLE THE PRESIDENT : Possibly I may have been obscure, but what I intended to indicate was that the course which has been followed in placing the actual motion on the paper is incorrect in my opinion, and I propose that instead of a motion of that character, the ordinary motions should be put down on the paper. Indeed I understood my Honourable friend asked for a ruling on that particular point, namely, the form of the motion.

The HONOURABLE MR. J. P. THOMPSON : Exactly.

The HONOURABLE THE PRESIDENT : That is to say, there will be a motion on the paper for to-morrow that the Bill be taken into consideration, and if that motion is carried, that the Bill be passed.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : May I ask a question, Sir? And that is whether a motion for postponing the consideration of the Bill can be brought to-morrow without any amendments?

The HONOURABLE THE PRESIDENT : The Honourable Member is entitled to move any motion that he can move with regard to any other Bill. Whether it is carried or not is a matter for the consideration of the Council.

(Then the Honourable Mr. Khaparde rose to speak while the President had called on the Honourable Mr. Moncrieff Smith.)

The HONOURABLE THE PRESIDENT : I will call the Honourable Member in his turn. I have now called on the Honourable Mr. Moncrieff Smith to speak.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : Sir, with reference to your ruling as to the procedure to be followed in this matter to the effect that we are, as far as possible, to follow the procedure which we adopt in the case of Bills which are passed by the other House and laid on the table here, and with reference to certain remarks that fell from the Chair, I think there is just one small point outstanding. You indicated, Sir, that the Council will have full opportunity of considering the Bill—to discuss the motion for consideration, to put forward amendments and then consider the motion that the Bill be passed. But, Sir, as you indicated in your remarks, the Governor General's power to make the law arises as soon as there is a failure on the part of the Council to consent to the Bill in the form recommended. Therefore, Sir, I would ask whether, in the event of this Council making an amendment to the Bill, the Governor General can thereupon in your opinion make the law by signing it in the form recommended under section 67-B (1)(b) and whether in that event it will be necessary for any motion at all to be made that the Bill be passed. I am trying to elicit a ruling as to whether in any case it will be necessary to pursue the matter to the bitter end if amendments are made in the course of the consideration of the Bill.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : It is rather a hypothetical proposition, but I think I take the Honourable Member's point. It is clearly competent to the Governor General, when an amendment has been carried by this House, to sign the Bill and make it law. Whether the Governor General would take that course is a matter on which I can express no opinion. If it was so, it would then be for the Council to consider whether it would be wise or necessary to pursue the discussion.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-official) : I have a few amendments to the Bill. When are they to be given notice of ?

The HONOURABLE THE PRESIDENT : I understand that I am to have some application from the Honourable Member in charge of the Bill for cutting down the period of notice.

The HONOURABLE MR. J. P. THOMPSON : May I, Sir, with your permission, first ask to be allowed to alter the form of the motion standing on the agenda for to-morrow ?

The HONOURABLE THE PRESIDENT : Certainly.

The HONOURABLE MR. J. P. THOMPSON : I will, therefore, Sir, with your permission, move in accordance with your ruling, *first* that the Bill be taken into consideration, and *secondly* that the Bill be passed, if the first motion is assented to.

The HONOURABLE THE PRESIDENT : Then there is the question of notice. Has the Honourable Member appreciated my ruling ? My ruling is that a Bill of this class should be dealt with in the same manner as a Bill laid on the table from the Assembly. When a Bill is laid from the Assembly 3 days' notice is under the rules necessary.

The HONOURABLE MR. J. P. THOMPSON : With your permission, Sir, it could be shortened. May I ask, Sir, for your permission ?

The HONOURABLE THE PRESIDENT : I should like to have your reasons.

The HONOURABLE MR. J. P. THOMPSON : You refer, Sir, I take it, to the precipitation—perhaps that is the word which suggests itself to you—in bringing forward this Bill before the Council of State ?

In the first place, Sir, it was felt that the Session was nearing its close. Members have been notified that the 26th was the date on which the Session would close. It was felt, therefore, that if we asked to put off the discussion of the Bill we might be putting a number of members to very considerable inconvenience. If, Sir, you think that the inconvenience would be outweighed by the advantages, I should be glad to ask for permission to postpone the discussion on the Bill until Wednesday.

As regards the urgency of the Bill—why the Government of India should ask that it should be decided before the Council breaks up—I have only to say that the action of the Legislative Assembly has

been so unusual that we feel very serious apprehension might be created in the minds of the Rulers of Indian States if we did not take action at once with the object stated. It is for these reasons, Sir, that I ask your permission to bring this Bill up for consideration before the Council.

The HONOURABLE THE PRESIDENT : Honourable Members will remember that at the close of the last Session I had to make certain remarks on the danger of rushing legislation through at the end of a Session. I then expressed the opinion that as far as in me lay I would not encourage that practice. I thought then and I still think that it is not right that at the end of a dying Session the Council of State should be faced with a *fait accompli* and told "You have got to either pass the Bill or to sit on." In this case I fully understand that Government have to face a situation of an unexpected character. They have to face the rejection of a Bill brought forward by them on a motion for leave to introduce, not on a motion for consideration. These are very special circumstances, and while I maintain the position that I, as President of this House and as guardian of its dignity, will always do my best to prevent legislation being rushed through at the end of a Session, I must on this occasion accede to the request of the Honourable Member ; but I accede to the request subject to a condition. If the Honourable Member has his term of notice shortened, so he must take short notice and he must therefore take amendments as they are proposed. I will suggest to Members of Council to put in their amendments at the earliest possible moment.

The HONOURABLE MR. J. P. THOMPSON : I gratefully accept your ruling, Sir, and I shall be glad to deal with any amendments that may be received.

The HONOURABLE SIR EDGAR HOLBERTON (Burma Chamber of Commerce) : There is one point that is not clear to me personally : supposing this Council passes the Bill with amendments, has the Governor General in his message to us reserved to himself power to pass that Bill as amended, or does his message merely refer to the Bill as it stands at present ?

The HONOURABLE THE PRESIDENT : If the Honourable Member means that the passage of this Bill with amendments will necessarily require the Governor General to sign it so as to make it law, it is not so. On the other hand, he has that power.

COTTON TRANSPORT BILL.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, I beg to move that this Council do agree to the recommendation of the Legislative Assembly that the Bill to provide for the restriction and control of the transport of cotton in certain circumstances be referred to a Joint Committee of the Council of State and Legislative Assembly and that the Joint Committee do consist of ten members.

I shall be very brief in my explanation of this Bill. Its primary object is to preserve the purity of long staple Indian cotton and to prevent its adulteration with inferior types. This it effects by giving power to Local Governments to notify areas where long staple cotton is grown. It also enables measures to be taken to prevent short staple cotton from

[Mr. H. A. F. Lindsay.]

being railed to a long staple area for reconsignment thence under the name of that area as long staple cotton. This would tend to damage the name of that area, and the Bill attempts to check this deterioration and to re-establish the good name of the Indian crop. The Bill is an enabling Bill and Local Governments which desire to take advantage of it are able to do so with the approval of their respective Legislative Councils. I hope the House will support the motion.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce) : May I ask what this Bill is that the Honourable Mr. Lindsay has been talking about ? I do not see it on the agenda paper.

The HONOURABLE THE PRESIDENT : The Honourable Member was probably not in Council on the last occasion, at any rate at the termination of the proceedings. Had he been so, he would have been aware that this matter was mentioned then and I gave the Honourable Mr. Lindsay permission to move for leave without notice.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadian) : May I say a word, Sir, in support of this motion ? The Bill has been prepared on the recommendation of the Central Cotton Committee. That Committee went into the report of the Indian Cotton Committee which had considered the question carefully. It was after very careful consideration that they suggested that instead of a Bill actually laying down conditions of restriction, an enabling Bill allowing Local Governments to exercise this power should be introduced in the Legislative Assembly. I therefore have great pleasure in supporting this motion.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadian) : As a Zemindar I strongly support the motion because it is very useful for us.

The motion was adopted.

NOMINATION OF MEMBERS TO JOINT COMMITTEE.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : I beg to move that the following members of the Council of State be nominated to serve on the Joint Committee to consider and report on the Bill to provide for the restriction and control of the transport of cotton in certain circumstances, namely :

The Honourable Sir Maneckji Dadabhoy.

The Honourable Mr. Lalubhai Samaldas.

The Honourable Saiyid Raza Ali.

The Honourable Sardar Jogendra Singh, and

The Mover.

The motion was adopted.

RESOLUTION *RE* AMENDMENT OF LAND ACQUISITION ACT, 1894.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadian) : Sir, I beg to move that :

“ This Council recommends to the Governor General in Council to take necessary but early steps to have the Land Acquisition Act, No. I of 1894, so amended as to make any Government notification to acquire any land for a public purpose subject to be questioned by the proprietors in a Civil Court for declaration whether the object for which the land is going to be acquired is a public purpose or not.”

Sir, the Land Acquisition Act of 1894 has been provided to acquire land for the purposes of Government, for a local body, for a railway as well as for registered companies. When the land is acquired for any Government purpose, no further inquiry is made. The Collector sends a Report to the Government and they issue a notification to acquire the land. The proprietors have no option to say anything against the acquisition of the land except to raise an objection in respect of the amount of compensation which the Collector awards to them. As regards the acquisition of land for registered companies, the procedure is somewhat different. A preliminary inquiry is to be held by the Collector under section 40 to find out whether the land is actually required for the company or not. In both these cases it is often found that the Local Governments have misused this power. In many cases the Government acquires land for public purposes more than is absolutely necessary, and if a piece of land is required to build a house for a local officer, then any amount of land can be taken without regard to the actual necessities of the case. In big municipalities where lands are acquired for building purposes, so far as my knowledge goes, not more than 3 acres of land is given to each individual to build a house on an average. But, Sir, in some local cases we find that about 10 acres of land are acquired for building a private house for a local officer.

As regards the acquisition of land for registered companies, the notification in the Gazette is the final order, and the owners of the land have no right whatever to have any declaration made in the Civil Court or in any other Court. I will cite a very recent case in my place where 85 acres of land have been acquired by the Government for a registered company, but that land will not be used by the company itself. The company will get possession of the land and will sell it to private individuals for building private shops. I think the Land Acquisition Act is not intended to apply to cases of that description. If a registered company requires any land for its own use for building a factory or for the cultivation of sugarcane or cotton or for any such purpose, there can be no objection, but to acquire land for a registered company, though doubtless it is registered, and to allow it to sell the land outright to individual persons for building private shops is hardly fair on the part of Government, and I do not think Government is justified in acquiring land for such purposes.

Then, Sir, there are many instances where more land is acquired than is absolutely necessary. The second point is about compensation

[Lala Sukhbir Sinha.]

The Collectors award compensation only on the reports of their subordinates like Tahsildars, revenue officers, patwaris, kanungos. The ordinary procedure is that the price is calculated on the revenue.....

The HONOURABLE MR. B. N. SARMA : May I rise to a point of order, Sir ? The question of compensation does not arise at all out of this Resolution.

The HONOURABLE THE PRESIDENT : The Honourable Member is perfectly right.

The HONOURABLE LALA SUKHBIR SINHA : Sir, it is a point closely connected with the acquisition of land. I will come to it presently.....

The HONOURABLE THE PRESIDENT : The Honourable Member is straying from the subject-matter of the Resolution. He should confine himself more strictly to the actual motion.

The HONOURABLE LALA SUKHBIR SINHA : I will just come to my point, Sir. The question of compensation goes to the Civil Court, but the question of acquisition of land does not go to the Civil Court. In the case I have just cited, about 85 acres of land have been acquired for which compensation to the extent of Rs. 10,000 only will be given while the proprietors have claimed in the Civil Court Rs. 2,50,000. Honourable Members will thus see how unjust it is to acquire big pieces of land for a nominal price and misuse it afterwards. I know, Sir, as a matter of fact, complaints have reached the Government of India on this point from several quarters, and in the other House a Bill has been introduced by Mr. Ramayya Pantulu in regard to this matter. I have also come to know that the Government of India has realised the necessity for this amendment as well as for other amendments in the Land Acquisition Act of 1894, but so far as I know, this question of the right of proprietors to go to any Civil Court or to any tribunal for a declaration whether the land to be acquired is for a public purpose or not has not been taken into consideration. Therefore I strongly put forward this proposition before this House, that the proprietors of lands should be given a right to go to the Civil Court or to any tribunal to have a declaration made on the question whether the land to be acquired is for a public purpose or not and whether the land to be acquired is absolutely necessary or not. In this Resolution I have put in a suggestion that such cases should go to the Civil Court, but it may be said that by going to the Civil Court it will take a long time and delay will take place. Therefore, some other proposals may be made. It may be that a tribunal may be appointed for this purpose in every district or in every division, one member may be appointed by the Chief Justice of the High Court.....

The HONOURABLE THE PRESIDENT : That is hardly the Honourable Member's Resolution. He is speaking on quite a different matter. What his Resolution recommends is a reference to the Civil Courts.

The HONOURABLE LALA SUKHBIR SINHA : I quite understand it, Sir. My object was that if any difficulty was felt by the Members in accepting my Resolution then I would like to make some alternative in the proposals.....

The HONOURABLE THE PRESIDENT : Then the Honourable Member should obtain the services of some kind friend to move an amendment.

The HONOURABLE LALA SUKHBIR SINHA : Sir, my proposition is this, that in such cases where the proprietors of the land differ from the local authorities whether a particular piece of land to be acquired is for a public purpose or not, they should be allowed to go to the Civil Court so that the point may be settled there that the land may or may not be acquired. That is the object of my Resolution, and I place it before the Council for its acceptance.

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras : Non-Muhammaadan) : Sir, here is an attempt to modify the Land Acquisition Act somewhat. The Honourable Mover quoted an instance in which 85 acres of land were acquired for a private company and the company sold it to different individuals for building shops, etc. This is an exceptional case. I have never heard of such cases in my part of the country.

Sir, a Bill to amend this Act is to be brought in by the Government in the very near future. Therefore, there seems to be no necessity to discuss this Resolution, but, if my Honourable friend would press it, I fear that the reference to the Civil Court for a declaration as to the purpose of the acquisition would add to the delay. Ordinarily the Government with its slowly moving machinery takes long to bring this Act into operation in any specific case. I do not think this Council will favour any amendment adding to the delay in respect of the acquisition of land for public purposes, and I would request the Honourable the Revenue Member to bear in mind, when framing the new Bill, how undue delay has already marred the good effects of the Act and how the Act would be of no use if more delay is caused by the nature of the provisions in the Act. I therefore have to oppose this Resolution.

The HONOURABLE SIR EDGAR HOLBERTON (Burma Chamber of Commerce) : Sir, I have myself very often felt from time to time that the details of the Land Acquisition Act were apt to be applied in a way which was apt to cause hardship to the public. It is true that the greatest care is taken by Government before they bring in any measure for acquisition, but, at the same time, in order that their plans shall not be spoiled, they have to act in some secret manner and the fact that certain lands are going to be disclosed can naturally not be published to the world. It is therefore difficult, if not impossible, for Government to discover all the facts about the land which they propose to acquire before they make their declaration for acquisition. It is in fact quite impossible for them to ask the man to whom the land belongs what his ideas of value are and these sort of things. It has therefore occurred to me, when I read the motion brought forward by the Honourable Member that, although we might be told by Government that there were difficulties in accepting his Resolution as it stood, he would certainly have achieved a useful public purpose in bringing to the notice of this Chamber the fact that the Land Acquisition Act, as at present in force, is probably in want of some sort of revision. I notice, in the remarks that fell from the Honourable Mr. Chettiyar that he opposes this Resolution largely

[Sir Edgar Holberton.]

on the ground of delay. Sir, I am rather accustomed to hear this question of delay brought into a very prominent position always when the delay is on the part of anybody but Government. Whereas Government claims in its own departments an almost unlimited privilege in the matter of delay. And I do not think that the mere bald fact that the acceptance of the Honourable Member's Resolution would cause additional delay would influence me in the least to vote against it. I shall be extremely interested to hear from the Member in charge what his legal and other objections are to the Resolution as it stands. As far as I understand the law—and I am very possibly wrong—the fact that Government has published its notification fixes the date on which the price to be paid for the land to be acquired is to be rated. Government would, therefore, run no risk of monetary loss in an increase in the value of land by a little further delay which would be caused by a reference of the case to some Court or other for decision as to whether the purpose for which the land was acquired was really a purpose of sufficient importance to be called a public purpose. In the course of my 20 to 25 years in the East, I have come across cases where to my mind the decision on this point is at least extremely doubtful, and especially is this likely to arise when the Act is applied, as our friend tells us it is, for the benefit of registered companies. The greatest possible care is to be exercised by Government in these cases and, as I have pointed out, they are unable to get at the whole of the facts beforehand because they cannot give away the fact that they are going to acquire and so put the value of the land. It seems to me, therefore, that an extremely useful purpose, on the face of it, is disclosed by this Resolution.

The HONOURABLE MAJOR MUHAMMAD AKBAR KHAN (North-West Frontier Province : Nominated Non-official) : Sir, I rise to support this Resolution. The Resolution is quite reasonable and compatible with justice. The trouble which it seeks to remedy is experienced by all land-owners. Sometimes valuable properties are seized and a notification issues afterwards, but, when it comes to the actual payment of prices, usually a very insufficient compensation is paid. Sometimes the land is taken over for building or for railway lines or for a road, and valuable property is spoiled by digging or incidental processes. I should say it would not be asking too much if the land-owner is given to understand for what object the property is wanted to be taken over, because, if the object is known, then the land-owner will be quite sympathetic in his attitude and he will not feel it so much, as he does at present.—I mean to say if the land is taken over by a simple notification the object is not fully known. If the land-owner feels that the loss is too much he should be given ample opportunities to bring his case before the Civil Court because sometimes a small portion of the property is taken over and by taking over this small portion the whole property is spoiled because it undergoes a depreciation in value. I do not think that, although the Act lays down that the land-owner should always be given compensation, he always gets sufficient compensation, and I don't think the valuation can always be appealed against, but, if he is given a choice to appeal to a Civil Court, I do not think that it will be injurious to anybody, and the Civil Court is always the final authority to say whether the land is

acquired for some public purpose or whether it is not, and when the Court gives a decision, I think the owner will be quite satisfied with it because, as it stands at present, the Land Acquisition officer has too much power and there is nothing in the hands of the Land Acquisition officer to appeal against. But, if the door of appeal is open, I think it will be to the satisfaction of the land-owners and there won't be so much highhandedness as exists at present. With these few remarks I support the Resolution.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member) : Sir, it will facilitate the discussion of this Resolution if I indicate the position of the Government with regard to it. Honourable Members are aware that Government have under consideration a revision of the Land Acquisition Act. A private Bill has been introduced into the Legislative Assembly for the purpose, and some time before that Bill was introduced, the Government of India had asked for an expression of the views of Local Governments and public bodies as to the desirability of amending the Land Acquisition Act, especially in relation to acquisition for companies. The Local Governments were again addressed on the general question of a general revision, and especially with reference to the Bill which was introduced by Mr. Ramayya Pantulu in the Legislative Assembly. Most of the opinions have been received and the question is receiving the attention of the Government. The Honourable Member's Resolution, I may state definitely, the Government are unable to accept. It does not draw any distinction whatsoever between acquisition for a Government, for a local body, for a railway company, and for a registered industrial company or philanthropic body, which may require the assistance of Government. The Government of India are definitely of opinion that it would be inadvisable, inexpedient and wrong to refer the question as to whether land is required for a public purpose or not, whether such acquisition is needed for Governmental, local board or other purposes.....

The HONOURABLE SIR EDGAR HOLBERTON : Including municipalities ?

The HONOURABLE MR. B. N. SARMA : No. I am drawing a distinction definitely between the purposes of which mention has been made, namely, Governmental, for a local board or for a railway company, and industrial companies.

The HONOURABLE LALA SUKBHIR SINHA : "Local boards" includes municipalities.

The HONOURABLE MR. B. N. SARMA : Yes, it does. Let us take the case of Government. The public possess now far greater safeguards than they ever possessed before. I have not heard during my experience of 30 years as a lawyer any complaints that the Government have misused their powers with regard to acquisition of land in so far as such land was required for Governmental purposes. There used to be discussion, there is a difference of opinion as to whether more land is acquired than is absolutely necessary. But I will indicate that so far as this Resolution is concerned.....

The HONOURABLE LALA SUKBHIR SINHA : May I ask the Honourable Member what are the safeguards ?

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : I must point out that when a Member wishes to get up and the Member in possession of the House remains standing, the other Member should sit down. The Honourable Mr. Sarma has given way now and the Honourable Lala Sukhbir Sinha can speak.

The HONOURABLE LALA SUKHBIR SINHA : May I ask the Honourable Member to mention the safeguards for the proprietors ?

The HONOURABLE MR. B. N. SARMA : This Resolution does not ask that the question whether a particular land is rightly acquired or not should be referred to a Civil Court. This Resolution asks only for a determination by the Civil Court whether the object is a public purpose or not, and therefore, the difficulties that have been mentioned by the Honourable Mr. Sukhbir Sinha that in actual practice more land is acquired than is absolutely necessary are not covered by this Resolution. With regard to the definite object itself, I do not think any Government can acquire land unless the object is practically approved by the Legislative Council which will have to vote the funds. That may not have been necessary hitherto, and it never worked wrongly in practice. But hereafter the public have a safeguard because it lies with them whether to vote the funds or not, and surely, it does not become a Legislative Councillor to say that he will have a Civil Court sitting in judgment over him and deciding whether a purpose which the Legislative Council of the land decides to be a public purpose is a public purpose or not. I am not going into the details of the difficulties of finding out actually what is a public purpose and what is not a public purpose. But apart from that, the Legislative Councils will have their say so far as the Government are concerned, in determining whether funds should be appropriated for the purpose of acquisition for a Governmental purpose. And again, where is the object, so far as a local body is concerned, in asking whether its acquisition for its own purposes is for a public purpose or not ? It stands to common-sense that a local body, when it requires land for its own purpose, and comes to that conclusion by a vote of the majority subject to such general control as the Local Government may possess along with its Legislature, and with the Government's consent clearly it needs no demonstration that it will be for a public purpose. If it acquires land for some other person then it is a different matter. We are not dealing with such cases.

Then as regards Railway companies which were specifically alluded to, I think Honourable Members will recognise that the construction of rail roads is a public purpose. With regard to these and it may be other public utility companies, there can be no question whatsoever as to whether the purpose is a public purpose or not. There will be a difference of opinion whether, in the case of industrial companies, the purpose is a public purpose for which land ought to be acquired or not. On that point Government have an open mind. They have asked for the views of Local Governments. We have not been able to formulate

our views as to whether a Civil Court or a special tribunal or a combination of both or some other machinery would have to be devised for the purpose of impartially adjudging as between the company and the private owner whose lands are proposed to be acquired. From the opinions so far received, Local Governments are definitely and emphatically opposed to the interposition of the Civil Courts with regard to acquisition for the purposes which I have already named. The delays would be interminable and the acquisition would be extremely costly.

The HONOURABLE SIR EDGAR HOLBERTON : Why, Sir ?

The HONOURABLE MR. B. N. SARMA : Take the case of a Railway. Innumerable bits of land would have to be acquired. If it is open to any one of these land owners to take the question before a Civil Court as to whether that land was being acquired for a public purpose or not, the Government or the Railway Company may have to face a thousand, if not a larger number of suits in the Civil Courts as to whether the purpose is a public purpose or not. Those who know something of litigation will clearly realise that from start to finish, it may take something like 10 years for a final decision to be arrived at, and are we to suppose that the Civil Courts are to determine whether a land is required for acquisition by a Railway Company or not and are we to stop the acquisition and construction of the line until the Court decides whether the land is needed or not ? It seems to me that the proposition has

12 noon.

only to be stated to convince the Honourable Members of this Council that it is not a practical proposition. A railway company has a certain alignment ; it frames its budget ; financial sanction is given ; then, if the Civil Court were to say that plot ' A ' in the alignment is not necessary, the whole of it will have to be changed ; a new budget may have to be framed, and it may be that the railway company or the Government would not be able to build that railway at all. The question whether any particular land is necessary for a certain purpose or not does not come strictly within the Resolution, and that is what, I think, the Honourable Sir Edgar Holberton has in mind. That question cannot be referred in any circumstances whatsoever to a Civil Court. Whether plot ' A ' or plot ' B ' is desirable for a certain specific purpose is more a question that can be determined by the Executive Government rather than by any special tribunal. You will necessarily have to propose a commission ; the Civil Court itself cannot be travelling and touring all over the country ; you will have necessarily to propose a commission and that is what is generally done wherever there is a land dispute, and I do not see how the Executive Government would be less fitted for determining as to whether plot ' A ' or plot ' B ' is necessary than a commission appointed by a Civil Court for inquiry and report to itself. However, I think it is unnecessary to go further into this particular aspect of the question because it is not covered by the Resolution itself. I know what is passing through the minds of most Honourable Members, namely, that in particular cases more land is acquired than is necessary ; that the land of owner A is acquired rather than the land of owner B, and that such questions ought to be referred to a Civil Court. I shall meet them

[Mr. B. N. Sarma.]

when there is a necessity for it, but those propositions are not covered now by this Resolution.

Now, with regard to the question as to whether the object is a public purpose or not, I have already indicated that with regard to industrial companies and philanthropic institutions and purposes of that description, the Government have an open mind; they will consult the advisory body which will be appointed from both the Councils, and with its help lay in the form of a Bill their final views with regard to the modification of the Land Acquisition Act. The Honourable Lala Sukhbir Sinha laid considerable stress upon a recent acquisition in his own province of some 85 acres which he considers does not properly fall within the purview of the Land Acquisition Act. I may remind Honourable Members that neither the Government of India nor Honourable Members have any information on the subject, that the administration of the Land Acquisition Act is a provincial subject, that the question which he has incidentally raised is one that ought to have been raised in his local Legislative Council, and that the Government of India and this Council are hardly in a position or competent to deal with, and express an opinion on, matters of that description. The Government of India would always be willing and ready to examine any complaints which may be reasonably placed before them without offending the object and spirit of the reforms. I think I have a right to complain against what the Honourable Lala Sukhbir Sinha has said, because when he mentioned it the question was under the consideration of the Local Government; the land holders affected did approach the Local Government; the matter was under their consideration. There was no formal complaint whatsoever by anybody affected to the Government of India, and I do not think any useful purpose will be served by quoting instances which are under the investigation of Government, against which no complaint whatsoever has been made to the Government of India directly and about which the Council possesses no information whatsoever. And apart from that, if I have been rightly understood, the question as to whether a private body, a registered company should be allowed to acquire land will be a matter which will be subjected to outside scrutiny if our legislative proposals are to come to fruition.

There is, however, one general complaint which the Government of India propose to remedy if possible, namely, that before the Government makes up its mind finally private owners ought to be in a position to formulate and state their objections. I think the Government of India would be willing to consider what steps, what practicable steps could be usefully taken in that direction; and if without impairing the machinery of the Land Acquisition Act, without rendering it inefficient for the purposes for which it was designed, and without making acquisition more costly, it will be possible for the Government to hear complaints against the acquisition of specific lands before they finally make up their minds. I am sure the Government would move in the desired direction. At present they are of opinion that some opportunity should be given to individuals to state their complaints before a final decision is arrived at by the Executive Government. I

do not think I need say more. With regard to the specific companies the Honourable Member has in view, the matter is under consideration and he would be well advised not to get any formal denial. Safeguards may be after all extremely costly and wasteful, but we hope to provide them in the case of industrial and other companies he has in mind, but with regard to the general proposition that every Government notification should be subjected to the scrutiny of a Civil Court to determine as to whether a purpose is a public purpose or not, Government can never consent.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, I shall restrict myself to the Resolution as it stands, because there has been some digression from it by some Honourable Members as regards the amount of compensation to be paid. Nor shall I refer to the question of the acquisition of land by Government, because as the Honourable Member has said the Government, if they have to acquire land, will have to go to the local Legislatures for money, and it will after all be the local Legislature that will decide whether the acquisition is for a public purpose or not. I shall only refer to the acquisition of land for industrial companies. I may refer Honourable Members to the recommendation of the Industrial Commission. They laid down that if the industry on reaching a certain stage of development is in the interests of the general public, the Local Government can decide that it was for a public purpose. There are other conditions laid down, but I will not tire the Council. I will merely come to the question whether the suggestion made by my Honourable friend, Lala Sukhbir Sinha, is a feasible one. Questions were asked both by him and by the Honourable Sir Edgar Holberton as to why there should be delay if the question whether the acquisition is for a public purpose or not was referred to a Civil Court. I shall try to explain the point by quoting one or two specific instances. I will take the instance of the Hydro-Electric Company which is now in existence for the last ten years. The lands for the Hydro-Electric Company which are to be acquired for the purpose of a dam are situated in one district. The lands through which the wires or the cables have to pass are situated in another district, and it may be that they will pass through three such districts in respect of a company. Is the company which wants the land to be acquired to go and file a suit in the three different Courts of the places through which the wire or cable may pass? I believe what my Honourable friend says will amount to that.

Now coming to the actual work of the Civil Courts in these matters, it has to decide correctly whether the land to be acquired is for a public purpose or not. Coming back again to the specific case of an electrical company or a feeder railway, the consulting engineers of the railways or of the company may say that it will be to the best interests of the company if the wires or cables or lines are laid in a particular direction. How will a Civil Court or a Judge, however capable a lawyer he may be, be able to decide without expert advice whether the line should be altered or not. Local Governments as at present constituted, with their electrical engineers, irrigation engineers and executive engineers, are in a better position than a Civil Court can ever be to decide whether the land to be acquired is for a

[Mr. Lalubhai Samaldas.]

public purpose or not and whether the lines should be laid in a particular direction or not. These are the two main reasons why this work should not go to the Civil Courts but must be left to the Local Governments.

Then the Honourable Member in charge said that Government would be prepared to consider the question of putting up some authority between the private person whose lands are to be acquired and the Government ; but whether that authority should be, as has been suggested, the local Legislatures or a special tribunal is another question. The Indian Merchants' Chamber and Bureau has sent in a representation pointing out that they would not like that the local Legislatures should be given full authority to decide whether the purpose is a public purpose or not. It is for the Government of India to decide whether the local Legislatures would be the best authorities to decide a dispute between a private party and the Government. I believe, if I understood the Honourable the Member in charge rightly, they would like to have a separate tribunal. Whatever it may be, I think there should be a separate tribunal to protect the interests of private persons whose lands are to be acquired and also of the company in whose interests the lands are to be acquired. So far I am in full agreement with the Honourable Lala Sukhbir Sinha, but the methods he has suggested are not the right methods. Moreover, as the Honourable Member in charge has pointed out, an amendment of the Land Acquisition Act is under consideration. I hope therefore that my Honourable friend the Mover of the Resolution will see his way to withdraw it.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I am in general sympathy with the object of the Resolution moved by my Honourable friend, Lala Sukhbir Sinha. The real thing is that the definition of " public purpose " is defective. I for one would strongly urge that lands should be acquired under the Act for educational as well as industrial purposes as they mean development of the country, but as the Honourable the Revenue Member has explained to the House, the Land Acquisition Act is being revised, I should therefore advise my Honourable friend the Mover to withdraw his Resolution, as this House will have ample opportunity to express its views when the amended Act comes before it for consideration.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, this is a Resolution on which a man who represents landowners must say something. Unfortunately the Resolution does not contain what the Honourable Mover intended to convey, and I am afraid that a muddle has been made. The manner in which the Resolution is worded has handicapped not only the mover himself but all of us who want to help him. No doubt, the Land Acquisition Act has been working very hard and required a considerable change, but as we have been told that the change is coming, we shall no doubt in due time achieve our object. I was going to ask my friend, ' why not bring in a Bill ' , but a Bill is being introduced now, and I think we should therefore " wait and see."

The HONOURABLE LALA SUKHBIR SINHA : Sir, my Honourable friend, Mr. Chettiar has pointed out that if such cases will go to the Civil Courts, much delay will take place. I think if he were in the position of proprietors of whom I cited a case and if he had been a proprietor of the land which was going to be acquired, he would have felt it. I am not going to stand in the way of educational or industrial development. We have given lots of land for educational and industrial purposes, but what we object to is this, that if a land is not required for a public purpose, why should agricultural lands be taken from Zamindars and converted into non-agricultural purposes? The Honourable Mr. Sarma said that my Resolution does not cover the question of acquiring land by Government more than is absolutely necessary, but I beg to submit, Sir, that it does cover the question. For instance, if a case goes to the Civil Court and if the Government says it wants 10 acres of land and the proprietor of the land says that only 5 acres will be sufficient, I think my Resolution covers such a case. If such a case goes to the Civil Court, it should be for them to decide as to how much land would be required by Government for a public purpose. The Honourable Mr. Sarma has said that I have quoted an example in which I am personally interested and I should not have done so in this Council. I think all Honourable Members are supposed to quote instances from their personal experience, but if they quote instances on mere hearsay, I think they will have no value. It is not in my personal interest that I ask for a modification of the Land Acquisition Act, and I have cited this instance to show that since this Act is an all-India Act, the Government of India should take care to insert a provision to meet a case of the kind I have pointed out in drafting the Bill.

The Honourable Mr. Lalubhai Samaldas said that no provision should be made which would stand in the way of acquiring lands for educational or industrial purposes. I quite agree with him that lands for a factory or industrial purposes should be acquired, but my point is this that only so much land should be acquired as is necessary for the purpose and not more, and if there is any dispute it should be decided by the Civil Court as to whether the land to be acquired is for a public purpose or not, for it is possible that the company may not use the land for which it was acquired. So in all such cases where there is a difference of opinion, I venture to submit, the matter must go to the Civil Court.

The HONOURABLE THE PRESIDENT : Did the Honourable Member conclude his speech ?

The HONOURABLE LALA SUKHBIR SINHA : Yes, Sir.

The HONOURABLE MR. B. N. SARMA : I have nothing more to add, Sir.

The HONOURABLE THE PRESIDENT : The question is :

" This Council recommends to the Governor General in Council to take necessary but early steps to have the Land Acquisition Act, No. 1 of 1894, so amended as to make any Government notification to acquire any land for a public purpose subject to be questioned by the proprietors in a civil court for declaration whether the object for which the land is going to be acquired, is a public purpose or not."

The Council then divided as follows :

AYES—8.

Akbar Khan, Major.
Amin-ul-Islam, Mr.
Chardhri Lal Chand.
Holberton, Sir Edgar Joseph.

Kale, Mr. V. G.
Khaparde, Mr. G. S.
Sinha, Mr. Sukhbir.
Umar Hayat Khan, Col. Sir.

NOES—22.

Acharyya Chaudhari, Maharaja S. K.
Baker, Mr. C. M.
Barron, Mr. C. A.
Chettiyar, Mr. S. M. A.
Cook, Mr. E. M.
Edwards, Major-General, Sir William
Rice.
Froom, Sir Arthur Henry.
Harnam Singh, Raja Sir.
Jogendra Singh, Mr.
Hammond, Mr. E. L. L.

Lalubhai Samaldas, Mr.
Lindsay, Mr. H. A. F.
Mitter, Sir Fenode Chandra.
Mowcrieff Smith, Mr. H.
O'Donnell, Mr. S. P.
Ram Saran Das, Mr.
Sarma, Mr. B. N.
Shafi, Mian Sir Muhammad.
Tekchand, Mr.
Thompson, Mr. J. P.
Vasudeva, Raja V.

Zahir-ud-din, Mr.

The motion was negatived.

RESOLUTION *RE* RECONSTITUTION OF RAILWAY BOARD.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab : Sikh)

Sir, I beg to move the following Resolution :

"This Council recommends to the Governor General in Council that the recommendations of the Railway Committee be given effect to and that the Railway Board be reconstituted providing for a strong Indian representation."

Sir, I cannot too highly applaud the very clear and concise report made by the Railway Committee. It is one of the finest reports I have read, frank and straightforward making very clear recommendations. On this Railway Committee we had some of the foremost railway and business men and they have left their impression on every page of the report. The Committee cost something like five lakhs of rupees, and I suppose the Government would certainly be well advised in taking some action on the report made by such an expert body. Railway administration, and particularly railway enterprise in India, is one of our biggest undertakings. We have nearly 37,928 miles, say, roughly speaking 38 thousand miles of railways. We have put in about 252 million pounds of capital and our annual liability is about 9 million pounds. When we take into consideration the enormous nature of our undertakings, I think the House would be well advised to keep a vigilant eye over these big undertakings which the Government is managing for us not too well. When I say not too well I have the support of the Railway Committee. From 1918 to 1922 the working expenses increased from 29 crores to 50 crores, and now are about 65 per cent. of the income. To the end of last century the railways were a losing concern. The losses came to 51 million pounds and, though within the last 19 years we have made up a little lee-way, still we had about 7 million pounds to make up. We have got to make up 7 million pounds before we can say that our railways have made any return on the money that we have spent on them. Taking a poor country like India, where other developments are still waiting to be taken up, we have to consider whether in creating import and export facilities we are not increasing the burdens of the tax-payer. And if we are so doing, what are the remedies and how can we help

to secure better results for the tax-payer? All the capital has been raised on Indian Revenue. Most of the lines are the property of the State and yet, so far as the management of the railway companies is concerned, Indian opinion has not carried very much weight. In fact, I do not know why, but it very often happens that we consider many other things but leave some of the important things which affect the economic conditions of the country alone. This applies to the public men inside and outside the House. I am not going to read out the whole of the Report but here and there I must mention a few matters; see what the report says about congestion :

"It will be remarked that the evidence summarised in this Chapter relates to the railways of the north equally with those of the south, of the east as of the west; that the tale of inability to cope with the traffic relates alike to lines managed through companies and those directly administered by the State; and that many of the complaints made date from long before the war period, though they have naturally been intensified by the abnormal conditions of recent years. Congestion at some time or at some place is a commonplace of railway management in every part of the globe. But in India for years past it has recurred each season; it has now become normal and will become permanent unless bold measures are taken to deal with the situation."

This is what the Railway Committee said nearly two years ago, and we have not yet heard what measures are being taken to deal with the situation by the Government of India. Then again, Sir, in the matter of the administration of the Railways, and the functions of the Railway Board, the Railway Committee have very direct recommendations. About a year ago I put in a question,—and I am not sure whether it was answered—as to the functions and privileges of the Railway Board. They still remain a mystery so far as we are concerned. As a Minister of an Indian State I came across one part of the duties of the Railway Board, and that was to protect vested rights, and in protecting vested rights, the Railway Board is systematically hampering railway expansion and railway development.

I will not deal with the question of State-managed and company-managed railways, because, truly speaking, there are no company-managed railways, because companies do not own railways. They are merely managing agencies and as mere managing agencies they have fulfilled their purpose. As the matter, I understand, has been engaging the attention of the Advisory Committee, I need not dwell on it. But I should like to hazard a suggestion, so far as India is concerned. We are all of opinion that the railways should be managed by the State and the Railway Board reconstituted according to the recommendations of the Railway Committee providing for a fairly large Indian representation. For instance, we can have an Indian as Commissioner of Finance, Director of Accounts and the Director of Traffic, which would be a very great improvement indeed. But, on the other hand, there is no doubt that private enterprise is always more economical, more helpful and better, and if I may hazard a suggestion, our Finance Department, might consider, whether it would not be better to sell out one or two of our lines to an Indo-European company and let them manage these—we can retain the option of purchase. Properly, to my mind, it appears that we would get better income from a company-managed railway through income-tax and super-tax than we are likely to get from a State managed railway. Our

[Sardar Jogendra Singh.]

experience of the past years, of more than half a century, proves that we have worked our railways at a loss—even the companies.

I will say no more about the superior control of the railways. All these matters are summarised in Chapter VII of the report, and I think I would be tiring the Council if I recite all the recommendations made by the Railway Committee. I would strongly emphasise that the recommendations of the Railway Committee have been made after very careful consideration by experts who have experience of railway management, not only in India but elsewhere, though some of the men who manage Indian Railways have disagreed with the view of the majority. But in some cases the main recommendations of the Committee have been agreed to by all the members of the Railway Committee. Taking into consideration the enormous liability of nearly £9,000,000, it would be wise to scrutinise the recommendations of the Railway Committee.

Finally, one of the most important recommendations of the Railway Committee is the formation of a new Ministry of Transport, and I think this new Ministry of Transport is absolutely needed if we are going to help trade and commerce in this country. We hear, Sir, a great deal about retrenchment that is in the air. What we want to hear is something more about the developments. We do not want to lose our technical men in the Irrigation, in the Forests, in the Railways and in Education, because, if we set our eyes to the development, we are more likely to increase Indian revenues than by merely retrenching and abolishing offices filled by technical experts who are likely to bring in more revenue. Give half a million to Mr. Clutterbuck and he will bring a tremendous new revenue. Most of the Members of the House, I am sure, have read the recommendations which are mentioned in Chapter VII, and it is these recommendations which I mean should be carried out by the Government of India. I will not take up more time of the House till I have heard what the Member for Commerce has to say in reply to my Resolution. Sir, I move the Resolution that stands in my name.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab, Muhammadan) : Sir, I strongly support the Resolution.

The HONOURABLE MR. S. M. ANNAMALAI CHETTIYAR (Madras : Non-Muhammadan) : Sir, the Honourable Mover of the Resolution has spoken in great detail in support of his Resolution. I shall only make one or two observations. Sir, in paragraph 142 of their report the Acworth Committee say :

“The Indian public is deeply and justifiably incensed by the conditions to which both passengers and traders have long been subjected ; and it is desirable that their representatives should at the earliest possible moment be acquainted with the steps that are being taken for the redress of their grievances.”

Sir, the grievances have been recorded in the Committee's report. They have been inquired into most deeply and a certain number of recommendations to remove the defects have been made. To give early relief to the sufferers, that is, the Indian public, a speedy acting on the suggestions is necessary. All these days, Sir, we have had, it seems to me, no sign of prompt action to give effect to the recommendations except in the formation of the Central Advisory Council, not exactly on the lines of the Com-

mittee's recommendations. The recommendations being the most authoritative opinions on the subject deserve to be adopted.

Sir, one of the recommendations, the most important of such recommendations, is the one relating to the reconstitution of the Railway Board. In the new Railway Commission of six members including the Member for Communications, it is but right that there should be a strong representation of Indians who would know the difficulties of the Indian travelling public and the Indian trading communities, who would present the Indian point of view and get their grievances redressed. Therefore, Sir, I give my hearty support to the Resolution of my Honourable friend, the Sardar.

The HONOURABLE LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution which has been so ably moved by my friend, the Honourable Sardar Jogendra Singh. I presume the recommendations of the Central Railway Advisory Committee are before the Government of India. As far as this House is concerned, I would strongly request the Council to support this Resolution so as to voice its feeling on this very important subject. I agree with the Honourable Mover fully so far as the principle goes ; but as regards details I shall leave them for future consideration. The reconstitution of the Railway Board is an urgent thing and I advocate a strong Indian representation on it.

The HONOURABLE MR. K. V. RANGASWAMI AYYANGAR (Madras : Non-Muhammadan) : Sir, I think it was in the year 1920 that a Resolution of mine to the effect that an Indian Member should be made to sit on the Railway Board was brought in in the Imperial Legislative Council. But it was not moved on account of all the Resolutions being withdrawn in protest against the Punjab Resolution being disallowed in this Council. There I wanted to point out that there should be an Indian Member on the Railway Board. Sir, in the Montagu-Chelmsford Report we come across a paragraph where it is said that Indians shall be associated in all the departments of the Service. I attach more importance to the Indians being associated in the departments than their being made Members of Council. I do not imply by that that I undervalue the services of the Indian Members of Council, but I am of opinion that we gain more experience by being associated in the departments. There are now committees appointed to associate ourselves with the Government of India in all its departments ; and I think that if an Indian is made a Member of the Railway Board, there is more room for doing public good and for gaining knowledge, than by our association with the department by being merely members of a committee. So many points will be decided if an Indian Member sits on the Railway Board. As my friend, the Honourable Mr. Chettiyar, pointed out, there are the questions of the convenience of the travelling public and that industrial institutions would gain much by the association of an Indian with the Railway Board to press the Indian point of view. Besides, there are the questions of the provision of retiring rooms, waiting rooms, reservation of carriages for different sections of the community, the kind of dining accommodation and lavatories for Indian gentlemen, the fixing of rates for goods made in India with a view to encourage Indian industries, and the

[Mr. K. V. Rangaswami Ayyangar.]

question of priority of sanctioning new lines with a view to Indian interests. Much has been said of the frontier railway, etc., and if an Indian gentleman is to sit on the Railway Board, I think India will have justice. I also wish to emphasise the point of view raised by the Sardar Sahib regarding the protection of Indian labour on Indian railways. The whole of India is served by the Indian Railways, and I think it is just and proper that an Indian Member should sit on the Railway Board. I want to emphasise this point of view in this Resolution and I support it.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, this Resolution raises a number of important issues and makes only one specific recommendation, namely, that the Railway Board should be reconstituted providing for a strong Indian representation. I am not quite in favour of all the recommendations of the Railway Committee being given effect to. With recommendations like the one concerning the separation of the general budget of the country from the railway budget, which recommendations are rather controversial, I would not agree in the interests of the general taxpayer, and I would not give to the railways the revenue which is being received to-day for the relief of the tax-payer. If the recommendations of the Railway Committee were to be adopted in this connection, all the profits that are likely to be derived from the railways will go as capital into the railways themselves, and in this way the long-suffering tax-payer who has contributed so largely to the extension of railways, will obtain no relief. But I am entirely in favour of the specific recommendation concerning the reconstitution of the Railway Board. I think the Railway Board, as it is at present composed, is not known for its efficiency, and I might describe the Board as a fifth wheel in the coach of railway administration. I do not think that the country receives the full value of the money that is spent on the maintenance of the Railway Board. The Railway Board can certainly, with very great advantage, be reconstituted. Many of the officers of the Railway Board might be put on to do actual work in the districts rather than sit in Simla and Delhi, and I think a lot of money is being wasted on the Board which can be saved to the tax-payer. I want, therefore, very strongly to support this suggestion, namely, that the Railway Board should be immediately reconstituted, and the other suggestions which are now being considered by the Central Railway Committee or the Railway Board and the Government, must also be given effect to at an early date. But if the Honourable Mover wants that the recommendation of the Railway Committee in connection with the separation of the two budgets and the allocation to the railways of all the profits earned by them, if he wants to press that recommendation, I regret that I cannot lend my support to him.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, Mr. Innes desires me to express his great regret that he is unable to take part in the discussion to-day ; he is detained elsewhere on urgent business which he cannot very well miss.

I am perfectly certain, Sir, that he would at once take strong exception to the criticisms which have been levelled at the administration of the Railway Board in the course of the discussion to-day. The policy

of the Railway Board is the policy of the Government of India. It is admitted that owing to circumstances which are beyond the control either of the Railway Board or of the Government of India, the condition of the Indian Railways has suffered serious deterioration. The House is well aware that the reasons for the deterioration are entirely due to the circumstances of the war, and that had it not been for the war we should have been able to maintain an adequate number of sheds and sidings and to provide the necessary rolling stock so as to keep our railways up to requirements. But all these renewals and replacements require money and the primary difficulty is the financial difficulty. The Honourable Mover is a businessman himself, and he knows that railway development like industrial development, is dependent on capital, and I challenge him to show that the Railway Board have not done their very best with the capital at their disposal. The Honourable Mover also suggested that Indian opinion has not carried much weight in the formation and development of railway policy of Government.

The HONOURABLE SARDAR JOGENDRA SINGH : With regard to third class passengers.

The HONOURABLE MR. H. A. F. LINDSAY : Third class passengers are being given every attention as Honourable Members will have seen from the answer recently given by the Commerce Member to a Resolution on the subject. The Government of India have paid full attention to well informed criticism, both Indian and European, and the House will also have noticed that the Acworth Committee itself contained a strong and well informed Indian element.

• I now turn, Sir, to the main principles underlying this Resolution. In the first place, I want to make it quite clear that the Government of India attach the very highest importance to the recommendations of the Acworth Committee. Those recommendations have received their very careful consideration ever since the Report was received. It would take too long to recount all the recommendations which have been considered and the action taken upon them. But I need only remind the Council that, as the result of the Committee's Report, the arrangements for railway finance, more particularly for the financing of capital expenditure, have been placed upon a far more satisfactory footing than ever before. A Central Advisory Council has been established, and at the last meeting of that Council, such important questions as State *versus* Company management, Local Advisory Councils, Branch Line policy, the separation of the railway and general budget, etc., were discussed. I mention these facts in order to assure the Council that the Government of India are treating the recommendations of the Acworth Committee with the respect which both the intrinsic importance of the recommendations and the reputation and the authority of the Committee demand.

I now turn to the precise points taken up in the Honourable Sardar Jogendra Singh's Resolution. The Resolution deals particularly with the reconstitution of the Railway Board. As he has explained, the Acworth Committee put in the forefront of their recommendations a proposal that a separate department should be formed in the Government of India to deal with Communications generally and that a separate

[Mr. H. A. F. Lindsay.]

Member of Council should be placed in charge of this new department. This question has been very fully considered, but I think that the House will agree with me that there are obvious objections to increasing the number of Members of Council just as the Incheape Committee is about to sit, and the Government of India have come to the conclusion that until they are in possession of the report of that Committee, it is quite impossible for them to create an additional Member of Council in order to take charge of a new Department of Communications.

As regards the Railway Board itself, the Government of India recognise that there is a very strong *prima facie* case for reorganizing it on the lines of the Aeworth Committee's report. They cannot at present commit themselves to the precise form which this reorganization should take. They cannot commit themselves to the acceptance here and now of the precise recommendations made by the Aeworth Committee, but they do realise that the Railway Board, as at present constituted, is over-burdened with the ordinary day-to-day work of the current administration. The statistics of correspondence given by the Aeworth Committee are in themselves sufficient to establish this point. The Aeworth Committee mention that in the year 1920-21 the Railway Board had to deal with no less than 71,000 receipts and issues and there can be little doubt that we do not get the full value out of the experience of the President and the Members of the Board. Their business, as the Committee rightly points out, should be mainly to think, to watch and to plan. It should be their business to shape the views of the Government of India in the larger matters of railway policy and of railway administration, and if they are tied to their desks day after day with a vast number of cases which, if they are not routine cases, are at any rate not as a rule, cases of major importance, it is obvious that there must be a waste of power. A further disadvantage is that they are unable sufficiently to tour. *Prima facie*, as I have said, therefore, there is a case for the reorganization of the Board itself—a reorganization which will not only strengthen the Board, but will alter its constitution on the lines recommended by the Committee. There is also much to be said for giving the Board the best advice possible on technical railway matters, and this the Aeworth Committee propose to do by attaching to the President of the Board's office a larger number of technical officers than that office contains at present. All this the Government of India fully admit, but the Aeworth Committee themselves admit that reorganization on these lines will involve a recurring expenditure of from £25,000 to £30,000, that is a recurring expenditure of Rs. 4 or Rs. 5 lakhs per annum. Financial considerations of this kind must obviously be taken into account at the present time, and though the Government of India recognise that it will be false economy either to stunt or to curtail the activities of the highest railway authorities in India by refusing them the *personnel* and staff which they require, they have come to the conclusion that before these recommendations can be given effect to, at any rate in their entirety, they ought to wait for the Incheape Committee's Report. The Incheape Committee proposes to inquire into the possibilities of retrenchment in the Railway Board as in the other offices of the Government of India. When their report is

received, the Government of India hope that the way will be clear for the reorganization and the reconstitution of the Board. They do not say that they may not carry out some of the recommendations at once, but in the main they feel that before the proposals of the Aeworth Committee can be fully given effect to, they ought to be in possession of the Incheape Committee's Report. That is the position of the Government of India to-day, and I hope that the Council is satisfied that the delay in giving effect to this part of the Aeworth Committee's report is not in any way due to lack of consideration on the part of the Government of India. In view of what I have said, perhaps the Honourable Mover will see his way to withdraw his Resolution. If he decides to proceed to a division, the Government will take no part in that division, and if the House accepts the Resolution introduced by the Honourable Mover, Government will pay due attention to the views of the Council of State.

There is one point which I have omitted to state. I notice that the Honourable Sardar Jogendra Singh's Resolution as it is worded might be open to the construction that the Railway Board should be reconstituted in order to provide for the due representation of Indians on the Board. If that is the Honourable Mover's intention, all I can say is that there is no authority for this proposal in the Aeworth Committee's report. The Railway Board is almost entirely a technical Board. The only qualification for promotion to the Board can be experience in, and knowledge of, railway administration in its different branches, and that is the only criterion which the Government of India can admit to be a proper criterion. They cannot admit that Indians should be appointed to the Railway Board, merely because they are Indians. If the Honourable Mover means that an Indian, who is otherwise qualified for inclusion in the Board, should not be excluded merely because he is an Indian, then I hope that I need not assure the House that there is no fear of any such exclusion.

The HONOURABLE SARDAR JOGENDRA SINGH: Sir, in the first place I must take up what Mr. Kale said about the recommendations of the Railway Board regarding finance. The exact recommendations of the Railway Committee are given in paragraphs 74, 76 and 127. They say:

"We recommend that the Finance Department should cease to control the internal finance of the railways; that the railways should have a separate budget of their own, be responsible for earning and expending their own income, and for providing such net revenue as is required to meet the interest on the debt incurred or to be incurred by the Government for railway purposes; and that the railway budget should be presented to the Legislative Assembly, not by the Finance Member of Council, but by the Member in charge of Railways."

Mr. Kale objects to this recommendation on the ground that it takes away from the House the use of railway income for public purposes. I do not think that is what the recommendations of the Railway Committee mean. What they mean (as any business man would understand it) is handing over a certain amount to a committee of experts to spend as they like and raise what profit they can earn for the country. To my mind, if the recommendations of the Railway Committee were carried out, we would get a better income than we are likely to do under the present system. Mr. Kale might take into consideration the fact that during nearly a century of railway management while the Finance Department has con-

[Sardar Jogendra Singh.]

trolled the budget of the Railway Department, they have only incurred losses. They have made no profits on the whole and, as they have failed in the beginning, possibly the Acworth Committee was quite justified in making a definite recommendation that the finance of the railways would be better managed under a different arrangement.

Having explained that, Sir, I come to Mr. Lindsay's speech and the very sympathetic reply that he has given. But, regarding the Railway Board, I might point out one or two things. The first thing I should like to say is that it has not been as efficient as Mr. Lindsay would make out, and, if it is the policy of the Government of India, then I might say that the Government of India also has failed in carrying out these large enterprises. I will give you one instance, of how the Railway Board works. They started the Itarsi-Nagpur Railway, a line of 238 miles. It was begun in 1908 and has not yet been completed. It has taken 18 years, and thus, on a capital of 3½ crores, piled up interest to the extent of nearly a crore and a half. That is what the Railway Board has done in the way of speeding up the building of railways. Lord Curzon, within five years while he was here, built 6,000 miles of railway. I would ask Mr. Lindsay to point out what the Railway Board has done in speeding up railway construction since Lord Curzon left the country.

Then again, we come to the question of the congestion of traffic. There again, there are so many restrictions that you cannot move traffic easily from one place to another. Then again, if you bring any projects before the Railway Board for the construction of feeder or other lines, they point out that it would be interfering with the sphere of influence of some Railway or the other. They have marked out different spheres of influence, so that you cannot make any new railways without infringing on these. That is what the Railway Board has done since it started. I think Mr. Lindsay, when he stands up to reply, will be able to show the speeding up that has taken place since the Railway Board came into being. Then again, Sir, he said that the Government sympathised with the idea of starting a transport ministry, but were very much hampered with the idea of increasing the number of Cabinet Ministers. I think everyone in this House and outside knows that with transferred subjects some of the Ministries that now exist need not exist at all; it will be possible for instance to change the Ministry of Education and set up a new Ministry of Transport.

The HONOURABLE THE PRESIDENT: I would point out to the Honourable Member that in the Government of India there are no Ministers as yet.

The HONOURABLE SARDAR JOGENDRA SINGH: I mean Members, Sir. I am quite sure my friend Mian Sir Muhammad Shafi would be as able to manage the Ministry of Transport as the Ministry of Education. I think, Sir, it would be a very good thing if the change was made.

Then we come to the question, Sir, of financial considerations. Financial considerations sometimes, and particularly when you have any development ideas, appear to overwhelm the Government of India. I

think the Government of India would do well to be a little more enterprising and organise its resources instead of keeping back developments which would increase India's prosperity. The Acworth Committee considered the whole question and they say—give the Railways this much money and railway management will become so efficient that it will be more than a hundred times better than it is now. If you went to a business firm with a recommendation of that kind, they would immediately accept it and they would consider it not only worth doing but they would take it up at once. But our Government is always slow and disinclined to take action so far as big enterprises are concerned.

Then, again, Sir, this question of the reconstituted Railway Board and the representation of the Indian element on it. Mr. Lindsay pointed out that the Government would welcome Indians on the Board. I am using the word "Board", Sir, because it is familiar to everybody. But we have business men very much in touch with traffic; we have also engineers—we had at least one of eminence, Rai Bahadur Ganga Ram,—and there are others who would come forward to help with their advice. Indians have proved quite good wherever they have been tried. And I have no doubt that, when it comes to the Indianisation of the Railway Board, or whatever it is going to be called, they will make themselves good. It is of paramount importance to the country, Sir, that such a big enterprise, which nearly contributes one-third of the revenues or more, should be put on a proper footing and I am not prepared to withdraw the Resolution, because, if this House gives a clear lead, it will only help the Government to carry out the recommendations which they say they are considering very favourably.

The HONOURABLE THE PRESIDENT: The question is:

"This Council recommends to the Governor General in Council that the recommendations of the Railway Committee be given effect to and that the Railway Board be reconstituted providing for a strong Indian representation."

The motion was adopted.

RESOLUTION *RE* COMPILATION OF STATISTICS RELATING TO THE ECONOMIC, SOCIAL AND CONSTITUTIONAL PROGRESS OF INDIA.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I beg to move:

"This Council recommends to the Governor General in Council that an early inquiry should be made into the existing Government system of collecting, compiling and publishing statistics relating to the economic, social and constitutional progress of India with a view to ascertain what improvements, if any, are desirable and practicable in the same in order to enhance their public utility."

Sir, it is not necessary for me to demonstrate what is the importance of statistics to legislators. Statistics are becoming more and more the raw material of the laws that we pass in our legislative bodies. Statistics are also necessary for the consideration and the formulation of policy. As the country is advancing, the value of statistics is growing in importance. We have had before us a number of legislative measures in which a knowledge of the social and economic conditions of the country was absolutely essential for enabling us to make up our minds with

[Mr. V. G. Kale.]

regard to them. For example, we have had to consider a number of Resolutions and Bills concerning labour; and many other questions of a similar character are cropping up from day to day. Honourable Members are asking Government to furnish them with information and statistics relating to a variety of subjects from day to day. This appetite for information and statistics goes to show how necessary it is, for fruitful criticism and constructive work, that Government should systematically compile and publish statistics for the benefit of the public. At the present time, no doubt, Government has been publishing statistics from various departments, and some of them, I must frankly admit, are very highly useful. For example, there is the Annual Trade Review, the Report on Currency Operations, the Census Report and the Railway Administration Report, and numerous other publications are being issued by the departments themselves, which are of the greatest value and benefit to students and generally to those who take any interest in the progress of the country. The Director of Statistics likewise publishes a number of very useful volumes, for example, financial statistics, commercial statistics, agricultural statistics, and statistics relating to various departments of administration; so that the Department of Statistics is publishing a series of blue books containing figures and facts, and the notes prefacing these statistics are very suggestive and very informing to the public. The Industrial Commission considered this question of statistics from the point of view of the convenience of men engaged in industries and commerce. They were of opinion that industrial and commercial statistics should be published by one particular department of the Government of India, and that those statistics should be commented on only by experts. This recommendation of the Industrial Commission was perfectly reasonable. There are statistics of two classes. There are statistics required by men of commerce and industry. These fall into one category. There are statistics of another class which are required by the general public, for example, statistics such as those published in the Annual Statistical Abstract, giving comparative figures for a number of years, say, 10 years. Such a statistical abstract will be very helpful, for example, to Members of this House. Oftentimes questions have arisen with regard to certain facts and figures in this House itself and there has been a conflict of opinion. In the last Session there was some divergence of view as regards the exports of certain raw materials. Had Honourable Members got a statistical abstract in their hand, giving all sorts of information relating to public questions, that would have been of the greatest convenience.

Attached to the report of the Industrial Commission is a note by Mr. Findlay Shirras which gives a brief account of the manner in which statistics have been published relating to India. The India Office has been publishing statistics for over half a century. It was in 1871 that the first Director of Statistics was appointed in this country, and the first incumbent of the post was the late Mr. W. W. Hunter. He made a statistical survey of the whole British Empire beginning with the year 1869. The next stage in the development of the collection, compilation and publication of statistics arrived when it was desired to make statistics, such as they were published, more intelligent and uniform. Each Department was publishing its own statistics, but it was necessary to place them

upon a uniform system, and Mr. O'Connor was appointed Director General of Statistics. His publications and his comments on the statistics were, however, independent and did not commit Government for anything. This system was continued till the year 1905. In that year, the Statistical Department became a part of the office of the Director of Commercial Intelligence. Then comes the next change, which came on the 1st of April 1914, when the Department of Statistics was created under an independent Director. A combination of commercial intelligence and control of statistics was, by experience, discovered to be unsuccessful. In the early part of my speech I said that the commercial community requires statistics of a particular type. Information regarding the condition of the crops, for instance, has to be supplied promptly so as to be useful to men engaged in industries and commerce. The general public, however, requires information covering long periods. The statistics in their case must also be comparative, and must cover a very wide ground. The combination, therefore, of the Commercial Intelligence Department, which had to do a special kind of work, and the Department of Statistics, which required a particular type of officer to perform that function, was found to be inconvenient and unsuccessful, and the Secretary of State agreed to the separation of the two Departments, and an independent Director of Statistics was appointed in the year 1914. Now, we are once more upon a change, and we have the Department of Commercial Intelligence making the Director of Statistics subordinate to him. I want that the Statistical Department should be run and controlled by a person or persons who is or are scientific statisticians. The Industries Commission gave the opinion that so far as the men of industry and commerce were concerned, the Director of Statistics need be only a compiling officer. His work was purely arithmetical work, adding and subtracting and compiling. But I think that in the preparation and presentation of general statistics of a country relating to the economic conditions, relating for example to the Census, where very important conclusions have to be drawn, the statistics have to be collected and compiled in an intelligent manner, so that useful lessons might be learnt, might be taken to heart and might be given effect to for the development of the country. This being the difference between the nature of the work pertaining to commercial intelligence on the one side and general statistics of public interest on the other, I think it is necessary that the position accorded to the Director of Statistics should be the position and status of independence and importance. If I am correct in my information, a conference which took place in London of Imperial Statisticians laid down the principle that the work of statistics must be done by expert statisticians and economists and not by mere arithmeticians, mathematicians and compilers. If statistics are to be of any value, if they are to be intelligently compiled and if they are to be usefully published, men who are appointed to perform this task and who control these statistics must be expert statisticians. In other countries, Sir, this work is done by experts who are not mere compilers and mathematicians. In our country it is a matter for regret that we lag far behind in the race of the publication of statistics. In other countries not only are statistical abstracts published, but there are official year books published from year to year. I wonder why the Government of India should not publish in this country its own annual statistical abstract. Why should we rely upon

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the India Office ? Why should we first take all our information and statistics from this country to London and then have it published there ? The Government of India should assume control of this publication of statistics for the benefit of its own people. They ought to go further and they might, with advantage, copy the example of other countries. If Honourable Members were to see the official year books that are published in the self-governing dominions and in the United States of America, they will realize how extremely useful they are, and after looking at them, they would certainly express a desire that they should be supplied with annual official year books of that character in their own country. I have recently seen the official year book published in New South Wales for 1920 containing 757 pages. It has been issued by the Government statistician ; it is not left to a mere compiler to prepare and publish it. It is published from the Bureau of Statistics, Sydney, in September 1921, and the contents of that official year book had already been published in 18 parts which were issued as they became available from the printer to render them of immediate service to the public. Then in New South Wales there is a Statistical Register independently published by the Bureau along with the year book. I have also seen the official year book for the Union of South Africa, containing 975 pages for 1919-20. I have likewise seen the official year book of the Commonwealth of Australia issued by the Commonwealth Statistician containing as many as 1234 pages. A small dominion like New Zealand has got its own official year book containing 414 pages ; and the quarterly abstract of the Union of South Africa is issued by the office of statistics. From the illustrations I have given, it will be observed how necessary it is that this work of compiling and publishing statistics should be systematically organised and how it should be handled by experts who are statisticians themselves, who realise the importance of statistics and know to what uses those statistics are likely to be put and should be put. As I said in the beginning, the importance of statistics is very great, and I have personally derived the greatest benefit from some of the publications issued by the Government of India and by the Director of Statistics ; for example, the Review of the Trade of India issued by my Honourable friend opposite has been of very great use to students of public questions. We want more reports of this character ; we want more information of this type given to the public from year to year. All relevant statistics relating to the economic, social and political progress of India should be made available as promptly as possible. I, therefore, appeal to the Government of India to take in hand very seriously this question of making an inquiry into the present system and seeing whether it is not possible to introduce improvements in it. With these words, I commend my Resolution to the House.

THE HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : Sir, I believe that this is the first discussion on this important subject of statistics which has taken place in the House, and I congratulate the Honourable Mr. Kale on the interest he has taken in this subject and on the skilful way in which he has handled it. I can assure him that Government fully recognise the importance of bringing their statistical system up-to-date.

Statistics are, however, a dangerous weapon to use. We are in the ordinary course of things exposed to criticism from two opposite sources. There is the man in the street who talks of statistics in the sneering crescendo of "lies, damned lies and statistics" ; and there is the other extreme of the man who believes in them too whole-heartedly and bases too many conclusions upon insufficient material. Between both those extremes we wish to steer an intermediate course, and that leads me to the first point which my Honourable friend made, the question of entrusting statistics to an expert statistician. That is certainly the ideal that Government have always placed before themselves, and which they will continue to keep before them. The recommendations of the Industrial Commission were not to the effect that the compilation of statistics should be taken away from the expert statistician or should be entrusted to an inferior order of creature, but that they should be left in expert hands, the explanation of the statistics being entrusted to the industrial or agricultural expert concerned. The Honourable Mr. Kale is quite right in his account of the development of the Department of Statistics. It was separated off in 1914 and it is proposed to re-amalgamate it again as a branch of the Commercial Intelligence Department. But let me reassure my Honourable friend on one point. It does not mean that the Department of Statistics is to be under the control of anybody but an expert statistician. His name will still remain "Director of Statistics," and it is simply one of the lamentable results of the retrenchment scheme that we have to double up two Departments.

Another point on which I think I can reassure the Honourable Mover is that statistics are not left, once they are launched, to sail themselves, so to speak, over the intellectual sea of public discussion. They are carefully controlled and revised from time to time, and I should like my Honourable friend to see the large number of letters received by the Director of Statistics which contain suggestions for improving those statistics in different ways, and to realise the very great attention that is paid to these letters and the action that is constantly taken to maintain our statistics up-to-date. Let me give as one example, in a few words, the development of the statistics of trade. In 1905 under the orders of Lord Curzon's Government a committee was appointed to inquire into the system of collection, compilation and publication of trade statistics ; and that committee went very carefully into the whole matter and organized the system which with some modification exists at present.

But the point I wish to make is that those modifications did occur as modifications were required from time to time. Thus in 1912 the whole system of classification of goods was revised and brought up-to-date. In March 1920 it was found that trade statistics had gone considerably beyond the standard quantity required and a rigorous pruning occurred. These may be regarded as war accretions. They were statistics compiled under the necessities of the war, and they were removed when their need was no longer felt.

My last point on this subject is that the examination is being carried still further. In fact the very inquiry which my Honourable friend asks to be made is being made at present. The Director of Statistics and the Director General of Commercial Intelligence are putting their

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heads together and are trying to see, not only (though primarily) in the interests of retrenchment but also in the interests of efficiency, whether something cannot be done to improve the scope and volume of our Statistics.

Here I wish to offer one suggestion, namely, that the scope of this inquiry should be restricted to the Department of Statistics. The Honourable Member has shown admirable self-restraint in proposing an inquiry and not a full-blown Commission or Committee. I think he has perhaps not quite realised how wide is the ground which the inquiry would cover if he did not restrict it in the way I suggest. There are, as he knows, a large number of departments of the Government of India, even apart from any question of the statistics of the Local Governments. Each of those departments, and its subordinate departments, produce annual reports with annual statistical returns, illustrating their own activities. Take, for instance, the Commerce Department alone. We have our Administration Reports on the activities of the different ports. The trade of each port is reviewed annually. There is the Review of Trade to which the Honourable Mr. Kale has referred. There is an Annual and a Monthly Statement of Customs revenue. All these reports cover a wide field, and they are illustrations selected from one department alone. Now if the inquiry is confined to the Department of Statistics, I think it will serve my Honourable friend's purpose just as well, because that Department does publish statistics which are the cream, so to speak, of the statistics of the various departments of the Government of India. It is a compact series,—I have the list in front of me—a series of 44 publications. I think that ought to be enough any way with which to start an inquiry of this kind, and it covers the whole range, practically, of activities relating to trade, commerce, agriculture, joint stock companies, education, and finance. In fact it covers a very wide range of subjects. As I say, the inquiry which the Honourable Member recommends has already been started and will, we hope, have fruitful results.

One word more, Sir. This inquiry will also cover the proposal that the Statistical Abstract of British India should be published in India in future and should be a handy volume. Instead of spreading itself out into five volumes as it does at present, it will be produced in one compact volume. So I think we have been able to meet the Honourable Member already on more points than one.

The HONOURABLE THE PRESIDENT : The Honourable Member has not yet moved his amendment.

The HONOURABLE MR. H. A. F. LINDSAY : I beg to move, Sir, as an amendment that for the words "existing Government system of" the words "*system at present followed by the Department of Statistics in*" be substituted.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, as the Honourable Mr. Lindsay has gone a long way in meeting my wishes with regard to the request I made in my Resolution asking Government to inquire into the compilation and publication of all statistics, I do not think that I shall be serving any useful purpose by pressing the whole of the Resolution. Why I made my Resolution so very comprehensive was

that the Government of India is becoming, day after day, a kind of Federal Government, and as we in the Central Legislature require information pertaining to the provinces it will be necessary in the immediate future to compile the statistics so as to enable us to know what is going on in the provinces. For example, some questions have been put in this Council concerning labour strikes. Government were not in a position to furnish that information. Now that information may perhaps pertain to the provinces and may be collected by the Local Governments, as in Bombay, but if we want to have a correct idea of the industrial situation in the country, it is necessary for us to know how many strikes have taken place, how they have been settled and so forth in the country as a whole. Then again, in reply to another question it was pointed out that the Government had no power to extract the necessary information from private citizens. It will be worth Government's while to consider, if they do not possess the power, whether this power should not be taken. Such power, I think, has been taken in the case of Census Statistics, and it is equally necessary in the case of industrial statistics. I want to suggest to Government to consider whether it will not be possible for them to take that power if important statistics are required and cannot be obtained in the ordinary way. However, in view of what the Honourable Member opposite has said, namely, that the whole question is being considered and my Resolution should be confined only to the Department of Statistics, I have no hesitation in accepting his amendment. With these words, Sir, I commend to the Council the amendment and the Resolution as modified by it.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab : Sikh) : There is just one word, Sir. We are in need of accurate information in India. For instance, if we look at the figures, we may find that possibly something like 13 million quintels of wheat are available for export, but if we ask the Honourable Mr. Sarma he will put no faith in the figures collected by the department over which he presides. In these circumstances, Sir, it is very necessary that we ought to have some figures which can be depended upon both by Government and the public.

The HONOURABLE THE PRESIDENT : The question is that in the Resolution under consideration the following amendment be made :

"That for the words 'existing Government system of' the words '*system at present followed by the Department of Statistics in*' be substituted."

The motion was adopted.

The HONOURABLE THE PRESIDENT : The question is :

That the following Resolution as amended be adopted :

"This Council recommends to the Governor General in Council that an early inquiry should be made into the *system at present followed by the Department of Statistics in* collecting, compiling and publishing statistics relating to the economic, social and constitutional progress of India with a view to ascertain what improvements, if any, are desirable and practicable in the same in order to enhance their public utility."

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 26th September, 1922.

ERRATUM SLIP.

For item 4 of the Table of Contents of Vol. III, No. 12 of the Council of State Debates and for the subject on page 439 and the heading on pages 441 and 443 substitute the following :

“ Procedure in regard to Bills which Governor General has certified.”

COUNCIL OF STATE.

Tuesday, 26th September, 1922.

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

MESSAGE FROM LEGISLATIVE ASSEMBLY REGARDING POLICE (INCITEMENT TO DISAFFECTION) BILL AND CRIMINAL TRIBES (AMENDMENT) BILL.

The SECRETARY OF THE COUNCIL : Sir, a message has been received.

The HONOURABLE THE PRESIDENT : Let it be read.

The SECRETARY OF THE COUNCIL : “ I am directed to inform you that in accordance with Rule 36 (1) of the Indian Legislative Rules the amendments made by the Council of State in the Police (Incitement to Disaffection) Bill were taken into consideration by the Legislative Assembly at their meeting to-day, the 25th September, 1922, and that the Assembly have agreed to the amendments.”

“ In accordance with Rule 25 of the Indian Legislative Rules I lay on the table a copy of the Bill further to amend the Criminal Tribes Act, 1911, which was passed by the Legislative Assembly at its meeting held on the 25th September 1922.”

INDIAN TRANSFER OF SHIPS RESTRICTION (REPEALING) BILL.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, I beg to request that the second motion on the agenda standing in the name of my Honourable friend, Mr. Lindsay, in connection with the Bill to remove the restrictions imposed on the transfer of ships registered in British India, as passed by the Legislative Assembly, be taken into consideration may be allowed to be taken first. The reasons for which this request is made are these. In the first place, there are two or three matters connected with the certificated Bill which are still under consideration, and in the second place, my Honourable friend, the Home Member who is very anxious to take part in the debate on that Bill is just at this moment engaged elsewhere and is unable to be present in this House. In the third place, I have no doubt that the Honourable Members in this House will welcome a short delay in order to enable them to give further consideration to the provisions of this Bill.

The HONOURABLE THE PRESIDENT : I am sure that the motion made by the Leader of the House will commend itself to the acceptance of the House. I therefore call upon the Honourable Mr. Lindsay to move the motion standing in his name.

[Mr. H. A. F. Lindsay.]

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : I beg to move that the Bill to remove the restrictions imposed on the transfer of ships registered in British India, as passed by the Legislative Assembly, be taken into consideration.

I think some explanation is due to the House on the legislation to repeal Act XX of 1917 which restricts the transfer of ships registered in British India. That Act, Sir, was passed under the severe conditions aroused by the War. At that time the scarcity of tonnage was very seriously felt. Tonnage was in keen demand everywhere and owners were willing to sell at the first available opportunity. Secondly, every ton of British shipping was urgently required for military and other national purposes. Munitions had to be carried from the centres to the various theatres of the War, and in addition, wheat and other food supplies had to be carried great distances to meet urgent requirements at Home and on the field. In the third place, it seemed likely that a long time would elapse before the supply of shipping again came up to the demand. Prices had risen very high indeed and freights had risen in proportion. The demand for shipping all over the world was very keenly felt indeed and was particularly felt in Britain which was serving so many areas of military occupation. Finally, Sir, it was felt that the temptation to avoid war service and to transfer registry to foreign ownership was in many cases too great to be resisted. In these circumstances legislation was passed by the British Government prohibiting, except under certain circumstances, the transfer of British ships to foreign registry.

That Act was entitled the British Ships Restriction Act and was passed in 1915. It was to apply only during the period of the war and it thus came to an end in August 1921, the statutory date of the termination of the war. Indian legislation however followed different lines. The Act was to remain in force until the end of the war and for a period of three years afterwards, that is to say, the Act would normally have come to an end in August 1924.

Now, Sir, the inconveniences occasioned by this Act have been very seriously felt in this country. As I have said, we did not expect the demand for shipping to fall off as rapidly as it did. The supply very rapidly exceeded the demand and we know how serious the slump in shipping at present is. Therefore the owners of ships have naturally felt serious inconvenience in having to apply to the Governor General in Council every time that they wish to sell their ships to foreign owners. We have several instances of that. One is an instance in which the Bombay and Persia Steam Navigation Company wished to transfer a ship to a Japanese owner and the negotiations were inevitably prolonged owing to the necessity of securing the prior consent of the Governor General in Council. Other instances might also be quoted, one instance in particular, where the delay of the negotiations occasioned a serious loss to the company selling in India. In these circumstances I trust that the House will agree that Act XX of 1917 is now a dead letter and ought to be removed from the Statute-book as soon as possible.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : I heartily support the motion made by my Honourable friend, Mr. Lindsay. There have been occasions, Sir, when owners of shipping companies here have been approached by foreign firms or foreign shipping companies either for amalgamation or for taking over their business. If the permission of the Governor General in Council is to be obtained for closing negotiations, the result very often is that the parties approaching the Indian companies do not like to delay matters and break off the negotiations. Not only that, Sir. All those who are connected with shipping interests, I hope my Honourable friend, Sir Arthur Froom will agree with me, will recognize that there is a slump in freights. Freights are going down like anything. The prices of ships are also going down. Now I would take a hypothetical case to show how this fall affects negotiations, if there is delay in carrying them through. Suppose a certain Japanese shipping company approaches one of our Indian companies and makes certain definite offers. On buying it out under the existing Act that offer will have to be approved of by the Governor General in Council, before the Indian company can accept that or enter into final negotiations. The matter having come to the Governor General in Council—and we were reminded yesterday that the wheels of Government move very very slow—it might take months and perhaps years before the necessary sanction is obtained. During that period the freights may have gone down still further and as a consequence, the prices may have gone down also and the party that began the negotiations will naturally try to back out. As a result the sufferers will be the Indian companies, that is the shareholders if they are a joint stock company, or if they are private companies the private owners of those companies, and I think it is but fair that these companies should be free to negotiate with foreign companies either for amalgamation or for selling them off, without the permission of the Governor General in Council. For these reasons, Sir, I think it is necessary that we should not delay the repeal of the Act till the 31st August 1924 and that it should be taken up at once and passed as proposed by my Honourable friend, Mr. Lindsay.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce) : Sir, I do welcome this Bill to remove the restrictions imposed on the transfer of ships registered in British India just as much as I would welcome any other measure to remove restrictions on trade. As the Honourable Mr. Lindsay has pointed out, during the war it was very necessary to prevent ships registered at Home or in British India being transferred to the flag of any other nation. It was very necessary, as it turned out afterwards, because as we all know Government assumed a complete control of all shipping and thereby reaped very large sums of money which must have gone a long way to pay for the war or to help to pay for the war. I do not know whether this is generally known to Honourable Members of this Council. Some people thought that during the war the shipping companies were standing on velvet and made very large sums. That was not so. The shipping companies were working their ships for the British Government and every pound of freight, every pound of passage money, that was received went into the coffers of the British Government. There-

[Sir Arthur Froom.]

fore apart from the question of shortage of shipping the British Government reaped great benefit from having decided to prevent the transfer of any ships registered at Home or in British India to a foreign flag. The necessity for the restriction has of course disappeared. The amount of shipping all over the world unfortunately very much exceeds the demand, as my Honourable friend who is sitting behind me (Mr. Lalubhai Samaldas) who is taking a very keen interest in shipping has pointed out—; there is a world wide slump in freights, and the present time is one in which this Bill should be introduced to remove the restrictions, so that the owner of a ship who wishes to sell it to another country should be enabled to do so. Sir, I heartily welcome this Bill.

The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : Sir, I wish to support this motion for the repeal of this Act, first because it is in the nature of restraint of trade. My friends who spoke before me have dwelt much on the present slump in the trade. But my reason is different. We were on my side at any rate and specially on the Bombay coast a maritime people at one time and during the early days of the Company we often gave them battles on the sea and one ship which exists to this day is pointed out as having been taken from one of the captains of the Honourable the East India Company. It is kept as a trophy. Our great men were the *Dulaps* and *Angres*. There were a number of families who were as well known as the Drakes in England, and I look to a revival of this trade, more especially as there has been a little discussion about the capacity of the Indian lascars to navigate a ship and their behaviour in times of storm and all that sort of thing.

I expect our ships to be a little broader than the English ships,—and that gives us the advantage in fight. I expect that kind of construction will now come into fashion, and it will be not as a fighting ship but as trawlers and carry a great deal of weight in a very short time. I also expect that our maritime glories under English influence will revive in the interests of world peace, because the more we are able to fight, the less are people likely to be willing to fight with us, and that ensures peace. So I heartily support this motion.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to remove the restrictions imposed on the transfer of ships registered in British India, as passed by the Legislative Assembly, be taken into consideration.”

The motion was adopted.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to remove the restrictions imposed on the transfer of ships registered in British India, as passed by the Legislative Assembly, be passed.”

The motion was adopted.

INDIAN STATES (PROTECTION AGAINST DISAFFECTION) BILL.

The HONOURABLE MR. J. P. THOMPSON (Officiating Political Secretary) : I move, Sir, that the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt or to excite disaffection against Princes or Chiefs of States in India or the Governments or Administrations established in such States, be taken into consideration.

Sir, the Bill before the House is the first that has ever been presented to either Chamber of the Legislature under a certificate from the Governor General. The position which has arisen is not of Government's seeking. The Bill was placed before the Legislative Assembly last Saturday, and they refused leave to introduce it. It is not an ordinary Bill. It is a Bill which provides something which the Governor General has told us that his Government decided that they were bound by agreements, and bound in honour, to provide. Surely, Sir, those are words of tremendous weight. The Governor General, himself a lawyer of the highest eminence, has told us that the Government over which he presides has come to the conclusion that their agreements, that is to say their contracts, with the States oblige them to do something for the other parties to those contracts, namely, the States. They told us, too, that they feel that they are bound in honour to this course. Surely, Sir, a Bill that comes before either Chamber of the Legislature with credentials of this nature is one which deserves the most earnest and the most serious consideration. And what is the answer that the Legislative Assembly have given? I am willing to believe that when they gave that answer, they did not realize all that it implied. But, taken at its face value, what does that answer mean? They refused to allow this Bill within the precincts of their House; they have flung it back practically in the face of the Government of India; they have told the Head of that Government that his ideas about the interpretation of contracts, his ideas on the subject of honour, are less than dust in the balance. But what is more than this is that their decision, at its face value, means that, in their view, contracts and treaties have no meaning, that honour is a plea that they will not discuss, and that they recognize none of the agreements which have been concluded by the Executive Government of this country. Surely, Sir, that brings us to the edge of an abyss, and it is only the feeling that the Assembly did not really realize what their action implied that makes it possible for us to take a more optimistic view of the situation than we might otherwise have been able to do. But be that as it may, it must be perfectly obvious that no Government, unless it is prepared to abdicate, could accept that position. Two courses were open. They might either have the Bill re-introduced here or in the Legislative Assembly. That would have meant delay and uncertainty. The other alternative was the procedure which has been adopted—the procedure under section 67B. The Government of India feel that this procedure must have an appearance at any rate of ungraciousness towards this House which has so often supported them in difficult days. But they regret that the wording of the section leaves them no option, and I may perhaps take this opportunity, Sir, of informing the House that after full consideration the Government of India have decided that they are unable to accept any amendments in the form of the Bill as it has been recommended by the Governor General. The reason for this is that they fear the possibility

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that, if they did so, awkward legal objections might afterwards be raised in Courts if the validity of the legislation was challenged.

Now I will just give the House a very brief description of the Bill. I should have been glad to spare them that, but yesterday when I was discussing the case with a leading Member of the other House, he informed me—and I believe he was one of those who voted against the motion for leave to introduce the Bill—that he had not realized that under the Bill the sanction of the Governor General in Council would be necessary before any prosecution could be launched. The Bill provides, as Honourable Members are aware, that whoever edits, prints or publishes, or is the author of, any book, newspaper or other document which brings, or is intended to bring into hatred or contempt, or excites or is intended to excite disaffection towards, any Prince or Chief of a State in India, or the Government or Administration established in any such State, shall be punishable with imprisonment which may extend to five years, or with fine, or with both. A sub-section of that same section 3 goes on to protect—in terms which are modelled on the Explanations to section 124-A—legitimate criticism. The next clause contains certain necessary provisions as to the power to forfeit offending publications or to detain them in course of transmission through the post; and the concluding section provides for the status of the Courts by which the offences may be tried, and also proposes to enact that no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the Governor General in Council.

That is the Bill, Sir, which the Governor General considers essential for the interests of British India. He considers that it is essential, because he is convinced that the keeping of promises and the honouring of pledges is one of the basic principles on which all civilized Governments must rest.

That is the Government case in a nutshell. I have stated the case and it is now for me to prove it. The House will expect me to prove two points, first of all that the pledges exist, and secondly, that the Princes are justified in appealing to those pledges and that Government are justified in restoring the protection which they have lost.

Now first as to the pledges. The pledges fall into three classes. There are first of all those which are contained in the treaties and engagements which have been concluded with the States; secondly, there are those—second in point of chronological order—which are contained in the pronouncements which have been made by the Sovereigns of this country; and thirdly, there are those which are contained in the speeches which have been made by His Excellency the Viceroy and by the spokesmen of the Government of India on different occasions when the question of giving protection to the Princes has come up. I will deal only with the most striking of these.

First as regards the treaties. There are a group of some 20 States in India, including some of the most important in the country, which have treaties, many of them of very old standing, which provide that “there shall be perpetual friendship, alliance and unity of interests between the

two parties from generation to generation, and the friends and enemies of one shall be the friends and enemies of both.” Several of these States have interpreted their obligations so as to include the duty of providing protection for the British Government against what we may call seditious attacks. The principle underlying the clause which I have read is that of reciprocity in regard to the matters therein mentioned. If one of these States which has passed an enactment of this nature comes to us and asks us how we have interpreted our obligations, what answer shall we give?

There is another important State situated not far from one of our provincial Capitals which has a treaty, also of old standing, which provides that “the honour and rank and dignity of the Raja shall be estimated by the British Government in the same degree as that in which they were estimated by the former Emperors of Hindustan.” Suppose a lampoon on that Prince is published at his very doors and is circulated broadcast among his subjects, and he asks us to mete out to the offender the same treatment that one of the Moghul Emperors might have been expected to mete out. What answer are we to give? There is another important group of States in Northern India which have Sanads dating from 1860 which provide that the British Government “will likewise continue to uphold their honour, respect, rank and dignity in the manner it is done at present.” There are some small States in Central India which have a century-old assurance that “if any person shall be convicted of calumniating them, he shall be treated as he deserves.” If we allow calumny to revel unchecked, how could we look those Princes in the face? More than 50 years ago a treaty was concluded with one of the great Princes of Rajputana. It provided that the British Government would permit no diminution of the honour and reputation of the Maharaja at the hands of others “and it becomes guarantee for the same.” Recently, a neighbouring State has been the subject of some most infamous attacks. Suppose it had been this State which had this treaty, and they had appealed to the provisions of their treaty; what answer could we give them? We could not fold our hands and plead that we had forgotten our obligations.

I now come to the second class of pledges, Royal pledges; and first of all I will deal with the adoption sanads of 1860 and subsequent years. Honourable Members will recollect that the adoption sanads were given after the mutiny in order to allay the apprehensions which had been excited by the previous policy of the British Government. Those sanads contain an assurance, given in the name of Her Majesty Queen Victoria, of her desire that “the Governments of the several Princes and Chiefs shall be perpetuated and that the reputation and dignity of their Houses should be continued.” If we allow calumny and vituperation to undermine that reputation and that dignity, how can we square it with the terms of that sanad?

I now pass on to the Royal Pronouncements which have been made on various great occasions since the Government of India passed to the Crown. The general tenor of these is no doubt familiar to most Honourable Members, but I should like to bring to their memory, for purposes of this debate, the terms in which the assurances were given to the

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Princes. The first of these is the great Proclamation of Queen Victoria in 1858 :

"We shall respect the rights, dignity, and honour of India's Princes as Our own."

Each of her successors has renewed those pledges. The Coronation message of His Majesty King Edward VII to the Princes ran as follows :

"To all My Feudatories I renew the assurance of My regard for their liberties, of respect for their dignities and rights, of interest in their advancement and of devotion to their welfare."

Our present Emperor at the Coronation Durbar of 1911 again renewed those pledges :

"Finally, I rejoice to have this opportunity of renewing in my own person those assurances which have been given by my revered predecessors for the maintenance of your rights and privileges and my earnest concern for your welfare, peace and contentment."

The introduction of the Reforms seemed to His Majesty an occasion which called for a solemn renewal of those assurances ; and in the Royal Proclamation of the 23rd December, 1919, you will find these words :

"I take the occasion again to assure the Princes of India of my determination to maintain unimpaired their privileges, rights and dignities."

The Proclamation of the 8th February, 1921, is still more emphatic :

"In my former Proclamation I repeated the assurance given on many occasions by my Royal predecessors and myself of my determination to maintain unimpaired the privileges, rights and dignities of the Princes of India. The Princes may rest assured that the pledge remains inviolate and inviolable."

I repeat those words, "inviolable and inviolable." Am I wrong in thinking that when His Majesty penned those words he had in mind not only his own determination to maintain those pledges, but a firm faith that the Legislatures which were then being created would honour those pledges and redeem those promises ?

I now pass on, Sir, to the announcements which have been made by His Excellency the Viceroy and by spokesmen of the Government of India with specific reference to the question of the protection of the Princes against press attacks. His Excellency's speech at the opening of the Legislatures in September, 1921, contained the following passage :

"If the Press Act is repealed it will become necessary to consider what form of protection shall be given to them in substitution."

A year later, His Excellency stated in more definite terms, which I have already cited, the intention of the Government of India which was based on their obligations of honour and of contract, to introduce the Bill which is now before the House. Going back to 1910 when the Press Act was introduced, I find that Sir Herbert Risley used these words :

"In the first place, we have included what I may describe as the preaching of sedition against the Princes or Chiefs of our Native States. We have had not a few instances of newspapers published in British India containing seditious matter of that kind. The Government of India cannot tolerate this ; they cannot allow their territories to be used as a safe asylum from which attacks can be launched upon Indian Princes."

Why could not Government tolerate that such attacks should be launched upon Indian Princes ? Simply I take it because of those pledges and those pronouncements to which I have referred, and it was in pursuance of those pledges that the protection was given.

I now come down to the speech made by the Honourable Sir William Vincent on Mr. O'Donnell's motion for the appointment of a Committee to examine the Press Act. Sir William Vincent said :

"Another purpose, for which it is used, (that is, the Press Act),—and I think very justifiably used,—is to prevent the libelling and of attempts to blackmail Indian Princes. I do not know whether Members of this Assembly are aware that a certain section of the Press sometimes does publish such articles and we cannot prosecute any paper for such conduct under the ordinary law. At the same time, the Government of India and the people of India have received such loyal help from the Princes during the War and indeed at all times in all good work—that it is our duty to do what we can to protect them and to secure them immunity from such nefarious practices."

I do not know whether the Honourable Member had that passage before him when he signed the report of the Press Act Committee, but it is clearly an announcement on the part of the Government of India of a limitation on the action which they thought themselves then at liberty to take in regard to the repeal of the provisions of the Press Act which provided for the protection of the Princes. That concludes all I have to say in regard to the pledges and the promises which have been given, and before I pass to my next point, I should like to summarise what I venture to think I have proved. The first point is that there are those pledges. The second is that those pledges will cover the action which Government now propose to take. The third point is that the protection which was given under the Press Act of 1910 must have been given in pursuance of those pledges, and the last point is that even when the doom of the Press Act was pronounced the Government still thought that the Princes were entitled to retain protection.

That brings me down to the period of the Press Act Committee's Report.

I will read to Honourable Members the finding of that Committee :

"We understand that before the Press Act became law it was not found necessary to protect Indian Princes from such attacks and we note that the Act so far as the evidence before us shows, has only been used on three occasions for this purpose ; we do not, in the circumstances, think that we should be justified in recommending on general grounds any enactment in the Penal Code or elsewhere for the purpose of affording such protection in the absence of evidence to prove the practical necessity for such provision of the law. Our colleague Mir Asad Ali desires to express no opinion on this question."

I want the House to note in the first place that that is not a finding that there is no case for the protection of Princes. It is merely a finding that no case had been made out to the satisfaction of the Committee. Their finding is based on two statements and an inference. I shall, I think, have little difficulty in showing to the House that both those statements are inaccurate and that the inference is unsound. The first statement is that, it was never found necessary to protect the Indian Princes before 1910. That, as I have said, is inaccurate. The first Regulation which was passed for the protection of Indian Princes was passed as long ago as 1823 when Mr. Adam was officiating as Governor General in the short interregnum between the departure of Lord Hastings and the arrival of Lord Amherst,

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I have a copy of that Regulation and of the rules made under it, and I can show them to any Honourable Member who would care to see them. Under the rules which were published in April 1823, observations or statements touching the character, constitution, measures or orders of friendly Native Powers, their Ministers, or Representatives, or the character, constitution, measures or orders of the Indian Governments, impugning the motives and designs of such authorities, or in any way tending to bring into hatred or contempt, or excite resistance to their orders, or weaken their authority, rendered a man liable to the confiscation of his license. Now, that Regulation remained in force for 12 years until it was repealed by Sir Charles Metcalfe in 1835. But it shows that, as far back as 90 years ago, the people who were responsible for the administration in India felt that there was a case for affording protection to Princes. The second instance in which protection was given before the introduction of the Press Act refers only to what are known as the administered areas, that is to say, those cantonments and civil stations and so on which are situated in Indian State territories but which are actually administered by officials of Government. In 1891 an order was issued that no newspaper should be published in any such area except under a license from the Political Agent. That order is still in force in those areas. These two instances which I have cited, show to my mind conclusively that the perniciousness of attacks on Princes was not a doctrine which was discovered for the first time in 1910. These attacks were a recurring nuisance against which Government had been driven more than once to take action.

The second statement which was made by the Press Act Committee was that so far as they knew the Act had only been used on three occasions with reference to attacks made on Princes in the press. I have gone into the figures, Sir. We have made inquiries from Local Governments and I find that, as a matter of fact, while the Press Act was in force, no less than 13 newspapers were warned for attacks of this nature, one of them on several occasions. One press was put on the maximum security and the security of another press was confiscated. I may claim, therefore, that the number of occasions on which the Act was used—for, I take it that the House will agree with me that although these warnings could not be given under any section of the Press Act, they would never have been given unless they had been backed by the Press Act,—therefore, the number of cases in which the Press Act has been used in connection with these attacks on Princes is very much nearer 20 than 3. But even if the Act had only been used in three cases I should still demur to the inference that was drawn by the Press Act Committee that the number of occasions on which the Act was used was the measure of its utility. The utility of a penal enactment, I take it, is to be gauged not by the number of offences it punishes, but by the number of offences it prevents, and I know of no criterion which would enable me to determine the ratio between the two. These are the arguments on which the Press Act Committee based their conclusions, and I think that the House will agree with me that they cannot be used with any effect against the Bill which is now before the House.

I have said, Sir, that those statements of the Press Act Committee were inaccurate. I do not wish it to be understood that I am imputing any blame to the Committee. It was the duty of the Department which

I represent to place the case before the Committee, but unfortunately we were very much rushed and some of the information which I have now placed before the Council was not available in Simla, and consequently the department was not in a position to place the full facts before the Committee.

Another point that I wish to make in regard to the Press Act or rather the repeal of the Press Act is that it was brought about purely in our own interests. We wanted to conciliate public opinion and we felt that we had sufficient protection in other enactments for our own purposes but for the Princes, the protection under the Press Act was all that they had, and when the Press Act went, they were left without protection. We gave them protection under the Press Act in payment of a debt we owed to them and when the Press Act was withdrawn, that debt revived.

Now, Sir, I have shown that the pledges exist. I have shown that they cover everything that we want to do, and I have shown that since the repeal of the Press Act those pledges are crying for redemption. All that is necessary, I think, to complete my case now is to show that the Princes have solid grounds for making those very pointed representations which they have made, both individually and collectively, for the restoration to them of the protection which was granted by the Press Act. I shall give the House a few figures. I find that in the year ending May 1922 there were not less than 170 attacks made on Princes and their Administrations in the public press. Of these 23 were personal attacks, some of them very gross, on the Chiefs themselves and there were very nearly a hundred attacks on the acts of their administration. I will give the House some examples :

The inhabitants of a well-known State in Southern India are invited to imitate their predecessors who 200 years before 'packed away' an oppressive Diwan whatever that euphemism may mean. A Prince is charged with having married a foreign lady "from among those whites, unfit even to clean an earthen pot." Another paper which complains of harassment, says that the people will see to it that the present system of administration is "smashed to pieces within five years," if things do not improve. Again I find a warning "to the 700 odd gilded puppets in India to put their houses in order lest the flames of the popular movement should gut the old and moth-eaten fabric." A well-known Prince is told that his heart is as black as his skin and that his "rotten brain" cannot see that the bureaucracy think him a fool. States in India are described as boils on the body politic of India, and a Prince who was suspected of an intention to arrest a prominent agitator is warned that the "man who is not afraid to twist the lion's tail will certainly not mind the bark of a dog." One of the principal Indian rulers is given a year's notice that if he does not set up responsible government he will be ejected. In another case a whole pamphlet is devoted to a largely imaginary account of the action taken to suppress what might have been a dangerous rising. I could multiply instances but I will not weary the House and I think those that I have quoted are quite sufficient to prove that justification exists for redeeming the pledge that has been given to the Princes.

Now, Sir, I will not anticipate possible criticisms of this Bill. I will leave it to Honourable Members to raise them, but there is one point which

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I feel that I must refer to. I believe that much of the feeling which exists against this Bill is due to a conviction on the part of members of the Legislature that there is a good deal of oppression and misrule in some of the Indian States. That feeling is a feeling which is based on humanity and it is a feeling which I honour and respect. I regret that I cannot deny the charge and I do not think that Ruling Princes themselves would deny it. It is true too that Government cannot always intervene even in the cases which come to its notice, but the question which I would put to Honourable Members who feel that difficulty about agreeing to this legislation is this. How are you going to improve matters by refusing to accept this Bill? That I cannot see. The Bill specially safeguards anything in the way of honest and legitimate criticism and the view that a Bill of this nature will stifle legitimate criticism must surely be based on the claim that criticism is inseparable from abuse, that you cannot put another man right, if I may say so, without putting yourself in the wrong and that criticism to be effective must be seasoned with hatred and contempt. That I believe to be an entirely wrong view. It is an argument which is often advanced against enactments of this nature, but I think, as the Honourable Sir William Vincent said in one of his speeches, the existing state of the press is a complete disproof of any such allegation.

Sir, I do not think that our case rests only on the pledges that have been given and on the safeguards in this Bill. Surely there are other considerations of prudence, comity and commonsense which must appeal to members of this House. It seems to me that now that we have started in this country on a new era it is most important that we should do nothing at this stage to antagonise the Rulers of two-fifths of the country. I feel that in the time before us unity and concord are the things, the great qualities, at which we have got to aim. They are qualities which require cultivation and I would beg this House to do everything in its power to cultivate them. I have not, Sir, covered the whole of the ground that I might have covered and there are one or two points which I feel very conscious of having neglected. One of those points is the possible reaction from any disaffection or disorder that may be allowed to harbour in the States beyond our borders. There is one more, Sir, to which the Honourable Sir William Vincent alluded in the speech from which I have quoted, and that is the debt of gratitude that we owe to the Princes for their unfailing support in the great crisis through which the Empire has passed.

This is a subject on which much has been written and much has been

12 noon. said. I would only add one sentence. Their troops and our troops have trodden many a march of glory side by side, and their dead and our dead have their rest together. That is all. Nothing more. Lest we forget. (Loud applause).

The HONOURABLE THE PRESIDENT: I think the Honourable Member would do well to conclude his speech by formally moving the motion standing in his name.

The HONOURABLE MR. J. P. THOMPSON: With your permission, Sir, I move that the Bill be now taken into consideration.

The HONOURABLE SIR EDGAR HOLBERTON (Burma Chamber of Commerce): Sir, but few words of mine are necessary to support the case put forward by the Honourable Mr. Thompson. As he has explained to this House, he has a case which is entirely four square, and in which, I feel sure, it will be impossible to find any loophole. We are exceedingly obliged to him, I am sure, for having gone into such detail and explained to us exactly why the occasion arose, and what steps were necessary to support the Princes.

There is, however, one aspect of this question on which I should like to be allowed to say a few words, Sir, and that is that the Honourable Member who has just spoken found it necessary to fear that this House might find in the fact of this certified Bill some appearance of ungraciousness. Sir, my personal view is that there is no symptom at all of ungraciousness in the whole occurrence. A careful student of the reformed constitution will find that a very free hand indeed has been given to the Indian Legislature. The two Houses have very full powers, and it was practically essential and natural that at all events in the first period of time in which those powers were going to be exercised, some sort of a veto, some sort of a power to remedy errors which young politicians and young political Houses might make, there must be. My surprise, Sir, is not that His Excellency the Governor General has found it necessary to certify this Bill; my surprise is that he has been so patient with us in the past and has not used his perfectly justifiable privilege before. I could detail to you cases where many of us have longed for the exercise of this veto. During the course of the last Budget debate, when I myself had the honour of putting up a proposition in this House, my personal view was that never in the history of the country was a more suitable occasion to be found for the exercise of the veto; but His Excellency the Viceroy held his hands in the spirit of that wonderfully patient policy which he has all the time displayed towards this Indian Legislature in its first efforts. Now, however, we have arrived at a position where a definite and an indefensible mistake has been made by one of the Houses. Time was not available to adopt the remedy, which I think was in the constitution, of introducing the Bill afresh in this House with the chance of it being passed when it went down again to the Legislative Assembly. The obvious course was taken, and the Bill was sent to this House as a certified Bill. Now, gentlemen, where is the ungraciousness in that? This House will use its privileges absolutely to the full. It has the power to record its vote in favour of passing or rejecting this Bill. None of that power has been taken away from it by this recommendation. It will have the fullest opportunity to debate it, although, for obvious reasons, which I foresaw yesterday, the amendments have had to be disallowed.

The HONOURABLE THE PRESIDENT: I may remind the Honourable Member that no amendments have been put forward, and no amendments have been disallowed.

The HONOURABLE SIR EDGAR HOLBERTON: I stand rebuked: I have before me a list of amendments, and I understood the Honourable Mr. Thompson to say that no amendments will be accepted by the Government. But I stand rebuked.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : That is a very different proposition.

The HONOURABLE SIR EDGAR HOLBERTON : As I have said, this House has the fullest discretion to express its opinion about this Bill and to discuss it. If, as I feel confident, the Bill is passed unanimously, the Viceroy will then know that even if one of his Houses has made a mistake, the other one has realized it and has stood behind his action and given it its fullest support. (Applause). If, on the other hand, the worst occurred, and this House found itself actually voting in a majority against this measure, the Viceroy would still have the support of most people in this country,—who read the speech of the Honourable Mr. Thompson whose case in favour of the Bill now before the House which has necessitated His Excellency's action, will appear to the eyes of the world beyond dispute or doubt. Therefore, Sir, I have only one more remark to make in giving my fullest and most cordial support to this Bill. This House to-day will carry out one of the functions for which it was intended ; it is an older and a more sober House possibly than the Assembly ; it consists of men of proved standing and stake in the country. It may not be so hard worked as the other House, but it certainly will always be able to record on any question, which may be put before it, a considered view from people with a stake and standing in the country. All I ask is that Government will consider this ; some of us have been discouraged ; we have thought that in some ways we have not been very well treated ; we have had to suffer from the absence of our leading and most prominent ministers and advisers from our Benches which has caused us the most intense regret. We have in many ways felt that more use could have been made of us in the past, and we have longed for more responsible and good work to do. Sir, I hope to-day's good work will be only a forerunner of many other useful services which this House may do for India. (Applause).

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) :
 * Sir, I stand to move that to the motion that the Bill be taken into consideration the words 'early next year' be added. Sir, in spite of the very friendly admonitions administered to us by the Honourable Mr. Thompson, I make bold to say that the amendment which I am moving is intended not to defeat the purpose of the Bill before the House, nor is it intended to call in question the fundamental principle involved in the Bill, but is intended to ask for time for the consideration of the various features of the Bill. The Honourable Mr. Thompson himself, in discussing the opinion of the Press Committee, observed that that Committee drew certain inferences which he tried to show were inaccurate, because the Department he represented had been rushed, and consequently all the necessary materials could not be placed before that Committee. May I, Sir, use the same argument and say that we should not like to be rushed and should have placed before us all the materials that the Government possesses. My Honourable friend has indeed tried to meet the House by giving a certain amount of information, by giving a number of illustrations to prove why the Bill is necessary and how the British Government is in honour bound and is bound by treaties and pledges to afford protection to the Indian

Princes and Chiefs. But Sir, in order that we may be enabled to judge of the merits of the various provisions of the Bill—the principle underlying the Bill being no longer under discussion or in doubt—in order that we may be able to study the whole situation, a postponement is essential. Exactly what protection is needed for the Princes, in what way that protection may be extended, what are exactly the pledges which have been given to the Indian Rulers by treaties, whether the interpretation put upon the treaties by the British Government, in the words of the Honourable Mr. Thompson, is an interpretation which may be accepted by us wholesale, or whether protection, if necessary, may not be granted in some other form, are many of the issues which arise in my mind. I do, therefore, want that time should be allowed for the discussion of all these features of the Bill. Then Sir, I must very frankly and gratefully admit that we have the highest respect for our Indian Rulers and Princes. I speak from the bottom of my heart when I say that we, in British India, are indebted to many of these exalted Rulers for some of the educational and other improvements which have taken place as a result of their philanthropy and charity ; and it would be the height of ingratitude on our part not to give to these Rulers what is but their due. I do not, therefore, in any way, question the necessity of considering what sort of protection should be given and how it should be given. I only want that this House should be given more time and that this question should be taken up at some more suitable later date.

I will not follow the Honourable Mr. Thompson in the various remarks which he made concerning the attitude taken up by the other House towards the Bill. I do not know whether the other House committed a mistake or not. I also do not know whether the Honourable Mr. Thompson was quite correct in stating what he regarded as the constitutional position. His Excellency the Governor General was certainly entitled to use his powers, which have been given to him under the Act, and I do not think that there is anything extraordinary in that or that any objection can be taken by any one to the step which has been taken by His Excellency. We are not therefore, in this House, going to commit that mistake which is supposed to have been committed by the other House. All I ask for by this amendment is that sufficient time should be allowed, and I do not think that Honourable Members of this House will regard this request as unreasonable or as being intended to hang up the Bill or to hamper its progress. I do not want lastly, to notice what the Honourable Mr. Thompson said with regard to the fate that the many amendments of which notice has been given, are going to have. My Honourable friend, Sir Edgar Holberton, carried away the impression from what the Honourable Mr. Thompson said that all of those amendments had been disallowed. That shows the frame of mind of some of the Honourable Members, who seem to have taken fright at the observations made by the Honourable Mr. Thompson. But you, Sir, have already ruled that this Bill will be considered in all its details as any other Bill ; consequently, I want to tell my Honourable friends that there is no objection from the opposite Benches if remarks are made and votes are given which are not exactly in consonance with the desire of the Honourable Mr. Thompson.

With these words, Sir, I move my amendment.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : To the motion under discussion an amendment is moved :

“ That the words “ early next year ” be added.”

The HONOURABLE SIR BENODE CHANDRA MITTER (West Bengal : Non-Muhammadian) : Sir, I desire to say a few words only upon the question of this amendment. This Bill, Sir, comes before us I may say under extraordinary and unique circumstances. The Legislative Assembly has thought fit to refuse permission even to introduce this Bill. Speaking for myself, Sir, I must give them the credit that it gave to that decision that earnest consideration which a question of this character demands at its hands. The Assembly has not even thought fit to allow a discussion of this matter. I for my part, Sir, have always a wholesome respect for people who take a contrary view. I therefore cannot come to the conclusion, without further consideration and deliberation, that it has necessarily acted hastily or foolishly. On the other hand, Sir, I find that this Bill has been recommended to us by the Viceroy and Governor General of India, by a person who holds the highest and most responsible position under the Crown so far as India is concerned. This Bill has been recommended to us by one of England's greatest lawyers and statesmen ; is it permissible for us then to think that there is really not that demand or interest, so far as India is concerned, in the passing of this Bill. I should be sorry to come to that conclusion in a hurry. I desire just at present to express no opinion on the merits of this Bill, but I do think that a case has been made out that further opportunity and time should be given to us to consider this matter very carefully. I have heard with almost rapt attention the weighty words that fell from the Honourable Mr. Thompson, and the many cogent arguments that he has placed before us. But I for my part, Sir, would like to consider them more fully and coolly when I am no longer under the spell of his eloquence. I wish to consider carefully whether Mr. Thompson's interpretation of the treaties are sound or not. I do not desire it to be understood by the House that I disagree with him or that I say that protection is not to be given to the Princes. But I am not one of those who can come to important decisions and conclusions within five minutes.

This Bill, I take it, has been rejected on Saturday last by a responsible body, by a body which is said to have earned for it the reputation of sobriety and maturity of judgment. Now, from the Government's point of view, I should like to put it to the official members whether it is not desirable that if we are to pass this Bill we should do so after more mature consideration. Would not the votes given by us after a maturer consideration carry more weight with the public and create more confidence in the public mind ? I ask my Honourable friends on the other side of this House what is the particular hurry with regard to this Bill ? No doubt, His Excellency the Governor General has said in the sentences which my Honourable friend has quoted, “ We have decided that we are bound by agreements and in honour to afford to the Princes the same measure of protection as they previously enjoyed under the Press Act which is

the only protection available to them.” Speaking for myself, Sir, I should be the last person not to attach the greatest weight to those sentences, and I am sure most of us will feel that it is of the utmost importance to all civilised Governments that treaty obligations should be scrupulously and jealously maintained, and that mutual understandings should be respected. The Bill has been introduced in this Council to-day. The speech of the Honourable Mr. Thompson explaining the reasons for its introduction will be read by the public all over the country. The Princes will know that steps have been taken to give effect to that understanding which is supposed to be between them and the Government of this country. Therefore, it cannot be said that the Princes can reasonably come to the conclusion that the Government is tardy in the fulfilment of those pledges which we are told exist between our Government and them. Sir, I, for myself, think that when the Honourable Mr. Thompson's speech is reported in the press and the intelligentsia of the country read the whole of it, consider it, and digest it, there will not be that amount of prejudice which unfortunately exists against this Bill to-day. Therefore, I say it is important from the point of view of the Government that further time should be given for the consideration of this Bill. Sir, there is not going to be any Select Committee over this Bill. That is all the more reason why we should have further time to consider if any amendments are necessary to check the drafting of the Bill. These are, I submit, cogent reasons why further time should be given to us to consider this Bill.

Sir, that is one of those Bills which, when passed, has got to be laid on the table of both Houses of Parliament under section 67-B. at least for seven days when the Houses are sitting. I am not aware whether there is going to be any autumn Sessions of Parliament or not. If there is not going to be any autumn Sessions at all and if this Bill is passed by us in January—that is in our next sitting,—then the time from which the Bill will take effect would practically be the same whether any adjournment is allowed by this House or not. From that point of view, no possible prejudice could accrue to the Government case or to the Princes. I think that I shall be within the bounds of truth if I say that there is no immediate pressing necessity for this Bill, necessity of such a character that it will be harmful to the interests of India if as a matter of fact it is passed in January and not to-day. The Honourable Mr. Thompson in his speech has pointed out to us that in 1823 there was a Regulation, that the operation of that Regulation came to an end in 1835, and that after that protection to the Princes has been confined to administered areas, but beyond that there was no further protection to the Princes till the passing of the Press Act of 1910, which after all was an emergency measure. I do not know whether I have understood him correctly but I believe I have. If, therefore, the Princes could have gone on from 1823 down to 1910 the question of a delay of a fortnight or so, because probably that would be the utmost extent of the delay between the date when this Bill will come into operation if it is passed to-day and the date when it will come into operation if it is passed in January, cannot be of much consequence. Therefore, I appeal again, to the official members and I say that this Bill is the first instance when a

[Sir Benode Chandra Mitter.]

certificate has been granted, when we have got to consider a recommended Bill. Sir, it is a Bill which raises questions of great constitutional importance, and, in these circumstances, I submit that the House will favourably receive the amendment which my Honourable friend Mr. Kale has moved.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Member for Education and Health) : The amendment moved by my friend, the Honourable Professor Kale, would, I venture to submit, have been perfectly justifiable had it been a Bill suddenly sprung upon Honourable Members without previous notice or without any previous warning. Or there might have been justification for this amendment even if the provisions of the Bill had been so complicated or so difficult as to require careful and prolonged consideration on the part of Honourable Members before they could make up their minds one way or the other upon the Bill. What are the facts ? In 1910 an Act is placed upon our Statute-book which gives a measure of protection to our Ruling Chiefs against attempts to create disaffection against them. That Act remains in full force for 12 years. After the expiry of this period of 12 years, a step in the direction of constitutional reform is taken in this country which places India's feet on the path of responsible government. The Indian Legislature, or rather non-official Indian opinion, feels that in the new state of things the retention of the Act of 1910 upon our Statute-book is inconsistent with the spirit of the Chelmsford-Montagu Reforms. In consequence the Indian Legislature recommended the appointment of a committee to consider the question of repeal or modification of our press laws. That Committee reported that the Indian Press Act of 1910 should be repealed. The Government, sympathising fully with the feeling which led this Committee to recommend the repeal of the Press Act, introduced a repealing Act with which we are all familiar. But it should be remembered that the new era, the first step towards responsible government to which I have already alluded was introduced not in any Indian State but in British India, and in consequence the feeling among the non-official Indian circles that the retention of the Press Act of 1910 was inconsistent with the spirit of the Reform Scheme could have no application whatever to territories governed by the Indian Princes, for these Ruling Chiefs have taken no steps to introduce within their own territories any reforms on the lines of the Chelmsford-Montagu Reform Scheme.

In consequence there would be no justification, in so far as Indian States are concerned, for the existence of the feeling appreciated by the Government of India which led to the repeal of the Indian Press Act of 1910. Now, as was pointed out by the Honourable Mr. Thompson, the repeal of that Act led to this—that while section 124-A. of the Indian Penal Code and certain provisions in the Criminal Procedure Code still made it possible for the British Government to take action against any newspaper or even against any public speaker who attempted to spread disaffection against the British Government in British India, the Ruling Chiefs were left entirely unprotected against any such attempt by reason of the repeal of the Indian Press Act. In consequence it became necessary for the Government of India, by

reason of the obligations based upon agreements as well as obligations of honour, to undertake this measure in order to extend protection to the Ruling Chiefs. The fact that the Government of India contemplated such an enactment was well-known in Indian political circles. It has been discussed during the deliberations of that Committee. Subsequently the Chamber of Princes passed a Resolution demanding from the Government of India, in view of the facts placed before this House, the protection which they require. That fact was well-known, it was an open secret. Again on the opening day of the Legislative Session this year on the 5th of this month, His Excellency the Viceroy in his opening address gave notice practically of the measure which has ultimately been introduced in this House to-day. In those circumstances, can any one say that this measure has been sprung upon Honourable Members ? Has any Honourable Member any justification for saying that this measure has been sprung on him and therefore it is necessary for Honourable Members to take time in order to weigh the pros and cons of the proposed enactment.

The HONOURABLE MR. V. G. KALE : Yes.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : I submit 'No.'

The HONOURABLE MR. V. G. KALE : The Bill has been in our hands for two days.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : Two days certainly. The Honourable Professor Kale interrupts me by saying that the Bill has been in the hands of Honourable Members for 2 days. I know the Honourable Professor Kale and his experience of legislation. I know his keen and far reaching intellect. I am sure that two days are more than sufficient for him at any rate to make up his mind with reference to a Bill the essence of which really consists of only one clause, clause 3. In fact the remaining clauses refer to other matters which are more or less of secondary importance, so far as the actual object is concerned. The whole object of the Bill is embodied in clause 3, and if I may venture to say so the enactment which is embodied in that clause is one that does not require, cannot require more than even a day's deliberation, not to speak of three days, and that for the simple reason that the first portion of that clause merely reproduces, as was pointed out by the Honourable Mr. Thompson, a portion of section 124 A of the Indian Penal Code, an enactment which has been on the Statute-book for many years and has been the subject-matter of judgments of various High Courts, and in consequence it really does not require such a prolonged deliberation or consideration as the Honourable Professor Kale would have us believe it does. I would like to invite the attention of Honourable Members to the proviso to that clause, clause 3. Honourable Members will see that the proviso to this clause carefully protects honest criticism of the actions of individual Ruling Chiefs or of acts of their administration from any prosecution whatever under this Act, so that the scope of this proposed enactment is really very much limited, far more limited than are the provisions of section 124-A. of the Indian Penal Code. It will be remembered that under section 124 A of the Indian

[Mian Sir Muhammad Shafi.]

Penal Code attempts at creating disaffection whether verbal or written are made penal, while in the present enactment there is no interference with the right of public speech in any manner or in any kind whatever, but all that is made penal is attempt to create disaffection by written documents, books, pamphlets and so on. It is therefore clear that in its scope the present enactment is far more limited than the enactment embodied in the Indian Penal Code. And further no prosecution under the proposed Act can be launched without the previous sanction, not of the Local Government, not of the District Magistrate, not even of the Agent to the Governor General, but of the Governor General in Council, so that it is obvious that no one need be afraid of a groundless prosecution in cases that come under this Act, for in the first instance the scope of the Act is limited, and in the next place no prosecution can be instituted without the sanction of the Governor General in Council. It seems to me that in those circumstances the nervousness that seems to exist in certain quarters with regard to the proposed enactment is absolutely unjustified. It seems to me that this House which has already acquired a reputation for sobriety of judgment need have no hesitation whatsoever in agreeing to place this measure on the Statute-book of this country. Sir, in view of the extraordinary circumstances mentioned in this Council yesterday, under which the motion before us has now been made, I have had my most anxious consideration paid to the matter.....

The HONOURABLE SARDAR JOGENDRA SINGH : Is the Honourable Member speaking on the amendment or on the Bill ?

The HONOURABLE THE PRESIDENT : Both the amendment and the principal motion are under discussion.

The HONOURABLE RAJAH VASUDEVA RAJAH OF KOLLENGODE (Madras : Non-official Nominated) : And I have unhesitatingly come to the conclusion, that it is the paramount duty of this Council to support the motion before us. I may express my regret that owing to certain causes, of which we are all aware, the Governor General had been forced to adopt the only course left to him of certifying that the Bill was essential in the interests of British India and of recommending that it be passed.

In dealing with the necessity for this Bill, I may mention to this Council, that I know personally several of the Indian Native States and their affairs somewhat closely, and that, from my knowledge of those States and the scurrilous criticisms and seditious attacks that are sometimes published against them by a few unprincipled Newspapers, I think there exists a real necessity for a Bill of the kind that is proposed.

Most of the Members in this Council, and especially the European Members of it, read only the English Newspapers and not the various vernacular ones, which in some rare cases appear as if specially started with the deliberate intention of maliciously attacking the Indian Rulers and their administration. I am however happy to think that such Newspapers are very few in number, but at the same time it has to be admitted

that they do exist in this country. Those that come under this category are conducted by penniless upstarts whose object is simply black-mailing and they make attacks calculated to bring the Rulers and their administration into hatred and contempt. It is probably because that many of the Members do not read vernacular papers of the kind that I have described or that they do not take interest in matters affecting Native States which do not concern them, that they have not felt the necessity for a Bill of this kind. But I may assure the Members that I have often pitied the lot of the Indian Rulers who are unjustly attacked by British subjects in papers conducted in British India. If, in the past, Native Rulers have not freely taken action in the matter, it is due to their forbearance and magnanimity and not to the absence of the evil. It may be argued that the Native States are in a position to prevent the circulation of outside papers in their States, but this will not give adequate relief. Many of the Native State subjects are also British subjects and have great many relations in British India, and if such papers are circulated in British India, the dissemination of the mischievous matter in the Native State can be easily achieved.

No honest and fair criticism of any action taken by Ruling Princes is touched by the Bill proposed to be introduced and it is only such literature as is intended to excite hatred, contempt or disaffection that will come under the purview of this Bill. We have seen in Malabar the consequences of incitement and if anything similar happens in Native States as a result of excitement or disaffection, one can easily imagine that it is much more difficult to put it down there than in British India, as they have much less resources and military behind them. Further, the person and position of an Indian Ruling Chief are held by tradition in the highest esteem in their States, and I think it is the duty of Government to see that the British subjects, over whom the Native States have no jurisdiction, are not allowed to attack the Rulers maliciously or to do anything tending to excite hatred and disaffection towards them. It is only during the last few years that special measures had to be taken to prevent the dissemination of hatred and disaffection among the masses in this country, as those evils did not exist before, and since the year 1910 the Ruling Princes had enjoyed the protection of the special Press Acts along with our Government, but since those Acts have been repealed recently, the Ruling Chiefs are now placed in a position much worse than ever before, while the British Government have at least the protection of section 124-A of the Indian Penal Code ; as pointed out by the Honourable Sir Muhammad Shafi, the Native States have not I believe even that protection. If there has been necessity in the past for special protection, for which I have no doubt, I am equally certain that the necessity for protection of the Ruling Chiefs in the future is all the more. There is a wave of unrest in the country owing to the desire of the people to rule themselves and much of the power which remained hitherto in the hands of the Rulers in British India has been transferred to those of the people, either as a result of these agitations or as a concession by the Rulers themselves. With this example before them in British India and with the appearance of a new class of dangerous agitators called the Non-co-operators, it can be easily discerned that in future strenuous attempts will be made, and are probably being made, to change the form

[Rajah of Kollengode.]

of administrations in Native States also by adopting undesirable methods. There is nothing surprising therefore that the Indian Rulers should entertain some legitimate fear regarding the spread of disaffection by the numerous agitators around them in British India. If due and timely protection is not given to the Indian Rulers by the paramount power against the activities of these unconstitutional agitators, it may have disastrous effects and the Rulers will have every reason for resentment. Further, the Government will be rightly accused of not discharging their duties to the Indian Rulers who have, it will be admitted, been staunch adherents of the British Raj, and helped them in all ways and at all critical times in the past. It would be most imprudent and unstatesman-like to create an impression that the Government are not sufficiently protecting their interests. As far as I can see there is nothing extraordinary in the Bill and the greatest possible safe-guard that can possibly be placed has been provided in it. No action can be taken by anyone except on the complaint and under the authority of the Governor General in Council, and if a Ruler has made out a case to the satisfaction of the Governor General in Council, it is astonishing to be told, that the Law should still not be put in motion. The Governor General's Council contains the best legal talent and experienced administrators and the Governor General himself is undoubtedly a distinguished statesman of great abilities, and if we are not to trust even this body, I really do not know which authority it is we are going to trust in this country. In my own opinion it would have been quite enough if a case had been made out to the satisfaction of a British Resident for setting the Law in motion, but extraordinary precaution has been taken that the Governor General in Council alone should deal with the matter evidently to satisfy the insatiable. If, in spite of all these safe-guards, we, in this Council, should fail to strengthen the hands of Government to fulfil their obligations to the Indian States, I think we would be guilty of great injustice both to the Native States and to our Government. Sentiments and temporary popularity should not at all weigh with us, and I trust that this Council will fully rise to the occasion and show their keen sense of responsibility and sound judgment in this matter. Before I close, I should like to say one word more. I think the sincere thanks of the Native States of India and of those who wish to see them preserved intact are due to His Excellency the Governor General for his firm and statesmanlike action in regard to this Bill, which may probably be regarded in some quarters as only a half-hearted measure. For it is always not an easy matter for those who are in Cape Comorin to convince those authorities in the Himalayas of the need for immediate action. I use the word Cape Comorin only to show the distance without meaning any particular State. I may also add, Sir, that in supporting this Bill, I have absolutely no personal interests. I hold no brief for any Native State nor am I a subject of any one of them. It is merely as one of the many who would like to see the Indian States preserved in their Eastern glory, happiness and contentment that I speak.

Lastly, I should like to congratulate the Honourable Mr. Thompson on the lucid and forcible presentation of the case and I hope he has been able to convince the House of the necessity of the legislation proposed, as he has convinced me.

With regard to the amendment proposed by Mr. Kale, Sir, I must say that I strongly oppose it. The Bill is more in the nature of a preventive measure against the spread of an evil into the Native States. If any delay is allowed preventive measures may be found useless and more drastic curative measures may have to be taken after a great deal of mischief has been done, which will be more difficult. The very fact that the Governor General has certified as to the necessity of the Bill so quickly must show that there is urgency in the legislation. Any delay will therefore be undesirable. With these words I strongly oppose the amendment but support the motion before us.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab : Sikh) : Sir, I must begin by assuring the Government that no Member of this House or the other ever thinks of going back on any pledges given by His Excellency the Viceroy or any Member of the Government. Pledges in India have been always respected, whether verbal or written, and I am sure they will be respected in future. Now coming to the question of this Bill, Sir, and the way in which it has been presented to this House I cannot approve of the procedure. I always take it that we are members of the same team. Some of us are playing forward, some are playing as backs, but with one object only,—that India should be better governed; and if at moments we criticize the Government, we criticize with one object only—that Government may be stimulated to right and helpful action. Here, Sir, I respectfully submit that the rules of the game have not been observed in presenting this certified Bill to the House. I submit, Sir, whether it would not have been right, as pointed out yesterday by our President, in whose hands the dignity of this House is altogether safe, to bring in an ordinary Bill in the ordinary course of things which we could have sent to the other House after passing it. The rules of the game would have been observed. I am not enamoured of the veto, as my Honourable friend Sir Edgar Holberton is. I think.....

The HONOURABLE THE PRESIDENT : Would the Honourable Member mind raising his voice. I cannot hear a word.

The HONOURABLE SARDAR JOGENDRA SINGH : Very well, Sir. I said that I am not so much enamoured, as Sir Edgar Holberton seems to be, of the veto; that I wish to emphasize that the rules of the game should be always observed and that no Bill should be rushed, certified or otherwise, so that the whole team may play the game together, according to the rules which have been laid down. I will say nothing more regarding the presentation of this Bill. But I say, Sir, that it would be wise to postpone the consideration of the Bill to the next Session. The Honourable Mr. Thompson dwelt a good deal on the pledges and treaties made between the paramount power and the protected States. His knowledge of Persian and Indian History, so far as I know, is unrivalled in this House; and there can be no greater authority in this House on this point. How the Moghul Emperors would have dealt in olden days with questions such as arise to-day is another matter. What I would like to ask the Honourable Mr. Thompson is, have any of the Chiefs asked for this Bill? One of the very important Princes told me that he did not need any Bill of the kind to protect him. I do not know if any of the Chiefs have approached the Government of India and

[Sardar Jogendra Singh.]

asked for such protection as the Government of India is to-day offering to them. If not, I do not think there is any case for hurrying the Bill through at the last moment of this Session. Then, Sir, I would like to ask the Honourable Mr. Thompson, whether he was not putting too far-fetched a construction on the words which he quoted from the treaties. Was it ever considered, at the time when these treaties were made, that there would be such a thing as a Press Act? I know that the words as employed can bear no such meaning:—"the friends and enemies of one shall be the friends and enemies of both." But is a critic a friend or an enemy? And if in British India the paramount power can be criticised for certain of its actions, is it not necessary that in the States also there should be full and free scope for an expression of free opinion? We are bound by our treaties to respect the Chiefs and to keep them in power and position; but we are at the same time compelled to recognize our duty to the people who live in those States, and that duty, so far as we are concerned, has always been recognized by the Government of India, much more strongly than is allowed by the treaties. I would ask the Honourable Mr. Thompson who has quoted from some of the newspapers, whether he would care to lift the veil and reveal some of the facts which are in the faithful custody of his confidential files. That would make an interesting revelation indeed and might enable him to secure more support than he has done by quoting extracts from the press. The Honourable Sir Muhammad Shafi in his speech pointed out that a section in the Penal Code—124 A.—I think it was good enough to give all the protection that was required in India. Then why do we need another law to afford adequate protection to Indian States? That is another point to be considered. Then we have the report of the Press Committee and the Press Committee clearly said that there was no need for any special legislation of this kind. I want to ask the Honourable Mr. Thompson whether he is justified in putting the construction he has put on the treaties, whether he is justified in enacting a Press Act for the Indian States, which was never contemplated when these treaties were made? Is he justified in committing his Government and in saying that the Government is in honour bound by those treaties to pass a Press Act? Is it a fact? If it is not a fact, is he not carrying the interpretation too far and putting a construction on the treaties which they were never meant to have? Under these circumstances, Sir, I strongly support the amendment that the consideration of the Bill be postponed to the next Session, when there will be time for us to consider what the Ruling Princes themselves require and whether they have made any demand for this protection. If they make no demand, the case falls through. If they make a demand, there will certainly be a ground for further consideration. At the same time, Sir, I would personally support the Bill if it is a question of honouring the pledges given by the Viceroy. I would only point out that the people of the protected States need protection, since the protection which the Moghul Emperors gave is not now available. In its absence we require something more clear in order to control some of the activities of the States.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I must at once admit that the eloquence of the Honourable Sir Muhammad Shafi left me quite unmoved as to the question of this House having had the Bill which we are now discussing a sufficiently long

time in our hands, or perhaps I should express it, as long a time as we might have had it. From their own showing Government have had this measure in their mind for some very considerable time and I cannot help thinking it is a great pity that they did not introduce this Bill earlier in the Session. No doubt the Honourable Mr. Thompson had this in mind when he went into such detail and explained to us so fully the reasons for, and the object of, this Bill. Without delaying this Council with a long speech, I wish to say that the Honourable Mr. Thompson convinced me most thoroughly of the necessity for this measure, and I hope that the other Honourable Members of this House were also convinced. There is no getting round the extracts which the Honourable Member read from papers,—most abominable attacks on the Ruling Princes of this country. Now, Sir, having been thoroughly convinced by the Honourable Mr. Thompson of the necessity for this Bill, and recognizing that we can all make mistakes—and I think that Government did make a mistake in not introducing it earlier—I am strongly against its postponement and am in favour of its being taken into consideration in this Council to-day. I see no object in postponing it. I think Honourable Members must have been convinced of the reasons for this Bill. The Honourable Mr. Thompson informed us that the honour of the Government of India was at stake. Are we, the Members of this Council, not going to support the Government of India when it comes to a point of honour? I think we are.

I have stated, Sir, that I think this measure should have been in our hands a longer time. At the same time, I hope we are so convinced of the necessity for the Bill that on this occasion we can waive any objection we might otherwise have to make. I support the consideration most heartily and oppose this amendment for procrastination which we all dislike.

The HONOURABLE SIR WILLIAM VINCENT (Home Member): Sir, I should like to say at the outset that I do not take the same view as the Honourable Mr. Thompson took of the action of the Legislative Assembly in respect to this Bill. I do not believe and I have every authority for what I am saying, that they ever intended in any way to flout His Excellency. I do not think that the suggestion that the honour of the Government of India or the honour of the Viceroy has not weighed with them as dust in the balance is correct. I believe

The HONOURABLE MR. J. P. THOMPSON: May I rise to a personal explanation, Sir?

The HONOURABLE THE PRESIDENT: If the Honourable Member gives way.

The HONOURABLE MR. J. P. THOMPSON: I think the Honourable Sir William Vincent is really explaining that he is in full agreement with the view I have expressed.

The HONOURABLE SIR WILLIAM VINCENT: I believe that the Assembly acted unwisely in rejecting the motion for introduction, and I believe that that feeling is shared by many here. But I feel with Mr. Kale that it is neither fair to them to criticise them in the manner

[Sir William Vincent.]

adopted, nor do I think it will do this House or the Government any good. I cannot believe that remarks made here in antagonism to the other House can produce good results. I agree that we have been forced by the action of the Assembly into a very unfortunate position. If it had been possible to re-introduce the Bill in the other House, if it had been possible to introduce it here without a certificate and get it passed and then take it to the other House in this Session, that course would obviously have been preferable, but those who read the rules will see that without a certificate it would not have been possible to enact this Bill for another year at least, and we should have been uncertain as to whether that would be possible even then because of the approaching elections. Under the Rules you cannot bring a motion of substantially the same nature before a House twice in the same Session, and this rule would, in our interpretation of it, have prohibited us from taking this Bill back to the Legislative Assembly at any rate till next September, unless the Assembly had been prorogued. So, as we wanted to get this Bill passed, it was essential that it should be certified at the earliest opportunity. I am very anxious that this Council should not think however for one moment that this certification is due to any doubt as to their readiness to assist the Government. It was due to nothing of the kind. If the Bill had not been certified, it would not have been possible to secure its enactment in reasonable time. I was myself confident and am confident that this Council will accept this measure as a just and reasonable one. There has never been any suspicion whatever as to the attitude of this Council, and it is unfortunate, therefore, that the form of the statute should have made it necessary for the Governor General to certify the Bill in order to secure its enactment, as this course might, in the absence of explanation, tend to create the impression that some slur was cast on this Council where none was at all intended. It was in fact obligatory on His Excellency to take this course in order to get the Bill through with reasonable expedition. We should have been very glad indeed if it had been possible by any means to avoid certification—even up to yesterday I was struggling to avoid this method of legislation. Unfortunately, we could find no way out of the difficulty. Another point was mentioned by the Honourable the Mover and I think, put a little bluntly or plainly, when he said, that the Government of India will accept no amendments.

Now, I want to explain that and to put it, if I may, a little more

The HONOURABLE MR. J. P. THOMPSON : May I rise again to a personal explanation, Sir? The Honourable Member has misunderstood what I said. What I said was that the Government felt that they could not accept any amendments, not that they would not.

The HONOURABLE SIR WILLIAM VINCENT : I am sorry if I have in any way misrepresented Mr. Thompson. I thought I was repeating the very words, but I want to explain that in my experience of this Council and the Assembly, I have always found that statements of that kind put very forcibly sometimes create misapprehension and antagonise instead of winning Members over, and I want to explain why it is that the Government cannot accept these amendments. It is very simple. We are in some doubt as to whether if we accept any such amendments

the validity of the certificate may not be called in question. There are some of these amendments which I will deal with later, which seem to me of a more or less reasonable character and which I would have liked to examine with greater care and in greater detail. But I think any one who examines the Statute and considers the facts will see that it would be very unwise for us to pass a penal enactment on the validity of which any shadow of doubt can rest, particularly in a matter of this kind, and I am sure I shall have the support of every legal Member of this Council in this view. I will deal with the amendments in detail as they come up later and I shall be very glad to have an opportunity of doing so. As to the main principles of this Bill our obligations in regard to this matter are based as Mr. Thompson said, firstly on treaties and on obligations of honour. He has said that we have undertaken to give these Princes the same protection that was given them in the Moghul days. In this connection my Honourable friend, Sardar Jogendra Singh has suggested that there was no thought of a Press Act then. Well, there is no idea of the old Press Act in this Bill, no suggestion of it. The Bill penalizes the publication of seditious attacks on Indian States and it is a law that obtains in every civilised country. I dare say it prevailed in the days of the Moghuls in a more drastic form. I imagine that those who were tempted to libel ruling monarchs during the days of the Moghuls met with very short shrift. (*The Honourable Sardar Jogendra Singh* : "That is what I meant.") We on the other hand propose a fair trial for men who have committed the offence ; evidence will be recorded before Magistrates according to the law of British India, and each case will be full inquired into before any man is convicted ; that I think is a perfectly fair position. The accused person will also have the right of appeal as is remarked by my Honourable Colleague.

The second reason for this Bill is this. Here I want to go back and discuss the Report of the Press Act Committee to which such frequent reference has been made in this Council. It is only reasonable that I should support that Report because I was one of the signatories, indeed I took an active part in the work of that Committee. I am told in the first place that the statement of the Committee that there was no law protecting the Indian Princes from attacks in the press prior to 1910 is inaccurate. I had little thought that any one would have referred to the old Press Regulation of 1823 to refute the statement that we made. The Press Regulation of 1823 itself contained no reference to Indian Princes at all, though they were protected by rules made under that Regulation.

If Honourable Members have ever studied those rules, they will see that there is much in them besides the protection to Indian Princes and even such a stalwart conservative as my Honourable friend would scarcely venture to defend those rules now in this or in any other Council. If any one here has read the petition of Raja Ram Mohan Roy which he took to the Privy Council against those rules, he will remember the great protest put forward against these rules unsuccessfully it is true, but I venture to say that if he was unsuccessful, he had not the worst of the argument ; and I cannot regard the Regulation of 1823, which was in fact repealed in 1835, as affording any support for the proposition that

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legislation of the present kind was needed at the time the Committee reported. Well, Sir, the Press Committee was attacked on other grounds because it was stated in the report that only three instances of attacks on Indian Princes were brought to their notice. That is a fact and what was the reason for that? Whose fault was that? Was it our fault? Was it the duty of the Committee to hunt round for a justification for the protection of Indian Princes. Was it the non-official Member's business or was it the Home Member's business to spend their time delving into old records for the purpose? The committee gave ample opportunity for the production of evidence, but in my judgment adequate evidence was not produced and up to that time the necessity for this Bill was not proved. There is nothing more than that in the report. I defy any one to read into the Report anything more. We had no material brought before us to show that at that time it was necessary to protect the Princes and I will not resile from any single word that I put down in that Report. I maintain that adequate evidence was not produced before us and that we were correct in the attitude we took up on the material before us. Since then there has been a change. I am satisfied from the numerous instances that have been read out that these Princes have been shamelessly defamed in the Press. I have never seen anything like some of the articles. They excel indeed anything that the press says about me. There is, Sir, great force in the arguments put forward by Sir Arthur Froom that the Council has had very little time to consider this question. I regret it. I admit that his is a reasonable complaint. On the other hand the Council and the public were clearly told this legislation was necessary, they were well aware that this Bill was going to be introduced. Copies of the Bill have been in the hands of members of the other Chamber for some time and there has been constant reference to it in the public press. After all, Sir, the Bill is not a very long one; it consists of five clauses only and it would not be a difficult thing for any one to master it completely or even to learn it by heart in a couple of days. It has been explained that it merely repeats, *mutatis mutandis*, the language of section 124-A. Sir, the Honourable Sardar Jogendra Singh asked me whether there has been any demand from the Princes for this legislation. I am happy to be able to assure him,—and I trust that this assurance will carry his vote, that there has been a unanimous demand from all the Princes for this legislation.

The HONOURABLE SARDAR JOGENDRA SINGH : Not in the Chiefs' Conference.

The HONOURABLE SIR WILLIAM VINCENT : I am expressing the views of the Princes as put forth as a result of the Chiefs' Conference. I think the Honourable Member is mistaken about this. He must be thinking of something else. The matter was brought before the Chamber of Princes in November last and the following Resolution was passed in that House without division :

“ That in view of the contemplated repeal of the Press Act of 1910, section 4 (1) (c) of which provides for the safeguarding of the Ruling Princes and Chiefs against attempts by the Press in British India to bring into hatred or contempt or to excite disaffection towards any Ruling Prince or Chief, this Narendra Mandal (I suppose it means the Chamber of Princes) is strongly of the opinion in view of the firmly established relations of alliance and friendship and of the identity of in-

terests between the Imperial Government and the Princes of India, that His Excellency the Viceroy be moved to very kindly and favourably consider the urgent necessity of providing and adopting measures to safeguard and secure the Princes and Chiefs, their States and their Governments, against any such insidious or dangerous attempts.”

The HONOURABLE SARDAR JOGENDRA SINGH : Then I withdraw my remarks.

The HONOURABLE SIR WILLIAM VINCENT : In a way I am glad ; in a way I am sorry, for I could have added a few more comments on this statement. Then, Sir, we have been asked why we should not delay this legislation. We are as unwilling as any one else to force legislation in this way on the Council, but there are reasons for that. Look at the action which has been taken in the Legislative Assembly. I believe that was due largely to error, oversight or lack of wisdom. But what is the present position. His Excellency's solemn declaration which was read out to you by Mr. Thompson has been disregarded and the Princes undoubtedly feel that their interests and their authority have suffered seriously. Is that a position in which either the Government or this Council can let matters rest? I submit not. I know there are men here who differ from me on this point. Again His Excellency has certified that the passage of this Bill is essential for the interests of British India. Therefore in His Excellency's judgment, the passage or the enactment of this measure is essential without delay and after all what is being done? We are only restoring to the Princes the protection which was given them by the Act of 1910 in a safer and, if I may say so, in a better form. Those who offend against this law will not be liable to summary action at the hands of the executive. They will be tried before a Court of law or a Magistrate and the accused will, I suppose, ultimately have a right of going up to the High Court. Surely that is a reasonable safeguard against any injustice. Further, there is the great safeguard of the previous sanction of the Governor General in Council. Sir, would it be fair to leave the Princes indefinitely without this protection in view of the instances which have been cited by Mr. Thompson and in view of the proved necessity for this measure? If it was a long and complicated measure, then I might agree with Sir Benode Mitter, whose views carry great weight, but it is after all a very short Bill for him to consider in this time. It is a Bill which we consider necessary to fulfil our obligations,—our honour and Treaty obligations. It is a Bill which the Princes demand for their own protection. It has been proved to be necessary for the safeguarding of their legitimate interests, and I hope that this Council will accept it even with the short notice that they have had. It is no good denying that they have had very short notice; I regret it very much; but I hope they will take up the same attitude as the Honourable Sir Arthur Froom and accept the Bill before them. Sir, if anyone needs a recent instance of the danger that has arisen from the evil which the Bill seeks to prevent, let him consider what happened a few months ago—the rising among the Bhils in Mewar, incited, I am afraid, largely by agitators in British India. What has been the result of allowing this to go on? The result has been a loss of the lives of many ignorant, misguided people; are we to risk further loss of lives, while we in this Chamber, delay legislation? Is it right that we should hesitate to afford reasonable protection to these unfortunate people, and to afford it to those Princes who have

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done us such great service in the past, is it right that we should refuse, or delay to grant them the protection to which they are entitled?

I have only one word to add, Sir, and that is with reference to what fell from the Honourable Sir Edgar Holberton, when he suggested that Government did not assess adequately—I hope I am putting it rightly—the value of this Council. I can assure this Council that there is no foundation whatever for this suggestion. If some of us are detained in the other Chamber on important business, I think Honourable Members will realize that there are good reasons for this. Further, as I said the other day, this Council does not rest for its authority on the support of Government; it needs no backing of that kind. Its authority is based on the weight and character of its Members. The Government has every reason and, doubtless, will have every reason, to be grateful for its support on all occasions of difficulty. (Applause.)

The HONOURABLE THE PRESIDENT: I think it will be convenient now to adjourn for lunch. The Council will now adjourn till Three of the Clock.

The Council of State re-assembled after lunch at Three of the Clock. The Honourable the President was in the Chair.

The HONOURABLE NAWAB SIR BAHRAM KHAN (Punjab: Nominated Non-Official)*: Sir, I rise to support this Bill strongly. It is one of the most necessary measures in the present circumstances considering how some misguided and malicious people are apt to take liberties if no safeguard is provided against the Princes and rulers of India. This body of reliable and staunch administrators are a bulwark of the Empire, are administering their respective States for generations. Though in some isolated places there may have been some flaw in their administrations the Chief himself considers his subjects as his own children. Now-a-days when the ablest British officers as Residents and Political Agents are watching the affairs of the States which are now run on modern lines by able Councils there is not much chance of any serious mismanagement. One of the main causes for which these distinguished personages are maligned by the agitators and evil doers in the country is because they are strong supporters and allies of the British Government and do not help such people in their propaganda or other dangerous movements against the country. The ruling Chiefs have amply proved their worth by their services to their King and country during the Mutiny of 1857, in the Kabul War and in nearly all the Expeditions from time to time. Their unique effort in the World War is too conspicuous to require any mention. Thus the main object of seditious people is to create dissensions and misunderstandings between this body and the Crown.

It is for this as well as other vital reasons that it is of the utmost necessity that such a law should be introduced. I again support the measure in the strongest terms.

* Translation of a speech delivered in the vernacular.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, as I think the amendment is still under discussion, I will just say a word on that, though I am permitted at the same time, by your kindness, to speak on the Bill also. If I were to put forward any amendment, it would be that no amendment be allowed in this Bill at all. Sir, it has been said that a long time had elapsed I think from 1823 to 1910 during which the necessity for this enactment did not arise. On this point I may say that I have myself been at the provincial headquarters; in the old days there used to be Munshikhanas, where each State always had a servant. Directly some of the people wanted to blackmail the Rajas they were given one or two thousand rupees; and after that money was exhausted during the period in which those men had kept quiet, they again published some other offending article. In this way a number of people absolutely lived on the States. That is one of the reasons why I think there should be no delay. If this is passed to-day, there is nothing to prevent any member who wishes to do so to bring in an amending Bill later on. The House knows that when the Press Act was being repealed I think I was the only member who spoke very much against it. All that I wanted then was that it should continue in operation for six months more. If that had been done in Delhi to-day this Bill would have taken effect immediately after the cessation of the Press Act, which would have been very opportune and useful.

Sir, in the luncheon interval to-day I had the honour of speaking to some of the members of the Legislative Assembly and they asked me if we were going to pass this Bill. I said I had a conviction that we would pass it to-day. And from what I could see, they were all very sorry that they had not passed it themselves. I come now to the Bill generally. The new reformed Government, Sir, has just stepped into the shoes of its predecessor; and, like a son succeeding his father, it has to carry out the obligations which were binding on its predecessor in regard to these Indian States. If the previous Government had any understandings with the Princes we ought to be bound by them. So when this measure was placed before another House, it should have been their duty to realise their position. At any rate, they ought not to have rejected it, but should have taken it into consideration and, modified it or even rejected it afterwards. But when it was treated in the way it has been done, though I am told that I should not pass any reflection on the other House, I think I should say it was a Himalayan mistake that they committed. If there is a mistake, the sooner we rectify that mistake the better for us and for the country. A friend of mine said something about the rules of the game. If we wait there is danger lest the other side should make a goal and then it will be too late. Now, all of us who have had the honour of participating in the last War have seen what these Princes had done for the King and the country. (Hear, hear.) Nearly all of their best Imperial Service Troops were sent and even that was not considered sufficient by them. Some of them put all their resources at the disposal of the Government, and furthermore some of them went to the Front in person and bore the danger of being killed, one of the extreme things that a living man can do on this earth. Now, I want to ask those who

[Colonel Sir Umar Hayat Khan.]

want to withhold this protection from them, what they have done for the King and the country during that struggle? We all know what a magnificent reception the Prince of Wales had during His visit to this country whenever he went to the territories of those Chiefs, and we also know of something else when he was not there, are we going to hamper such Chiefs in the administration of their territories so that they should become powerless? We have got a great deal of trouble in the country going on now and we expect that if anything more serious happens these Chiefs will come to our help. But are we going to paralyse them before that? If you do that, that will be a great mistake. Sir, a great deal has been said about the various treaties. Supposing there was no treaty at all, why do they call our King as Emperor? He is called Emperor because many kings in India are under Him. The word "Emperor" is merely sufficient to show that he should look after the interests of those Kings who are under him. That is quite sufficient. If this measure is going to be carried by the present Government—that is what they are doing now—we must congratulate them on that. This is a thing that I emphasised the other day too,—that we do not realise, some of us, that we are part and parcel of the Government, and if Government wants a thing like this, we ought to give our support to them and uphold them, and I am sure that this House will demonstrate its existence as a House worthy of being called an Upper House. Then, Sir, you remember when the Prime Minister made his speech, how from the Himalayas to Cape Comorin a cry was raised which I think would have rent the skies above us because some people wrongly thought that their rights were going to be curtailed. Now, we call the reforms as our Magna Charta and we are very much frightened if anything happens to it. What about the Princes? They have been assured of their rights, which is their Magna Charta, and as a Persian proverb goes,

Har cheh bar khud mapasandi bar digaran mapassand.

Any treatment that you do not like for yourself, don't accord it to another. So I hope that this Council will pass this measure unanimously.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, while I heartily congratulate the Honourable Mr. Thompson on the lucid and clear manner in which he put the whole case before the House, I regret I cannot congratulate him as regards his references to the attitude of the other Chamber. Now, Sir, we have got to be very careful in what we state about the other House. If I remember rightly, Mr. Thompson said that their action might be taken as an insult to the Governor General. He went a little further and said that it might appear as if that House did not want to keep up the contracts and treaties, as if they were of no value whatever and that honour will not be recognized. I think, Sir, that perhaps my Honourable friend made these reflections in the excitement due to the present occasion, and I hope that when he considers them carefully he will see reason either to withdraw or to modify them. (*An Honourable Member* : "Why.") A question is asked from the opposite benches "why." I will answer it. I do not think that that House, as it

is constituted at present, could ever have meant any insult to His Excellency. The respect for His Excellency is not limited to this House, but it also extends to the other House, and I know, as a matter of fact, that the other House holds the Viceroy in as great respect as we here, and no insult could have been intended when they rejected the Bill. It may be, as the Honourable Mr. Thompson said, that they did not realise what they did, they did not realise that this motive might be attributed to them, but I do not think that they could have meant any insult to His Excellency. Mr. Thompson gave us one piece of advice which I am prepared to accept and which I value very much. He said that this is a new Legislature, and we are working under the new reforms. Let us not give an impression to the Indian Princes that we are likely to go against their rights in any way. It is up to us—I am repeating Mr. Thompson's phrase,—not to do anything that may antagonise them. Not only that, if the reforms are to be a success the peoples of India and the Princes of India should march together. We should not create an impression in the minds of the Princes that this House, whenever it gets full responsible government, will use their power to curtail the powers of the Princes or to abrogate their treaty rights which they have been enjoying under the present Government. I am entirely at one with him and I am quite sure that all the Members of the House, to whichever party they belong, will support what has fallen from the Honourable Mr. Thompson that it is our duty to do nothing in a manner which might be understood to be antagonistic to the Princes. We want to be friendly with them, not merely because we owe a deep debt of gratitude to them, or because of the possible reaction that sedition spread in the Indian States may have in British India, but because we look on them as a part and parcel of the country. We want to work with them and we want to march with them to our final goal.

There I believe that the House, to whichever party the members may belong, will entirely agree with what has fallen from the Honourable Mr. Thompson. It is true, as he said, that the Bill will not affect the subjects of the Indian States in any way in fighting for introducing reforms in those States and that throwing out the Bill is practically out of the question. I only wish that the Bill had been allowed to be introduced in the other House, when it could have gone to a Select Committee, and the Select Committee could have examined the actual wording of the Bill and made the necessary amendments. Some amendments are, I think, necessary in view of the difference between the wording of 124-A and clause 3 (2), but the Honourable Member has said that under the Government of India Act the Bill must be passed as it is. I do not think there is any good in pressing these amendments now. What I would request Government to do is that after they have passed the Bill and satisfied the Princes that they are prepared to stand by them, later on if and when they are satisfied that certain portions of the Bill ought to be removed, then they would take the first opportunity to modify those expressions and do what they can to put it in such a way that the fair criticism of the Princes and their Administration will not in any way be disallowed by this clause. Speaking on my friend Mr. Kale's amendment, I want to ask Government one question. If the Bill had been introduced in the other House and if it had been referred to a Select Committee, would there not have been

[Mr. Lalubhai Samaldas.]

delay? I would like to know why, if Government would have accepted that delay, they should rush the measure now. An explanation is due to this House why in the one case they would have accepted delay and not in the other. With these few words I support the Bill.

THE HONOURABLE THE PRESIDENT: I would remind the Council that this Bill has been under discussion since 11-30 this morning on one motion.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support this Bill. The Honourable Mr. Thompson has so ably and fully put forward the necessity of this legislation that he has not left much for me to say. The defence of the Assembly has been well made out by the Honourable Sir William Vincent. The Government is bound by pledges and treaties to protect the Ruling Princes and Chiefs in this respect, and so we think it our bounden duty to co-operate and help them to honour their pledges and redeem their promises. The pronouncements made by our gracious Sovereigns from time to time in this connection must be loyally carried out. According to Indian Tradition, the sooner we fulfil our pledges the better. I cannot therefore understand why my Honourable friend Professor Kale wants to continue the violation of pledges. His Excellency the Viceroy in his opening speech gave a sort of notice about the coming of this Bill so this House had practically a notice of about a month. Government is fully aware of the misrule which does exist in certain Indian States, and realises its duty to use its great influence to get it put right. This House expects that every possible step will be taken by Government to mend wrongs which are being committed by certain Rulers.

The word "disaffection" is rather vague and means want of affection as has been interpreted by the Bombay High Court. We hope that in the rules which Government will frame under this Act, this word will not be given such a wide meaning.

As Government is solemnly bound to keep up its promises and to honour its treaties and pledges, and which it must, I request this House to pass this Bill.

THE HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-official) : I do not propose to be long. There need be no anxiety on that point. My remarks will be divided into two parts, one addressed to the principle of the Bill and the other the amendment about asking for time. About the principle of the Bill I quite agree and I believe the whole House agrees that obligations either inherited or now entered into have to be discharged and we must carry them out as pledges and promises already made. As we put it in the Hindu Law, the son must pay the debts of his father and as we have inherited them, so must we meet the obligations. How are those obligations to be met? If the gentlemen in whose favour they were incurred had persisted and taken the necessary steps, they would have been paid. I said 'paid' because they have been compared to debts by the Honourable Mover. They are ancestral debts that have to be paid. I quite agree but I say that I shall pay them in

my own way and in the most convenient manner possible. It may be that these debts have accrued. The present debts were incurred in 1823 and kept up till 1835. Then they fell into abeyance and nobody knew anything until we come to the year 1910. If I were speaking in a Court, I should say that the debts are barred but I do not want to put forward that technical plea. We agree that no matter how incurred the debts have to be paid and we hope to pay them but we ask for time so that we may consult our house keeper, see how our accounts stand with the Banker and then pay them in the way in which they can be paid. It has been said that we ought not to ask for time because the measure was contemplated some time ago, to use the word which is common in the newspapers now adumbrated in the speech of His Excellency the Viceroy. I quite agree but it was only adumbrated and the concrete proposal was not before us. There is a difference between a proposal made generally and a proposal put specifically before us. This is a specific thing which has come and it has come only two days ago and in our Hindu life when a child is born, for ten days they do nothing but only hold feasts and are happy and then they take measures. This child was born only two days ago and to-day it claims the rights of inheritance and wants partition from me. It is too early. However that may be, let us put that argument away for the time being. It appears to me that the words 'loyalty' and 'disaffection' have been used rather loosely. Affection and loyalty are relations which exist between ruler and ruled. We in British India understand what is meant by disaffection towards our Government. We understand what is loyalty to our Government but in this case the loyalty is to a neighbour, not to a Government under which I am born, not to a Government which protects me but to a Government which is friendly with my Government. The relationship is that of an uncle and not that of a father and son. So, it comes to be that the words affection, disaffection and disloyalty are not used in their right sense.

Disloyalty subsists between persons who have the relations of rulers and ruled. That relation does not subsist in this case. Therefore, in this particular Bill the words 'disaffection' and 'disloyalty' have been wrongly used. It is like a gentleman asking for the restitution of conjugal rights when the marriage itself is denied. So, there having been no marriage, restitution could hardly be asked for. Now, there is no relation between me and the Indian Princes. They are not my rulers, nor am I their subject, how am I going to be guilty of disaffection by speaking against them? If I speak wrongly, if I speak stupidly, of them, if I defame them, under the law they have a remedy against me; and some of the Indian Princes have, within my knowledge, availed themselves of this remedy, for, they took proceedings and they have instituted criminal cases in the Bombay High Court, and I had the honour to appear for the defence—as a junior—but anyhow, that was so. So these terms to my mind appear to be misplaced and wrongly introduced. There is no difficulty about this also for me. It is said that the measure is a very small one, that it is only three sections, that it is practically one section, and that that section is practically taken from the Criminal Code, and, therefore, you do not require any time to consider it. I humbly submit this involves a fallacy of the volume being the measure of the import-

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ance. But a microbe is also almost invisible, and if there is a microbe coming in somewhere, you have got to fight it. Similarly in the case of this 'small' Bill; it may be one word, it may be very small, but it involves a great principle. It is unknown up to this time in British jurisprudence, and also in Indian jurisprudence, namely, British subjects having relations with a foreign Prince. I am a subject of His Majesty the King, and I am supposed also to owe allegiance to a person who is outside, who rules a different province altogether; and, by these terms of 'loyalty', 'affection', 'fealty' and other words that may be introduced here, you introduce not only here but also in British jurisprudence a new relationship, a relationship such as has never been recognized up to this time; and this is a House of eminent lawyers and very eminent statesmen, and I would like to know if they have ever known a single case decided on the point, namely, that a British subject owes a duty to France or to Germany or to Switzerland. Such a thing has been unknown; and therefore this principle requires to be considered very carefully, and I submit the measure would have to be redrafted in the sense of avoiding these terms which involve the relationship between rulers and ruled. I may be wrong, but I am anxious that any promise made by the Government of India should be binding. I am not going to tell a story (laughter), but even if a promise has been made even then I would say, you kindly let me think it out, and let me see if this can be embodied in a better form,—whether it can be understood, and then certainly we shall carry that out; I mean to carry it out, there is no doubt about that. So my argument therefore comes to be this, that we agree that the Government of India should perform their obligations, and I also concede that we are bound under oath to help the Government of India to keep its promise. That I agree with, but I further submit that I wish that you kindly give us a little time to think it out, say six months. If between 1835 and 1919, I suppose, they have slept over it for nearly 50 years, there is nothing difficult in waiting for another six months. I would say that I did not see the terms, I had no opportunity of judging the effect of these terms, and so I humbly submit that the amendment that has been moved by my Honourable friend, Mr. Kale, is a very good one, and I support it very heartily, though at the same time I maintain and I concede that we are bound to carry out the promise made by the Government of India. Otherwise, Sir, I heartily support the motion.

THE HONOURABLE MR. J. P. THOMPSON : Sir, Speakers on this side of the House have left me very little really to reply to. The Honourable Mr. Khaparde's criticisms, or perhaps some of them, are more appropriate to the discussion of an amendment than to the discussion of the principle of the Bill. But I may perhaps remind him that under the common law of England any person who attempts to create feelings of hatred or contempt against a foreign ruler renders himself liable to be punished. The Honourable Sardar Jogendra Singh put one or two questions to me, and I am glad to say that the Honourable Sir William Vincent has made it unnecessary for me to reply to all of them. He said, among other things, that it would be dangerous to read specific meanings into Treaties of 100 years ago perhaps, which were expressed in general terms; and that, for instance, a Treaty expressing, as one of those which I

cited did, the condition that there shall be perpetual friendship and unity of interests between the high contracting parties ought not to be used to support a demand for legislation to protect the Princes against attacks in the Press. I am not sure, Sir, that that argument is sound. These general agreements must be held to cover a large number of specific cases as and when they arise; and in particular regard to attacks in the Press, I may remind the Honourable Member that the Regulation of 1823 was prior to some of the Treaties which I quoted, which shows that even at the period when these Treaties were concluded, the Government of India must have had in their minds the possibility of the need arising for the protection of Princes against these attacks. Another point which the Honourable Sardar put was that although I had quoted a number of attacks on Princes and their Administrations, I had not cited any of the passages which spoke of them in terms of praise. Well, Sir, if it had been a part of the proposals of this Bill to penalize anybody who praised an Indian Chief, then I think that remark would have been relevant, but as it is, I do not quite see that it carries us any further.

Then, Sir, with regard to the Honourable Mr. Kale's motion for adjournment, I regret very much that the Council have been so restricted in the time that they have been allowed for the consideration of this Bill. But they must recognize, I think, that the circumstances are peculiar.

The Honourable Mr. Lalubhai Samaldas asked why, if we were prepared to allow the Bill to run its natural course, if the Assembly had moved that it should be referred to a Select Committee or circulated for opinion, why, if we were prepared to do that, we are not prepared to give them three months' time now. The reason, I think, is clear. When the Bill was still in the Assembly, the crisis had not yet arisen. The action of the Assembly, as I pointed out yesterday, was bound to cause apprehensions in the States. Some Honourable Members have said that these apprehensions need not be taken seriously. The danger is that the States may apprehend that the Government of India is weakening.

Lastly, His Excellency the Viceroy has told us that it is a debt of honour, and where it is a question of the payment of a debt of honour I think this House will agree with me that time is always of the essence of the contract.

The most serious attack that was delivered on my position was a flank attack from the left. As regards that, Sir, my only regrets are that I failed to make my meaning clear, and, secondly, that this is the last time probably that we shall hear the Honourable Member in this Chamber. The first of these regrets will be short-lived. I feel sure that any obscurity there may be in regard to my meaning will disappear as soon as the Honourable the Home Member and the Honourable Mr. Lalubhai Samaldas are in a position to read what I actually said in print. The second regret that we shall hear the Honourable Member no more is one, alas, which will remain with us always. (Applause.)

THE HONOURABLE THE PRESIDENT : The original motion was :

"That the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt or to

[The Honourable the President.]

excite disaffection against Princes or Chiefs of States in India or the Governments or Administrations established in such States, be taken into consideration."

To that motion an amendment has been moved :

"That the words 'early next year' be added."

The question is that that amendment be made.

The motion was negatived.

The HONOURABLE THE PRESIDENT : There remains the original motion :

"That the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt or to excite disaffection against Princes or Chiefs of States in India or the Governments or Administrations established in such States, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT : The Council will now proceed to the consideration of the Bill clause by clause. We will, as usual, reserve the Preamble.

The question is :

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

The HONOURABLE MR. V. G. KALE : Sir, to clause 3 I have two amendments. The first amendment runs as follows :

"That in sub-clause (1) of clause 3 of the Bill :

- (i) the words 'brings or is intended to bring into hatred or contempt, or' be omitted ;
- (ii) after the word....."

The HONOURABLE THE PRESIDENT : May I ask the Honourable Member if these amendments are connected in any way ?

The HONOURABLE MR. V. G. KALE : No Sir.

The HONOURABLE THE PRESIDENT : Then they can be moved separately.

The HONOURABLE MR. V. G. KALE : Then my first amendment is :

"That in sub-clause (1) of clause 3 of the Bill :

- (i) the words 'brings or is intended to bring into hatred or contempt, or' be omitted."

My object in moving this amendment is that the words are rather too vague and comprehensive. It is very difficult to say what is calculated to bring into hatred or contempt the ruler of an Indian State, and I am afraid that the safeguard which is provided in a later section will be nullified if these words stand. Even ordinary temperate criticism of the administration or the measures of a ruler might be considered as intended

to bring him into hatred or contempt, for this reason, in particular, that in Indian States we have not yet got what is called a popular form of government. In most of the States we have an autocratic form of government and in those States it would be difficult to distinguish criticism of measures from criticism of the ruler. To my mind, therefore, these words are likely to occasion injustice and are not likely to help in the attainment of the object aimed at. For these reasons, Sir, I move my amendment that these words be omitted from clause 3.

The HONOURABLE SIR WILLIAM VINCENT : Sir, I am afraid that, apart from any question of the difficulty of inserting amendments in the Bill at the present stage, I must oppose this amendment on the merits. I think any one who has examined the law, as I am sure the Mover has, and has examined section 124A of the Penal Code will see that the words are taken from that section. They have been the subject on many occasions of judicial interpretation and are, in my humble judgment, entirely suitable in the present Bill. And if I might develop the argument used by the Political Secretary just now, I may say that malicious and scurrilous reflections upon foreign sovereigns and publications tending to degrade and defame such persons, are indictable in England. There is really no fear whatever of the danger to which the Honourable Mr. Kale has alluded, and I think if he will again read sub-clause (2) of clause 3 he will see that any kind of reasonable criticism is effectively safeguarded. That clause runs :

"No person shall be deemed to commit an offence under this section in respect of any book, newspaper or other document which, without exciting or being intended to excite hatred, contempt or disaffection, contains comments expressing disapprobation of the measures of any such Prince, Chief, Government or Administration as aforesaid with a view to obtain their alteration by lawful means, or disapprobation of the administrative or other action of any such Prince, Chief, Government or Administration."

Now, our intention is to exempt all reasonable criticism from the mischief of this Bill. I believe we have done so. I am fortified in that view by the fact that the same words and the same exception are used in section 124A and have been judicially interpreted repeatedly in the manner in which I have described. I hope that the House, quite apart from any other question which I may have to urge later, will reject this amendment on the merits.

The HONOURABLE THE PRESIDENT : The question is :

"That in sub-clause (1) of clause 3 of the Bill—the words 'brings or is intended to bring into hatred or contempt, or' be omitted."

The motion was negatived.

The HONOURABLE THE PRESIDENT : The next two amendments appear to be connected and may be moved together.

The HONOURABLE MR. V. G. KALE : Sir, I move that :

"In sub-clause (1) of clause 3 of the Bill :

- (ii) after the word 'excite' the words 'among the subjects of any Prince or Chief of a State' be inserted ;
- (iii) between the word 'any' and the word 'Prince' the word 'such' be inserted."

[Mr. V. G. Kale.]

My Honourable friend, Mr. Khaparde has already anticipated me in connection with this amendment. The clause, as it stands, speaks of any print or book or document which brings or is intended to bring into hatred or contempt, or excites or is intended to excite disaffection towards any Prince or Chief of a State in India. The question is, creation of disaffection against whom? The offence will be committed in British India. An article will be written and a document will be circulated which, let us suppose, is calculated to have this effect. But upon whose mind? There cannot be, in my opinion, disaffection created in British India by any article or document with respect to the ruler of a Native State, because the relations between the ruler of an Indian State and the British subject are not the relations of a sovereign and his subject. So far as I understand the matter, I think there can be disaffection only when there is the relation of allegiance, loyalty,—the relation between the rulers and the ruled. No such relation can be contemplated between a British subject and an Indian ruler. For these reasons, I think this amendment is absolutely necessary. The third amendment is consequential upon the second.

The HONOURABLE THE PRESIDENT : To the proposed clause No. 3 (1) amendments moved :

“ After the word ‘ excite ’ the words ‘ among the subjects of any Prince or Chief of a State ’ be inserted : and
Between the word ‘ any ’ and the word ‘ Prince ’ the word ‘ such ’ be inserted.”

The HONOURABLE SIR WILLIAM VINCENT : I really do not think that there is any room for doubt as to the meaning of the clause as drafted. If I take the clause and read it, I think this will be clear.

“ Whoever edits, prints or publishes, or is the author of, any book, newspaper, or other document which brings or is intended to bring into hatred or contempt, or excites or is intended to excite disaffection towards any Prince or Chief of a State in India.....shall be punishable.....”

I have no doubt in my mind that the disaffection referred to is disaffection among the subjects of the State concerned. It is true that these subjects need not necessarily be in the State, it may very well be that they are for the time in British India, and that is a point of some importance. This is however one of those amendments, which, if we find there is any substantial difficulty in the point raised by my Honourable friend, we shall have to consider later. I may say that after the Bill is passed we shall be prepared in fact to adopt the course suggested by the Honourable Mr. Lalubhai Samaldas just now. If this Act proves to be defective in its operation or there are any amendments which we find are necessary, I give an undertaking that they will be considered by the Government of India in the most careful manner, but I really do not think myself as at present advised—I am quite open to conviction—that there is anything in the present amendment, I will however have it further examined later.

The HONOURABLE THE PRESIDENT : Does the Honourable Member desire that the question should be put ?

The HONOURABLE MR. V. G. KALE : On the assurance that has been given now by the Honourable Sir William Vincent.....

The HONOURABLE THE PRESIDENT : The Honourable Member cannot make a speech ; he must simply inform me whether he desires that the amendments should be put to the vote of the Council or whether he asks leave to withdraw them.

The HONOURABLE MR. V. G. KALE : I think I should like the question to be put.

The HONOURABLE THE PRESIDENT : To the proposed clause 3 (1), amendments moved :

“ After the word ‘ excite ’ the words ‘ among the subjects of any Prince or Chief of a State ’ be inserted : and
Between the word ‘ any ’ and the word ‘ Prince ’ the word ‘ such ’ be inserted.”

The question is :

“ That those amendments be made.”

The motion was negatived.

The HONOURABLE MR. V. G. KALE : As regards the next amendments, I need not move them as the other amendments which I have moved have been thrown out.

The HONOURABLE THE PRESIDENT : There is one amendment which is not consequential—the substitution of three for five.

The HONOURABLE MR. V. G. KALE : I thank you, Sir. I have overlooked it. My amendment is :

“ For the word ‘ five ’ the word ‘ three ’ be substituted in clause 3 (1).”

My reason for moving this amendment is that the ends of justice will be sufficiently met if the punishment is only three years instead of five.

The HONOURABLE SIR WILLIAM VINCENT : Under section 124-A. which is a very analogous section, my Honourable friend knows very well that one of the possible punishments is transportation for life, or that punishment, in a Bill which has already been introduced in another place, we propose now to substitute a maximum of five years' imprisonment and we have adopted the same punishment in regard to sedition preached against an Indian ruler. I do not think myself that there is really any very great difference in the gravity of the two offences, and I cannot think that a punishment of three years is necessarily sufficient for the worst class of case, say, the case of a man possibly successfully promoting a rising against a State and thereby causing many innocent lives to be lost.

The HONOURABLE THE PRESIDENT : The question is :

“ That for the word ‘ five ’ the word ‘ three ’ be substituted in clause 3 (1).”

The motion was negatived.

The HONOURABLE THE PRESIDENT : [The Honourable Mr. Khaparde not rising to move his amendment to sub-clause (2) of clause 3]. The question is :

“ That clause 3 stand part of the Bill.”

The HONOURABLE THE PRESIDENT : If the Honourable Member does not move any amendment to clause 3, I shall put the clause. He has on paper certain amendments to sub-clause (2) of clause 3.

[Mr. G. S. Khaparde.]

The HONOURABLE MR. G. S. KHAPARDE : The amendment which I beg to move runs as follows :

“ That in sub-clause (2) of clause 3 of the Bill after the word ‘ comments ’ the words ‘ on facts which are true or contains comments ’ be inserted.”

The reason why I am bringing this amendment is that in British India as in England the truth of the allegations is not a defence in a prosecution for sedition. Truth is a defence in cases of defamation under certain circumstances, but not in others. This is an anomalous thing as I pointed out in an earlier part of my speech, and therefore I say that if the facts are true and the criticism is there, then it should provide a good defence in a Court of law. That is my object in putting forward this amendment. That truth is no defence in the case of disaffection—it should be a good defence. In this case it is not disaffection strictly so-called but by analogy or in a loose way, and therefore truth should be permitted to be a defence. That is the reason why I put forward that amendment.

The HONOURABLE SIR WILLIAM VINCENT : The Honourable Member is quite right in his statement of the law that in a prosecution for sedition the defence that the statement made is true, is not open to a man and I do not think that that defence should be open to a man who is prosecuted for sedition against Indian States. But apart from that point, quite apart from the merits, I think, if the Honourable Member will read the sub-clause, that he will see that unfortunately his desire is not effected by the amendment that he seeks to make. Sub-clause (2) provides that in certain cases comments will not be an offence and on my reading of the sub-clause I think his amendment rather limits than increases the scope of this sub-clause. But the real safeguard against a prosecution, an improper prosecution when a man is putting forward something which is true lies in a different direction. It lies in this fact that the Governor General in Council has to sanction the institution of the proceedings and by sanctioning a prosecution of this kind the Government make themselves responsible that there are good grounds for prosecution and the Government will take very good care to ensure, in the interests of its own good name, that no man is prosecuted for attacking an Indian Prince, unless he has really done so without justification. I maintain that that is and must be a real safeguard in cases of this kind.

The HONOURABLE THE PRESIDENT : The question is :

“ That in sub-clause (2) of clause 3 of the Bill after the word ‘ comments ’ the words ‘ on facts which are true or contains comments ’ be inserted.”

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“ That clause 3 stand part of the Bill.”

The motion was adopted.

Clause 3 was added to the Bill.

The HONOURABLE THE PRESIDENT : The question is :

“ That clause 4 stand part of the Bill.”

The motion was adopted.

Clause 4 was added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : I move that in clause 5 of the Bill for the words “ that of a Presidency Magistrate or a Magistrate of the first class ” the words “ a Court of Sessions ” be substituted.

My reason in moving this is this. When the prosecution is sanctioned by the Governor General in Council, there would be some amount of difficulty if the case were tried by a first class Magistrate. That is not the only reason. The other reason is this. In trials before Magistrates, there is nothing like opening the case and Public Prosecutors have declined to tell you beforehand by what evidence they wish to prove a particular offence. When the case once opens and charges are framed, then there are certain facilities for defence in a Sessions trial which do not exist in the case of the first class Magistrates. Moreover the parties will be unequally matched. There will be the resources of an Indian Prince behind the prosecution and the accused will probably be a journalist or a poor man. Therefore in order to prevent miscarriage of justice, these cases should be tried by a higher tribunal like that of a Sessions Court. For these reasons I move my amendment.

The HONOURABLE SIR WILLIAM VINCENT : I do not think there is much force in the first argument that was used by the Honourable Mr. Khaparde, namely, that an accused derives great benefit from the opening of a case before evidence is adduced. I do not think that accused are prejudiced by the omission of this procedure in trials before Magistrates, and there is in any case no reason why offenders under this law should be in a better position than other accused persons. Further, offences under section 124-A, the analogous section to this, are in fact triable by first class Magistrates and by Presidency Magistrates. At the same time I realise the force of one of Mr. Khaparde's arguments, namely, that there will be in many such cases a powerful Prince behind the prosecution and it is desirable that the accused should be confident that he will receive fair and impartial justice. It is also important that trials of this nature should be carefully conducted, and in my own experience trials are conducted in a Court of Sessions better than before Magistrates and I propose to put this amendment into the category of others that I have postponed for examination by the Government of India after this Act is passed. I trust that this will meet the Honourable Member.

The HONOURABLE MR. G. S. KHAPARDE : Yes. In view of this assurance, I beg for leave to withdraw my amendment.

The amendment was by leave of the Council withdrawn.

The HONOURABLE THE PRESIDENT : The question is :

“ That clause 5 stand part of the Bill.”

The motion was adopted.

Clause 5 was added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I move that after clause 5 of the Bill the following clause be added, namely :

Trials by jury. “ 6. All trials under this Act shall be by jury.”

Supposing I take it for granted that that suggestion would be accepted and trials will be held before a Court of Sessions, some trials are held with the aid of assessors whose opinions do not count for much and if trials take

[Mr. G. S. Khaparde.]

place with the aid of a jury, the jury is supreme so far as deciding on facts goes. Trials by jury will be very helpful and therefore I propose that a 6th clause be added saying that all trials under this Act shall be by jury.

The HONOURABLE SIR WILLIAM VINCENT : Under the Code of Criminal Procedure, section 269, a Local Government may by order in the official gazette direct the trial of all offences or any particular class of offences be held before a jury and I see no reason why this offence should be placed in a different category from other more serious or equally serious offences. So far as I recollect, and I speak subject to correction, cases under section 124-A are not tried by a jury anywhere except in High Courts. I cannot at the moment recollect any single district in India where such cases are tried by jury, and I suggest that the present class of cases should be treated exactly as cases under section 124-A are. I will remind the Honourable Member also that there are many districts where it is impossible to have trials by jury, and districts some of which possibly are on the borders of these Indian States, where to get a jury competent to try cases of this character would be impracticable. The amendment is in conflict with section 269 which I have just cited, and moreover as I have said the law already provides for jury trials in any case where the Local Government thinks it necessary.

The HONOURABLE THE PRESIDENT : The question is :

“ That after clause 5 of the Bill the following clause be added, namely :
Trials by jury. ‘ 6. All trials under this Act shall be by jury.’ ”

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Preamble stand part of the Bill.”

The motion was adopted.

The Preamble was added to the Bill.

The HONOURABLE THE PRESIDENT : That includes the detailed consideration of the Bill.

The HONOURABLE MR. J. P. THOMPSON : I beg to move that the Bill be passed.

The HONOURABLE MR. K. V. RANGASWAMI AIYANGAR (Madras : Non-Muhammadan) : Sir, it is rather late in the day to oppose the Bill but yet I should have my say about the Bill on the whole. As between the press and the Princes, the Bill presupposes that the press is always in the wrong and the Princes are always in the right. I do not go into that question at all, but I want to oppose the Bill for the sake of the prestige and honour of the Ruling Princes themselves among whom I count many estimable friends. Sir, I am an admirer of some of the Princes and their Administration. I have come across many, and I have nothing to say against them or their Administration. I even memorialized Government that even the bigger Zamindars should be invested with ruling powers,

my Resolution to that effect having been negatived. I beg to say that I am one of those who have the greatest esteem and regard for the Princes ; and if at all I oppose this Bill, it is for the sake of the prestige of the Ruling Princes and their Administration. Sir, I do not think it would be an exaggeration if I say that in many of the States I do not find any Hindu-Moslem rupture or any class hatred or anything of that sort in the name of democratic Government. Sir, if I oppose this Bill, it is because this Bill implies that there are some Princes who have to be shielded by a Bill of this sort, and that their Administration has to be given an armour or a purdah to be shielded by a Bill of this sort. I do not think that many of the Administrations of the Native States require a purdah of this sort. Sir, there are two classes—there is the other side also—there are good Administrations and bad Administrations. A good Administration does not require a Bill of this sort ; and a bad Ruler with a bad Administration, does not deserve to have a Bill of this sort. Their action should be exposed by the public Press. My Honourable friend, Sir Muhammad Shafi, and other speakers emphasised the fact that there is ample provision in the Bill for criticism, for right criticism, with a view to correcting an Administration. I do not think, Sir, that a line of demarcation can be drawn with precision, to distinguish between disaffection and right criticism ; and it is left to the State and the Magistrate to draw the line of demarcation between disaffection and right criticism. Sir, now we have no check upon the Administration of the Princes. If the Chamber of Ruling Princes should be invested with the powers of examining petitions and memorials from the subjects of Native States, then that would be some sort of check upon bad administration. The only existing check upon an autocratic Ruler is this public criticism. For any form of criticism in the Native States there are no public newspapers worth the name, and the Legislative Councils and the Courts are but creatures of the Rulers. We would be depriving the public of legitimate criticism if we should introduce a Bill of this sort.

The HONOURABLE THE PRESIDENT : The Honourable Member must remember that this is the third reading of the Bill.

The HONOURABLE MR. RANGASWAMI AIYANGAR : Sir, there is one more point which I have to say, in protesting against the Bill which I do in the interests of the Princes. I want the Princes to be classed in the same line with the International Powers. Where is an Act now to prevent newspapers from criticising the Heads of other Administrations, say the Governor of the Dutch or the French Dominions in India, or say the French or the American Presidents abroad ? Where is a Bill to protect these people ? It is because I am very zealous in guarding the prestige of the Princes, it is only because I want them to be treated on the same lines as we treat allies like America, France, etc., that I oppose this Bill.

The HONOURABLE THE PRESIDENT : The Honourable Member should either continue, or sit down.

The HONOURABLE MR. RANGASWAMI AIYANGAR : I want to continue. If I am not allowed to say anything unsavoury I shall sit down.

[The Honourable the President.]

The HONOURABLE THE PRESIDENT : It is very difficult for me to deal with the Honourable Member who never hears anything I say. I expressed my wish to him that he should either go on speaking or sit down.

The HONOURABLE MR. RANGASWAMI AIYANGAR : Then I don't want that our Princes should come to the British Magistrates to seek justice here. A great deal was said about blackmail. I do not think the Princes are blackmailed. I think they have attained that stage that an adventitious aid like this Bill is not necessary to check their being blackmailed. There was much said about the Treaty obligations. I have not come across any Treaty where they were guaranteed that they would be protected against the Press existing in India. The Princes have got ample powers to stop the newspapers that speak ill of them from entering their territories and that itself is a sufficient penalty upon newspapers. I do not think it just that any armour is needed to protect the undesirable rulers. Sir, I wanted to consult some of the Princes who are my friends, but since Mr. Kale's amendment was negatived, I have no time to consult them,—and the Bill was circulated only the day before yesterday ; and with this short period of time given, I have only to oppose the Bill.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, my Honourable friend, Mr. Aiyangar, started by saying that it was rather late in the day for him to oppose the Bill.

The HONOURABLE MR. RANGASWAMI AIYANGAR : Because I was not given time.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : In that observation, that profound observation, he was perfectly right. But he proceeded nevertheless to oppose the Bill on certain grounds some of which I propose to examine in a very few words. He started by saying that he opposed the Bill in the interests of the prestige of the Ruling Chiefs ! Whatever his meaning might have been, whatever was at the back of his mind, when he gave utterance to that statement, I am afraid I for one am not able to appreciate the validity or the logic of that observation. Does my Honourable friend mean that the prestige of the Ruling Chiefs is enhanced by attempts at creating disaffection against them among their subjects ? Opposition to the Bill only means that my Honourable friend is against taking any steps to prevent the spread of disaffection against the Princes ; if so, how that enhances their prestige, I for one cannot understand. Then my Honourable friend stated that the Ruling Chiefs did not require this armour—to use his expression—to shield them.

All I can say is that the Ruling Chiefs, in a Resolution passed at a meeting of the Chamber of Princes, have unanimously asked the Government to provide them with this armour with which to defend themselves against unwarranted attacks in the press calculated to spread disaffection against them amongst their subjects.

The next argument put forward by my Honourable friend was that the actions of bad rulers should be exposed. I am entirely at one with him that the actions of bad rulers should be exposed. But there is nothing

in the measures proposed, nothing in the Bill before the House to prevent the exposure of wickedness on the part of bad rulers. Does my Honourable friend imagine that where a *bona fide* critic in an article or pamphlet or book intends to expose the bad actions of Princes the Governor General in Council will give sanction for the prosecution of a critic of that description ? Of course, apart from the sanction of the Governor General in Council, no prosecution is possible. The provisions of the Bill are clear ; a prosecution can only lie in certain circumstances, and the proviso to clause 3 would prevent such a prosecution as that from being launched.

Then my Honourable friend said that we have no check at present on the bad administration of Ruling Chiefs. That remark again will not bear examination. There is in the first place the Suzerain Power whose duty it is to see that there is a check on the bad administration of Ruling Chiefs. In the second place there is the weight of public opinion. In these enlightened days, even the Ruling Chiefs are amenable to public opinion—though possibly not in Madras—(Laughter) and I am sure that enlightened Chiefs like His Highness the Maharaja of Gwalior, His Highness the Maharaja of Bikanir, His Highness the Maharaja of Mysore and His Exalted Highness the Nizam of Hyderabad, all pay due deference to public opinion.

And now Sir, before I close, there is one position which I have to re-state in order to make the situation perfectly clear to Honourable Members. A glance at section 67-B of the Government of India Act will show that :

“ Where either Chamber of the Indian Legislature refused leave to introduce, or fails to pass in a form recommended by the Governor General, any Bill, the Governor General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof, and thereupon.....”

I am turning to sub-clause (b) of this section :

“If the Bill has not already been so passed, the Bill shall be laid before the other Chamber, and, if consented to by that Chamber in the form recommended by the Governor General, shall become an Act.....”

and so on. It is therefore perfectly clear that under this section a certified Bill, in order to come within the purview of this section, has to be passed in the form recommended by the Governor General. It is for this reason that Government was not in a position to accept any of the amendments ; because if the amendments had been either accepted or passed by this House, then the Bill as finally passed would not be the Bill in the form recommended by the Governor General in Council. That being so, an undertaking has already been given by my friend the Honourable the Home Member that if the operation of the Bill discloses any defects, such as have been mentioned in the amendments to-day, the Government will give its best consideration to those points.

The HONOURABLE SARDAR JOGENDRA SINGH : Sir, I rise to support the Bill, as I promised in the early stages of this debate. I must remark that the Honourable Sir Muhammad Shafi, by reciting the powers of the Governor General to certify the Bill, has not necessarily assured the House in the same way as the speech of the Honourable Sir William Vincent in the early stages of the debate did. I think it is the general

[Sardar Jogendra Singh.]

feeling of this House, and possibly of the other also, that this power is to be used only on rare occasions. I will say no more about it.

There is a word of personal explanation which I must make. The Honourable Mr. Thompson attributed to me the remark that I said something about not penalizing the praise of Princes in the press. I never made such an absurd remark. What I meant to ask was that, when he was quoting from newspapers calumnies against the Princes, did he take into account official reports which he himself confidentially received?

I will refer to only thing more, and that is the great regret which I believe is shared by every Member of the House that we shall not hear Sir William Vincent in this Council again. He is one of our best debaters, and I think the feeling is shared by the whole House that in losing him we are losing one of our best Members. (Applause.) He ought really on retiring from the Government side come and sit on the Benches on this side. If he did, the only trouble would be that when responsible government came he would be claimed again by the Government.

The HONOURABLE MR. LALUBHAI SAMALDAS : Sir, I move that the question be now put.

The HONOURABLE THE PRESIDENT : The question is :

“That the question be now put.”

The motion was adopted.

The HONOURABLE THE PRESIDENT : The question is :

“That the Bill to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt or to excite disaffection against Princes or Chiefs of States in India or the Governments or Administrations established in such States, be passed.”

The motion was adopted.

ATTENDANCE IN COUNCIL AND DEPARTURE OF SIR WILLIAM VINCENT.

The HONOURABLE THE PRESIDENT : Before I proceed to adjourn the Council there are just a few remarks which I think are called for at this stage. In the first place, I should like to congratulate the Honourable Members who are non-officials on the very excellent attendance this September. They will remember that at last meeting in Delhi I had occasion to remark on the fact that many of our debates were held with very thin Houses. The attendance this year has been gratifyingly better. I only hope Honourable Members will attend at Delhi in a way which will equal or, if possible, beat the record of the present attendance.

There is one other matter in regard to which the Honourable Sardar Jogendra Singh anticipated me in a manner which is not strictly in order. (Laughter.) There is nothing in the third reading of a Bill creating criminal offences which can justify him in considering it relevant thereon to regret the departure of Sir William Vincent. (Laughter.) I am quite

sure however that Honourable Members would like to express their great regret, to which I would add my extreme regret, that we shall not again, I fear, hear the voice—(the eloquent voice—) of the Honourable Sir William Vincent in this Chamber. In the placid atmosphere of this House it rarely happens that a breeze occurs. I can hardly recall in my experience many occasions when the air was slightly agitated; but when it has been so, it is a curious fact that the Honourable Sir William Vincent has always been in the House. (Laughter.) We feel that the Government will lose a great deal when our Honourable friend no longer attends our debates. But, apart from that, the Council generally will lose heavily, for it has appeared to me sitting in the Chair, sometimes slightly somnolent, that he brings a broader view, a fresher atmosphere to our debates. I am sure the Council will desire that I should wish him the best of health, happiness and prosperity in his comparative retirement. (Applause.)

The HONOURABLE SIR WILLIAM VINCENT : I only rise to thank you, Sir, and the Members of this Council very heartily for your appreciation of my work. I am afraid that there have been times when a rough note from me has disturbed the placid atmosphere of this Chamber, and my only excuse is that I came from more democratic surroundings sometimes perhaps a little livelier, and rougher than this Council. I would ask you to extend to me your pardon for any roughness that I have been guilty of here. It is at any rate a great satisfaction to me to have worked with this Chamber, the more so, because, as I have said frequently on other occasions, many of the Members are old friends of mine and I have reason to know the value of their services to their King and country.

ADJOURNMENT OF COUNCIL.

The HONOURABLE THE PRESIDENT : It only remains for me now to say that the Council stands adjourned to a date in January next which will be subsequently notified to Honourable Members.

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